REQUEST FOR PROPOSAL

GOLDEN GARDENS PARK FOOD CONCESSIONS



Opens – August 17, 2016 **Due – October 14, 2016 at 2:00 p.m.**

SEATTLE PARKS AND RECREATION

Contracts Administration and Support Office

RDA Building –3rd floor

800 Maynard Avenue South

Seattle, Washington 98134

SEATTLE PARKS AND RECREATION DEPARTMENT

REQUEST FOR PROPOSALS (RFP)

for

GOLDEN GARDENS PARK FOOD CONCESSIONS

Request for Proposal Due Date – Friday, October 14, 2016 by 2:00 p.m.

City of Seattle Parks & Recreation

Contracts and Business Resources Office

Theresa "Terri" Burns, Department Concessions Coordinator

(206) 684-8008

Terri.Burns@Seattle.gov

MAILING ADDRESS:

Seattle Parks and Recreation

Contracts Administration and Support Office

RDA Building –3rd floor

800 Maynard Avenue South

Seattle, Washington 98134

TABLE OF CONTENTS	**PAGES**

Table of Content	2
News Release	3
Overview	4
Golden Gardens RFP General Information	5 - 7
Golden Gardens Historic Concessions Revenue	8
Golden Gardens RFP Submission Information	9 - 11
RFP Protest Procedure	12
Updated Information	12
Golden Gardens Financial Proposal Offer	13
Sample Concessions Agreement – Appendix 1	14-40

Remove page

NEWS RELEASE

Edward B. Murray, Mayor

Jesús Aguirre, Superintendent

For Immediate Release: August 17, 2016

Contact: Christina Hirsch, 206-684-7241
christina.hirsch@seattle.gov

Seattle Parks and Recreation seeks proposals for long-term food concession at Golden Gardens Park

Seattle Parks and Recreation (SPR) is seeking proposals from qualified operators to manage and operate the Golden Gardens Park Food Concessions under a long-term agreement. SPR is seeking and will select the concessionaire who best demonstrates the ability to provide innovative, affordable, healthy, safe and reliable food service to park patrons while paying reasonable concession fees to SPR.

Request for Proposal (RFP) packets can be downloaded at the address below, or mailed to you.

Proposals are due Friday, October 14, 2016 at 2 p.m.

For more information or to download a copy of the RFP packet, please visit:
www.seattle.gov/parks/about-us/do-business-with-us/current-opportunities/

Contact Information
Theresa “Terri” Burns, Parks Concessions Coordinator
Seattle Parks and Recreation
Contracts Administration and Support Office

Office: 206-684-8008 / Fax: 206-233-3949
Email: terri.burns@Seattle.gov

###

THE CITY OF SEATTLE PARKS AND RECREATION DEPARTMENT

REQUEST FOR PROPOSALS (RFP)

for

GOLDEN GARDENS PARK FOOD CONCESSIONS

Request for Proposal Due Date – *Friday, October 14, 2016 by 2:00 p.m.*

I. OVERVIEW

Seattle Parks and Recreation Department (SPR) is seeking Proposals from qualified operators to manage and operate the Golden Gardens Food Concessions in exchange for a long-term concession agreement. SPR is seeking and will select a Proposer that best demonstrates their ability to provide innovative, affordable, healthy, safe and reliable food service to park patrons while paying reasonable concession fees to SPR. Proposers are encouraged to offer services and/or products that would be complimentary to the existing uses of the park. Each proposer should include an assortment of healthy food products as part of their proposed menu. SPR reserves the right to approve or deny any proposed business activity.

Concessions in Seattle Parks create business opportunities and provide desired services to park users. Concessions also activate parks which is an important part of our mission to provide welcoming and safe places to play, learn, contemplate and build community. Active fun and safe public spaces are an integral part of our busy urban landscape. Our guiding principles are to create **access**, **opportunity**, **sustainability** and **environmental stewardship**.

Golden Gardens Park Bathhouse is located at 8498 Seaview Place NW, Seattle WA 98117 and the concession space is at the south end of the Bathhouse. The Bathhouse is sited between a natural area of wetlands, turf meadow and tidelands on the north, and picnic shelters to the south. The park features include a childrens play area, off leash dog park, sand volleyball courts, basketball court, walking trails, and views of Puget Sound

The concession area of the building includes two rooms connected by a roll-up door. The inside room has a three compartment sink, a hand wash sink, commercial stove, exhaust hood with fire suppression, food prep area, refrigerator, and some storage. The outer room has a service counter and small seating area for park patrons. The room has electricity, propane and plumbing available and there are restrooms in the building.

Golden Gardens Park Bathhouse was originally built in 1929. In 2004 a major renovation to the bathhouse left the foot print and feel of the original building but updated much of the infrastructure to make it a more usable space for the public. The current concessionaire made improvements to the Concessions area so the space could be used as a Beach Café. The building structure is a Seattle City Historic Landmark and any alteration to the structure would require SPR and Department of Neighborhoods (DON) approval.

Seattle Parks and Recreation Mission

Seattle Parks and Recreation (SPR) is committed to providing the greatest possible public benefit to help enhance Seattle's parks, open spaces and facilities. We base our selection criteria on how well a proposal aligns with our overall mission, guiding principles and on the potential benefit to the public and to Seattle Parks and Recreation.

Seattle Parks & Recreation will work with all citizens to be good stewards of our environment, and to provide safe and welcoming opportunities to play, learn, contemplate and build community.

II. GOLDEN GARDENS RFP GENERAL INFORMATION:

This REQUEST FOR PROPOSAL (RFP) is a public process that has been advertised and will be a competitively awarded solicitation by SPR for a food concession vendor at Golden Gardens Park. This RFP is intended to encourage organizations to clearly present how they would provide the required services, propose options for services or service enhancements and operate these services in a consistent and revenue positive manner. Each Proposer must also clearly identify its knowledge of the proposed concessions standard business practices, operating plans, heathy menu planning experience and financial stability.

RFP EVALUATION PANEL

A diverse panel will review the qualified proposals submitted for the RFP. The panel will score the proposals, determine the highest qualified proposal and will interview the Proposers, if interviews are necessary, and make a final recommendation to the Superintendent regarding the award.

EVALUATION CRITERIA

The following criteria, not necessarily listed in order of importance, will be used to evaluate proposals. These criteria are general in nature and may be used to develop a more detailed evaluation work sheet. SPR reserves the right to weigh its evaluation criteria.

REVENUES

• Evaluation of the proposers submitted fees

FINANCIAL CAPACITY

• Proposer's financial history and the ability of the Proposer to finance, develop, operate and maintain the concession.
• Proposer's ability to accept multiple forms of payments

EXPERIENCE AND BUSINESS PLAN

• Ability of Proposer to market the facility.
• A determination that the Proposer has submitted a complete and responsive proposal as required by all sections, terms, and conditions of the RFP.
• Evaluation of professional qualifications and experience.
• An evaluation of the Proposer's projected approach and plans to meet the requirements of the RFP.
• Business Plan aligns with SPR's mission, guiding principles and Public benefit to the public and SPR

PRESENTATION, MENU, DIVERSITY OF MEALS, FOOD QUALITY AND REPUTATION

• Quality and value of menu and pricing.
• Healthy Food Items to select from

PROPOSED RFP SCHEDULE

SPR's anticipated schedule for review of the Proposals and final selection of Golden Gardens Concession Operators is as follows:

August 17, 2016	RFP Packages are available on the City Website (http://www.seattle.gov/parks/partnerships/RFP.htm) or may be picked up or mailed.
August 17, 2016	Advertisement to be posted on Seattle Parks and Recreation Website and Daily Journal of Commerce

September 7, 2016	Deadline for written questions to SPR from Proposers.
September 13, 2016	Site visit at Golden Garden Concession 9:30 a.m., Open House and responses from Questions 10:00 a.m. – 11:00 a.m.
October 14, 2016	**DEADLINE TO Submit Proposal - 2:00 PM Pacific Time**
October 20, 2016	Evaluation Panel reviews and scores Proposals
October 24/25, 2016	Oral interviews – Optional by SPR.
November 18, 2016	Superintendent decision,
November 21, 2016	Concession award announcement
November 30, 2016	Legislation drafted for long term agreement
January 2017	City Council approves legislation
October 2017	New Contract Begins

ALL DATES ARE ESTIMATED AND SUBJECT TO CHANGE

WRITTEN & EMAIL QUESTIONS.

Any questions about RFP language, requirements, specifications, etc. should be written and can be mailed or e-mailed to Terri Burns at the address provided prior to the cutoff date (September 7, 2016). Responses to all questions received will be posted on the Seattle Parks and Recreation Website.

TELEPHONE QUESTIONS.

Telephone questions seeking interpretation of the RFP **cannot** be accepted.

MINIMUM BID REQUIRED:

SPR will only accept proposals that meet or exceed an annual bid for a concession fee payment of $7500 annually. Concession fee may be based on square footage, gross sales or both.

Monthly Concession Fee Payments are one of the Evaluation Criteria's that SPR will use to select Concessionaire. Highest Monthly Concession Bid will get the highest point value in this criteria.

MONTHLY CONCESSION FEE PAYMENTS

Concessionaire will be required to make monthly concession payments to SPR by the 10th day of each month for the previous months' sales and the monthly amount of applicable Leasehold Excise Tax.

LEASEHOLD EXCISE TAX.

Washington State Leasehold Excise Taxes are due over and above any and all concession fee/rent payments made to the City. Proposers are advised to consult their financial advisors. At this time Washington State Leasehold Taxes are 12.84% of the net payments to the City. This tax is remitted to SPR along with each concession fee payment.

CONCESSION DEPOSIT REQUIRED/REFUNDABLE

The Concessionaire will be required to pay a security deposit of $2,500 to SPR within 10 days of signing the Concession Agreement. The deposit may be refunded after the Concessionaire has paid all concession fees, returned keys provided by SPR, cleaned the site upon leaving, been certified that no damage was done to the concession location and satisfies all other conditions of the Concession Agreement.

CONCESSION AGREEMENT/CITY ORDINANCE

Upon notification of the concession award, the Proposer must sign a Concession Agreement with the City, which will incorporate applicable portions of the Proposer's RFP submission. In order for the Concession Agreement to be effective with the City, the City Council must authorize such by City Ordinance. A sample concession agreement that maintains the standard terms and conditions for concessionaires with the City is appended to this RFP as Appendix I. The City cannot modify contract provisions mandated by applicable federal, State or City law. The City does not intend on engaging in lengthy negotiations and will require the finalization of a Concession Agreement to reflect the scope, requirements and terms set forth in this RFP. Interested Proposers should familiarize themselves with the entire Appendix I prior to submission of any RFP proposal.

REQUISITE SUBMISSIONS

A successful Proposer must plan on providing to SPR within 10 business days of receiving an award letter from SPR:

1. Acceptable proof of insurance as described in the sample agreement, Appendix I – Exhibit D.
2. Payment of the required concessionaire security deposit to SPR. Payments may only be made by Cashier's Check; no personal checks will be accepted.
3. A copy of a current City of Seattle Business license.
4. A copy of a current Seattle-King County Public Health license.

SPECIAL NOTICES:

1. No gas, coal, charcoal or similar portable cooking equipment is permitted inside or outside the Concession Premises unless (1) the prior written approval of SPR has been obtained and (2) the Seattle Fire department has issued a fire agreement.
2. Please check the existing electrical capacity of the concession site to make sure there is sufficient electrical capacity for your equipment. Multiple extension cords or multi-plug adapters may not be used.
3. The Concessionaire must supply the appropriate fire extinguisher(s)
4. No vending machines may be installed by the Concessionaire.

III. GOLDEN GARDENS RFP INFORMATION: HISTORIC CONCESSIONS REVENUE

SPR provides offers the following table to summarize the historic annual gross sale revenues for the Golden Gardens Park Food concessions from 2009-2015.

GOLDEN GARDENS PARK FOOD CONCESSION ANNUAL GROSS SALES	
Year	**Annual Gross Sales**
2009	$23,288
2010	$35,208
2011	$33,210
2012	$46,086
2013	$49,853
2014	$50,333
2015	$66,680

IV. GOLDEN GARDENS RFP SUBMISSION INFORMATION:

1 PROPOSAL SUBMISSION PROCESS.

Any and all responses to this RFP, including collaborative responses, must include the following proposal elements:

1. Complete, sign and submit all RFP forms provided by SPR
2. **Section 3 – Proposal Questionnaire**. To be evaluated, a proposal must completely answer each question.
3. The Proposal must be signed by an official who is legally authorized to bind the organization including his or her signature on the Financial Page
4. Provide all references and materials required by the RFP instructions.
5. If clarification is required, submit questions in writing or by e-mail (not by phone) to SPR Concessions Coordinator at the addresses provided herein prior to cut off date September 7, 2016. Questions after the September 7, 2016 deadline will not be answered.
6. Mail, ship or deliver one original and five copies signed and completed Proposal to SPR at the address provided before the due date and time (**October 14, 2016 at 2:00 p.m.)**. Electronically transmitted proposals, incomplete proposals, proposals not on the forms provided by SPR and proposals that arrive after the due date and time will not be accepted.
7. All Proposal Submitted become the property of SPR and will not be returned.

Submittal Address
Concessions and Contracts Coordinator
Seattle Parks and Recreation Department
Contracts Administration and Support Office
800 Maynard Ave S, 3rd Floor
Seattle, WA 98134

8. Clearly mark the exterior of the RFP package **"GOLDEN GARDENS PARK CONCESSIONS PROPOSAL"**

2 PROPOSAL FORMAT

All proposal need to be submitted in the following order and format indicated

- **A.** Front cover titled "Golden Gardens Park Concessions Proposal" and the name of the Company. The original shall be marked "original" and you need to submit five copies. The Original will be used to check the copies and if questions arises will be used to determine the intent to the proposal.
- **B.** A Table of Contents
- **C. Section Tabs** as indicated below. Each section should be clearly separated and labeled in the sequential order
- **D.** All forms need to be submitted with the proposal at time of submittal to be considered in the Evaluation process
- **E.** Font type: Arial 12 pt.

TAB 1 MINIMUM QUALIFICATIONS

- **A.** One to two page letter signed by authorized representatives describing how the proposer satisfies the minimum qualifications and criteria contained within this RFP.

B. Three most recent years (2012 – 2015) audited/reviewed financial statements that demonstrate that you have the ability to perform. Proposer must demonstrate that they have sufficient startup cost and the ability to cover the account receivables.

C. A Copy of the declaration page from the insurance company stating that you currently have or can obtain all required insurance coverage.

D. Copy of Current City of Seattle Business License or signed letter of intent within 30 Day of Contract being award that you will submit a copy.

TAB 2 CONTACT INFORMATION

A. Provide the name, address, phone number/s and email for

a. Owner of the company
b. Company Headquarters
c. Company representative

TAB 3 OPERATION EXPERIENCE

A. Provide the name of similar food concessions that your firm presently or in the past have operated. For each operation provide the name, address and contact information.

a. The number of years your company has provided Continuous Food Service.
b. Gross Sales for each year in operation
c. Indicate if the food concession is still in operation and if not why?

B. What other relevant food concession experience do you/your company have?

C. Do you have a Culinary Food Science Degree or related Business Degree?
If yes please indicate where you got your degree from and year of graduation?
If not, indicate how you got your training to effectively manage a food concession business?

TAB 4 BUSINESS PLAN

A. **Executive Summary** – Complete and concise summary of the vision and mission of the Bathhouse Food Concession Stand.

B. Company Overview

C. Industry Analysis

a. Target market
b. Location Analysis
c. Competitive Analysis

D. Marketing Plan

a. Target Market
b. Signage – show design, size and potential placement

E. Operations Plan

a. Staffing Plan for each position

i. Positions
ii. Salary
iii. Recruitment
iv. Hiring criteria/desired qualifications
v. Uniform Policy/plan – Show examples
vi. Training plan

b. Customer Service Policy and Procedures
c. Point of Sale System
d. Inventory tracking Method
e. Hour of operation
f. Maintenance Plan

F. Financial Analysis

a. Investment Plan
b. Projected Profit and Loss statement
c. Break Even Analysis
d. Expected Cash Flow
e.

TAB 5 MENU AND PRICING

A. List of proposed Food items

a. Price
b. Brief Description
c. Healthy food choice
d. Serving Sizes
e. Offered Year Round or seasonally
f. Offered Breakfast, Lunch, Dinner, Anytime open

TAB 6 FOOD CONCESSION FLOOR PLAN AND IMPROVEMENT PLANS

A. Drawing of the Restaurant Floor Plan

a. Service Area
b. Kitchen Area

B. Improvements

a. Prior to opening
b. Future plans and timelines

TAB 7 HOW DO YOU FEEL THIS FOOD CONCESSION PROPOSAL ALIGNS WITH SPR MISSION AND VALUES?

TAB 8 PUBLIC OUTREACH AND OR PUBLIC BENEFITS PLAN?

TAB 9 BUSINESS REFERENCES

Provide prior experience, business and credit references. Minimum qualifications are three (3) years of experience as an owner and or operator of a business or similar operation. Three (3) business, three (3) credit and (3) purveyor references.

V. RFP PROTEST PROCEDURE

Interested parties that wish to protest any aspect of this RFP selection process must provide written notice to the City Project Manager for this solicitation. The City has rules to govern the rights and obligations of interested parties that desire to submit a complaint or protest to this

process. Please see the City website at: http://www.seattle.gov/city-purchasing-and-contracting/solicitation-and-selection-protest-protocols

Interested parties have the obligation to know of and understand these rules, and to seek clarification from the City. Note there are time limits on protests, and proposers bear the responsibility to seek information and submit any protests timely.

VI. UPDATED INFORMATION

General information regarding the Golden Gardens Bathhouse and concessions can be found on the SPR website, available at http://www.seattle.gov/parks/about-us/do-business-with-us/current-opportunities/golden-gardens-park-food-concessions

SPR's responses to Proposer questions and requests for additional information and/or RFP changes will only be posted on the Seattle Parks and Recreation's website.

The City is not liable for costs incurred by the Proposer to prepare, submit and present proposals, interviews and/or demonstrations.

By responding to this Request for Proposal, Proposer has read and understands all of the information and documents within this RFP.

VII. GOLDEN GARDENS RFP– FINANCIAL PROPOSAL OFFER

FINANCIAL PROPOSAL.
Having availed yourself of the opportunity to thoroughly read the enclosed contract and RFP documents; asked SPR questions about any of the terms, conditions or responsibilities that were not clear to you; visited the proposed site; sought legal and financial advice as needed; researched the applicable laws, ordinances, statutes and regulations, and based on your expert experience in the concessions business; you make the following firm and irrevocable offer to pay concession fees as follows:

We/I shall make the following monthly concession fee to SPR: (Write your Proposal Below)

Submitted by _____
(Name of organization submitting this Proposal)

Signed: _____

Print Name: _____

Title: _____

Date: _____

An individual who is legally empowered to bind the organization that is submitting this Proposal must sign in the space provided immediately above.

APPENDIX I

Golden Gardens Food Concession RFP

SAMPLE CONCESSION AGREEMENT

The following is a sample of the Concession Agreement that will be issued to the Proposer(s) selected by the Evaluation Panel and Accepted by the Superintendent.

GOLDEN GARDENS BATHOUSE CONCESSIONS AGREEMENT
Between
City of Seattle Parks and Recreation Department
and
(CONCESSIONAIRE)

THIS CONCESSION AGREEMENT ("Agreement") is entered into between The City of Seattle, a municipal corporation of the State of Washington ("City"), operating through its Seattle Parks and Recreation Department ("SPR") and its Superintendent, and Insert Business name, ("Concessionaire").

PART A - SPECIAL CONDITIONS AND COVENANTS OF AGREEMENT

A-1 CONCESSION PREMISES

1.1

Description. As used in this Agreement, the "Concession Premises" means the following portions of City-owned property referred as Golden Gardens Bathhouse located at 8398 Seaview Place N.W., Seattle, King County, Washington 98117 ("Building"):

The rentable area of approximately 480 Square Feet located at the south of end of the Building as outlined in the floor Plan of the Building attached as **Exhibit A** ("Floor Plan of Premises") to this Agreement.

1.2

Grant of Right to Use the Concession Premises. Throughout the Term, Concessionaire shall have the right to use and occupancy of the Concession Premises for the purpose of operating the Concession granted under this Agreement. The Concessionaire shall have the right to exclusive use and occupancy of the Concession Premises of the Golden Garden Bathhouse. The Concession Premises of the Bathhouse building is depicted on Exhibit A. Concessionaire accepts the Concession Premises in AS-IS condition as of the Commencement Date, and the City makes no representation about the fitness of the Concession Premises for the intended purpose.

A-2 GRANT OF CONCESSION RIGHTS

2.1

SPR hereby grants to the Concessionaire, subject to the terms herein, the exclusive right and privilege to operate a year-round business at the Concession Premises during the Term that is compatible with the use of

Golden Gardens for Parks and Recreation purposes. Concessionaire shall provide restaurant food and beverage services. Concessionaire shall provide menu items and healthy options to patrons that are consistent with the menu shown on Exhibit B – Menu that has been approved by SPR. The menu may not include alcohol. Concessionaire shall sell nothing in a glass container.

A-3 TERM OF AGREEMENT

3.1

Initial Term. This Agreement shall be effective when signed by an authorized representative of both parties ("Commencement Date") following an authorizing ordinance of Seattle City Council, and shall be for an initial term of five (5) years ("Term").

3.2

Extended Term. At the Superintendent's discretion, this Agreement may be extended for two additional terms of up to five years on such terms and conditions as the Superintendent may determine. SPR shall give the Concessionaire written notice of its intention to extend or not extend at least six (6) months prior to the expiration of the initial Term. Concessionaire shall have three (3) months following the date of the Superintendent's notice to accept the extension or to renegotiate the extension with SPR in writing, otherwise Concessionaire's right to accept the Superintendent's offer to extend shall automatically expire and SPR may issue a request for proposals or take any other action the Superintendent deems in the City's best interest with respect to the Concession Premises. As used in this Agreement, any reference to "Term" shall mean and include any extended term.

A-4 CONSIDERATION

4.1

SPR grants the Concession rights herein in exchange for the Concessionaire's performance of the following:

a. Making timely payments of the monthly Concession Fee in A-5.

b. Providing all equipment and services to operate the Concession in the manner required under Section A-7.

A-5 CONCESSION FEE

5.1

Monthly Concession Fee and LET. On or before the 10th day of each month during the Term, the Concessionaire shall pay the City: i) a percentage of the Gross Receipts received by Concessionaire at the Concession Premises during the preceding month (the "Concession Fee") and ii) the monthly amount of applicable Leasehold Excise Tax required under B-7

5.2

Place and Manner of Payment.
All payments to the City shall be paid to:

Seattle Parks and Recreation Department

Contracts Administration and Support Office
Attention: Theresa Burns,
Parks Concessions Coordinator,
800 Maynard Ave S., 3 floor
Seattle, WA 98134.

All Concession Fee payments shall be accompanied by a written statement prepared by Concessionaire on a monthly report form approved by the Superintendent and reflecting Gross Receipts, hours of operation, including any amounts excluded from Gross Receipts as provided under Part B-1. See Exhibit C for required form.

A-6 FINANCIAL RECORDS/ AUDIT

6.1

Concessionaire's Records. The Concessionaire shall maintain at the Concession Premises a clear and documented set of books, records, documents, and other evidence reflecting all business activity conducted at the Concession Premises, including cash register tapes, credit card charge records, and any other data relating to the determination of Gross Receipts and the calculation of the Concession Fee.

6.2

Audit. Concessionaire shall permit its records to be inspected by the City, with reasonable notice, and Concessionaire's records shall be subject to copying and audit by SPR, the City, the Office of the State Auditor, and other officials so authorized by law, rule, regulation, or contract. The Concessionaire shall ensure that this right of inspection, audit, and copying is a condition of any sub-concession agreement or other arrangement under which any person or entity other than Concessionaire is permitted to carry on a business activity in, on, or from the Concession Premises. The Concessionaire shall not be required to staff the City's audit of Concessionaire's financial records, and the City shall solely bear the costs associated with its inspection of Concessionaire's financial activity under this Agreement.

6.3

Retention. The Concessionaire shall retain all financial books, records, documents, cash register tapes, credit card records and other material relevant to the financial activity under this agreement for six (6) years after the expiration or termination of any calendar year under the Agreement. The obligations in Section A-6 shall survive termination or expiration of the Agreement for the applicable duration of any statute of limitations.

6.4

Cash Register. The Concessionaire shall enter all sales on a type of cash register or POS System that records and identifies the date, type of sale, and the amount of each transaction and that is equipped with a cumulative, non-alterable accounting control mechanism.

6.5

Record Keeping Subject to Approval. Concessionaire shall not change record keeping methods or change or discontinue use of the cash register or POS System without the Superintendent's written authorization.

A-7 OPERATION AND SERVICES

7.1

Unless otherwise approved by the Superintendent, Concessionaire shall be open for business year round and should provide service for the minimum number of hours as shown in the Chart below during the following hours:

Minimum hours of operation of the Premises are as follows

Month	**Sat-Sun**	**Mon-Fri**
January thru February	4 hours	No Requirements
March thru April	8 hours	No Requirements
May thru June	12 hours	10 Hours
July Thru August	16 hours	40 Hours
September	12 hours	10 Hours
October thru November	8 Hours	No Requirements
December	4 hours	No Requirements

All City holidays are at concessionaire's discretion to open. No minimum holiday hours required.

7.2

Park Hours: 4 a.m. – 11:30 p.m.

7.3

Food Service Hours: Operator can be open the minimum hours during those windows or if desired, any additional times during all park open hours.

7.4

Hours of Operation Signage: Concessionaire shall post its hours of operation in writing at a conspicuous place in the vicinity of the public entry on the Golden Garden Bathhouse, visible from the outside.

7.5

Reporting Hours required: Concessionaire shall report on a monthly basis the number of hour in operating on the on a monthly report form approved by the Superintendent. See Exhibit C for required form.

A-8 ENTIRE AGREEMENT

This Agreement, including Part A, Part B, and all exhibits, represent the entire agreement, between the parties with respect to the subject matter herein. No other understanding, oral or otherwise, may modify the text or an attachment to this Agreement. The following exhibits are hereby incorporated and made a part of this agreement:

Exhibit A - Golden Gardens Park Map and Bathhouse Floor Plan
Exhibit B - Approved Menu
Exhibit C - Concession Monthly Report of Gross Receipts Form
Exhibit D - Insurance Requirements

The Parties to this Agreement acknowledge that it is a negotiated agreement, that they have the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

PART B - GENERAL TERMS AND CONDITIONS

B-1 DEFINITION OF GROSS RECEIPTS

1.1

As used in this Agreement, "Gross Receipts" means and includes the total income of the Concessionaire from conducting business in, on or from the Concession Premises, including but not limited to the proceeds from all retail and wholesale sales of food, beverages, merchandise, and services of any kind whatsoever, for cash, barter, exchange, or credit, regardless of collections; all sub-concession fees and payments to Concessionaire; sales from vending devices; rental of any merchandise or equipment; mail or telephone orders received or filled on or from the Concession Premises; all deposits not refunded to purchasers; orders taken at the Concession Premises although filled elsewhere; fees; commissions; catalog sales; and rental receipts. An installment or credit sale shall be deemed to have been made for the full price on the date of sale regardless of when payment is received. Subject only to the exclusions specified in the immediately following paragraph, the full amount received by the Concessionaire shall be included in "Gross Receipts", regardless of whether (a) the Concessionaire was acting as a consignee, trustee, or agent for a third party in connection with such sale or rental, or (b) the Concessionaire is entitled to retain the full amount received on such sale as the Concessionaire's own property.

The term "Gross Receipts" does not mean or include the amount of money refunded to and not merely credited to the account of customers who return or do not accept food, beverages, merchandise, or services sold or rented; any exchange of merchandise between stores or the central warehouses of the Concessionaire where such exchange is made solely for the convenient operation of the business and not for the purpose of consummating a sale made in, on, or from the Concession Premises; returns to shippers or manufacturers; any discount allowed to customers; or the Washington State Sales Tax and any other tax imposed by any government agency directly on sales. Business and occupation taxes are not taxes imposed directly on sales and shall not be deducted from the amount of "Gross Receipts".

B-2 ACCOUNTING MONTHS AND YEAR

2.1

The Concessionaire shall utilize calendar year accounting for the business operated at the Concession Premises.

B-3 INTEREST CHARGES DUE TO LATE PAYMENT

3.1

If the Concessionaire fails to pay the City any sum when due under this Agreement, the fee will be $25.00 and an interest rate of one percent on the amount due per month (twelve percent per annum) from the date when due until the date paid.

B-4 SECURITY DEPOSIT

4.1

Within ten (10) days after this Agreement has been executed by both parties, Concessionaire shall deposit with Seattle Parks and Recreation Department Two Thousand Five Hundred Dollars ($2,500.00) as a security for the faithful performance of and compliance with all the terms and conditions of this Agreement. If Concessionaire fails to fulfill any of its obligations under this Agreement, Parks may, but is not required to, use the deposit to remedy Concessionaire's default and Concessionaire shall be required to deposit additional funds with Parks in order to restore the deposit to the amount required herein. The deposit shall not in any manner release the Concessionaire from any of the obligations herein. If Concessionaire complies with all terms and conditions under this Agreement, then the City shall return the security deposit to the Concessionaire within sixty (60) days of the termination or expiration of this Agreement.

B-5 PRICE LIST

5.1

The location of points of sale, methods of sale, and prices charged for goods and services sold or business transacted on the Concession Premises shall at all times be subject to the approval of the Superintendent.

A copy of the Concessionaire's current price list for each item of service, food, or merchandise offered for sale or rent at the Concession Premises shall be conspicuously displayed in full view of the public at all times on the Concession Premises.

B-6 UTILITIES AND SERVICES

6.1

The Concessionaire shall obtain separated accounts for and shall pay before delinquency, all charges for utilities that are separately metered at the Concession Premises. If any utility services are furnished to the Concession Premises in combination with utility services provided to adjacent SPR property the Concessionaire shall reimburse SPR for the Concessionaire's pro rata share of any consolidated charge paid by the SPR within thirty (30) days of invoice by SPR. The Concessionaire shall pay all charges for utility connections, installations, and disconnections, and for service calls for any utility serving the Concession Premises. Concessionaire shall be solely responsible for and shall pay when due and directly to the appropriate company all bills for natural gas, electricity, telephone and communication services due to its occupancy and use of the premises. All other utilities to the Premises shall be paid by the SPR. Utilities include water, sewer, electricity,

heat, air conditioning, natural gas, and landscape maintenance. SPR shall not be liable to Concessionaire for failure or interruption of any utility services. The Concessionaire shall obtain a business telephone having at least one telephone line, the telephone number for which shall be publicly displayed at the Concession Premises, and shall be the same number published in all promotional advertising and telephone listings.

6.2

Refuse Collection. Concessionaire shall provide at the Premises a minimum of two 50-gallon trash cans for use by Concessionaire's customers. Concessionaire shall each day remove and dispose of the contents of all Concessionaires' trash cans in a legal manner and at its sole cost and expense. SPR may on occasion, but is not obligated to, provide dumpsters into which Concessionaire may empty its trash cans. On any day that SPR provides dumpsters, SPR will on that day remove the contents of the dumpsters at its sole cost.

6.3

Recycling. Concessionaire shall provide its customers with receptacles for recycling. Concessionaire, at no cost to SPR, shall collect, sort and separate into such categories as may be legally required, all solid waste products on the Premises, and recycle all such products that are locally accepted for recycling. Each separately sorted category of waste products shall be placed in separate receptacles reasonably approved by SPR, which receptacles shall be dumped or removed from the Premises at such minimum frequency as shall be specified by SPR.

6.4

Security Systems. SPR may supply the building with a security system operated by a company of its choosing. In such event, SPR shall provide Tenant the security code to access the Premises, and Tenant shall arm the system at the close of business each day. SPR shall not be responsible for any failure of the security system.

B-7 TAXES

7.1

The Concessionaire shall pay before delinquency, all taxes, levies, and assessments of any nature and kind whatsoever arising as a result of this Agreement. The Concessionaire shall pay the Washington State Leasehold Taxes due as a result of this Agreement, directly to Parks with each monthly rental payment to SPR. Washington State Leasehold Excise Tax is over and above any Concession Fees paid by the Concessionaire to SPR and shall be separately listed on all monthly documentation sent by the Concessionaire to SPR.

B-8 CARE OF CONCESSION PREMISES

8.1

General Obligation. The Concessionaire shall at its own expense keep the Concession Premises and adjacent areas in a neat, clean, safe, and sanitary

condition acceptable to the Superintendent. Concessionaire shall reimburse City for all damage done to the Concession Premises that results from any act or omission of Concessionaire or its contractors, agents, invitees, licensees, or employees, including, but not limited to, cracking or breaking of glass.

8.2

Hazardous Substances. Concessionaire shall not, without the Superintendent's prior written consent, keep on or about the Concession Premises any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful, and/or subject to regulation under any federal, state, or local law, regulation, or ordinance ("Hazardous Substances"), except customary office, kitchen, cleaning, and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with Superintendent's consent, Concessionaire shall comply with all governmental rules, regulations, and requirements regarding the proper and lawful use, sale, transportation, generation, treatment, and disposal of Hazardous Substances, including but not limited to all governmental requirements for reporting and record keeping. Concessionaire shall submit to City true and correct copies of all reports, manifests, and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; and within five (5) days after City's request therefor, provide evidence satisfactory to City of Concessionaire's compliance with all applicable governmental rules, regulations and requirements. Any and all costs incurred by City and associated with City's inspections of the Premises and City's monitoring of compliance with this Subsection B-8.2, including City's attorneys' fees and costs, shall be due and payable by Concessionaire within ten (10) days after City's demand. Concessionaire shall be fully and completely liable to City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Concessionaire's use, disposal, transportation, generation' and/or sale of Hazardous Substances in or about the Concession Premises.

8.3

Prohibited Equipment. No gas, coal, charcoal, or similar portable cooking equipment is permitted inside or outside the Premises unless prior written approval is obtained from the Superintendent of Parks and Recreation, and unless all required permits are obtained by Tenant. Vending machines are prohibited on or about the Premises.

8.4

Prohibition Against Installation or Integration of Any Work of Visual Art Without City's Consent. Concessionaire shall not install or integrate into the Concession Premises any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, without the prior written approval of the Superintendent, which approval may be conditioned or withheld in the Superintendent's sole discretion.

8.5

Routine and Major Maintenance Obligation. During the Term, Concessionaire shall be responsible for all routine maintenance and repair of the Concession Premises, including but not limited to maintenance and routine repairs of Initial Improvements, cracked or broken glass, minor plumbing and electrical repairs (replacing light bulbs, wall sockets, faucets, valves, etc.), and regular interior and exterior painting. The foregoing sentence does not extend to maintenance occasioned by an act or omission of City or its officers, agents, employees, or contractors, for which City shall be responsible. If City provides Concessionaire with written notice of Concessionaire's failure to comply with this Section and Concessionaire fails to take good care of the Concession Premises as provided in the notice, City, may, but is not required to, make such repairs and Concessionaire shall pay within thirty (30) days of invoice the entire actual and reasonable cost thereof. City shall have the right to enter the Premises for such purposes, and City shall not be liable for interference with light, air, or view. Except in the event of City's gross negligence or intentional misconduct, there shall be no abatement or reduction of Rent arising by reason of City's making of repairs, alterations, or improvements to the Concession Premises.

The City shall be responsible for major maintenance of the infrastructure of the Concession Premises during the Term of this Agreement, including structural maintenance, masonry maintenance, roof, electrical, plumbing system, and HVAC system repair and replacement; provided that City's obligation for major maintenance shall not extend to any maintenance or repair necessitated by an act or omission of Concessionaire, or its officers, agents, employees, sub-concessionaires, contractors, licensees, or invitees. The City shall maintain the parking areas and Park Common Areas to the standard typical of other, similar park properties.

B-9 EQUIPMENT

9.1

All equipment not attached to the building structure and other personal property used by the Concessionaire at the Concession Premises shall remain the property of the Concessionaire. All equipment and personal property of Concessionaire that is kept at the Concession Premises or Common Areas shall be at the sole risk of Concessionaire and Concessionaire hereby releases City from any liability or responsibility for loss or damage thereto. Any equipment or personal property belonging to the City in the building of the Concession Premises that has malfunctioned or requires major repair and maintenance is the responsibility of the City. A list describing the Concessionaire's equipment is attached and incorporated as Exhibit 3.

B-10 COMPLIANCE WITH LAWS; NONDISCRIMINATION

10.1

General Obligation. Concessionaire shall not use or permit the Concession Premises or any part thereof to be used for any purpose in violation of any municipal, county, state, or federal law, ordinance or regulation, or for any purpose offensive to the standards of the local community. Concessionaire shall promptly comply, at its sole cost and expense, with all laws, ordinances,

and regulations now in force or hereafter adopted relating to or affecting the condition, use, or occupancy of the Concession Premises and operation of the Concession granted under this Agreement.

10.2

Nondiscrimination. Without limiting the generality of Section 10-1, Concessionaire agrees to and shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

B-11 INDEMNIFICATION

11.1

The Concessionaire shall defend, indemnify, and hold the City, its elected officials, and employees harmless from any and all liabilities, claims, demands, losses, and costs (including reasonable attorney's fees) arising from (i) Concessionaire's operation of the Concession, including operation of Concession services by any sub concessionaire, (ii) the use and occupancy of the Concession Premises by Concessionaire, or any of its employees, agents, licensees, invitees, contractors, and sub concessionaires, or (iii) any breach of this Agreement by the Concessionaire or any sub concessionaire. If any suit is brought against the City, Concessionaire shall appear and defend the same, and shall satisfy any judgment that may be rendered against the City. Notwithstanding the foregoing, the City reserves the right to appear and defend any action without impairing the City's right to indemnification under this Section where the City determines that it is in the best interest of the City. Concessionaire's obligation to defend and indemnify shall not include any claims arising as a result of the sole negligence of the City, its employees and agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Concessionaire's immunity under Washington's Industrial Insurance Act, RCW Title 51, but only as to the City and to the extent necessary to provide City with a full and complete indemnity from claims made by Concessionaire's employees. Concessionaire shall promptly notify City of casualties or accidents occurring in or about the Concession Premises. Concessionaire's obligations under Section B-11 shall survive termination or expiration of this Agreement for the statute of limitations applicable to any claim or liability to which this section applies.

City and Concessionaire acknowledge that they mutually negotiated and agreed upon the indemnification provision in this Section.

INITIALS: _____ City of Seattle Representative
_____ Concessionaire Representative

B-12 INSURANCE

12.1

Insurance to be secured by Concessionaire. Prior to the commencement of any activity on the Premises under this Agreement, Concessionaire shall secure

and maintain, at no expense to City, a policy or policies of insurance as described in Exhibit "B".

B-13 IMPROVEMENTS AND ALTERATIONS

13.1

Concessionaire's Responsibilities. Except for cosmetic, non-structural alterations made by Concessionaire in connection with its repair and maintenance obligations under Section B-8.5 above, Concessionaire shall not make any improvements, alterations, or modifications to the Concession Premises without obtaining the Superintendent's prior written approval. Concessionaire covenants that it will cause all alterations, additions, and improvements to the Concession Premises, including the Initial Improvements, to be completed at Concessionaire's sole cost and expense by a contractor approved by the Superintendent and in a manner that (a) is consistent with the Superintendent approved plans and specifications; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for City's benefit; (d) does not affect the structural integrity of the building where the Concession Premises are located or any of the building's systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the building. Concessionaire shall secure all governmental permits and approvals required for the work; shall comply with all other applicable governmental requirements and restrictions, including but not limited to applicable building codes and the Americans with Disabilities Act; and reimburse City for any and all expenses incurred in connection therewith.

13.2

Prevailing Wages. In any contract for Initial Improvements, Concessionaire shall require its contractors to pay a wage commensurate with prevailing wages as described in RCW 39.12.

13.3

Liens. The Concessionaire shall keep the Concession Premises free and clear of, and shall indemnify, defend, and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Agreement or Concessionaire's use, improvement, or occupancy of the Concession Premises, or any of its principals, officers, employees, contractors, agents, or sub concessionaires. If any lien is so filed against the Concession Premises, Concessionaire shall either cause the same to be fully discharged and released of record within ten (10) days after City's written demand therefore or, within such period, provide City with cash or other security acceptable to City in an amount equal to one and one-half (1 ½) times the amount of the claimed lien as security for its prompt removal. City shall have the right to disburse such security to cause the removal of the lien if City deems such necessary, in City's sole discretion.

B-14 SUBCONTRACTING, SUBCONCESSIONS, AND ASSIGNMENT OF AGREEMENT

14.1

The Concessionaire shall not subcontract, assign or transfer this Agreement, in whole or in part, or otherwise convey any concession right or privilege granted

hereunder or any part of the Premises without the prior written approval of the Superintendent, which may be granted, withheld, or conditioned in the Superintendent's sole discretion. The Superintendent's approval of any subcontract, subconcession, or assignment shall not relieve Concessionaire from any of the requirements of this Agreement.

B-15 STANDARDS

15.1

The Concessionaire, its agents and employees, shall render courteous service to the public with a view of adding to the public use and enjoyment of the Concession Premises. The Concessionaire shall operate and conduct the facilities on the Concession Premises in a businesslike manner, and will not permit any acts or conduct on the part of the Concessionaire's employees that would be detrimental to the operation of the Concession Premises.

B-16 TEMPORARY CLOSURE OF CONCESSION PREMISES

16.1

SPR reserves the right to temporarily close the Concession Premises and suspend Concessionaire's operation of any portion thereof without liability for making of repairs or the convenience of the SPR upon a twenty-one (21) day notice to the Concessionaire and to close the Concession Premises or any portion thereof without notice to meet any emergency as determined by the Superintendent. In the event of any temporary SPR required closure, SPR shall post a sign notifying the public of the impending or effective closure.

B-17 ENTRY

17.1

The City and its agents may enter the Concession Premises at all reasonable times for the purpose of inspecting or repairing the same, but this right shall impose no obligation upon the City to make inspections to ascertain the condition of the Concession Premises or to make repairs.

17.2

Keys: Each key will need to be assigned and checked out by the concessionaire for who they will be issued too. All cost associated with replacing any keys for Golden Garden Bathhouse will be the responsibility of the Concessionaire including if the Department deems necessary lock core replacement.

B-18 NOTICES

18.1

Unless otherwise directed in writing, notices, reports, and payments shall be delivered to the SPR at the following address:

Seattle Parks and Recreation Department
Contracts Administration and Support Office
Attention: Theresa Burns, Parks Concessions Coordinator
RDA Building, 3rd floor
800 Maynard Ave S.
Seattle, WA 98134

And to the Concessionaire at the following address:

To De Determined
1234 Winning Proposal
Seattle, WA 12321

Either party may change its address for receipt of reports, notices, or payments by giving the other written notice of such change.

B-19 DEFAULT

19.1

Definition. The following shall be a default ("Default") by Concessionaire:

a. Concessionaire's failure to pay the Concession Fee or any additional charge herein within ten (10) days of the date required by this Agreement;

b. Concessionaire's breach of any obligation under this Agreement or failure to keep or perform any term, covenant, or obligation herein; or

c. Concessionaire's filing of a petition in bankruptcy, or if a trustee or receiver is appointed for Concessionaire's assets or if Concessionaire makes an assignment for the benefit of creditors, or is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; or

d. Concessionaire's receipt of two or more notices of Default under Section B-19.2, whether or not remedied in the time period allowed.

19.2

SPR Remedies. If Concessionaire has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within ten days of demand for any monetary payment due or within thirty (30) days after written notice of any other Default, then SPR shall have the following nonexclusive rights and remedies at its option: (i) to cure the Default on Concessionaire's behalf and to charge Concessionaire for all actual and reasonable costs and expenses incurred by SPR in effecting such cure; (ii) to re-take the Concession Premises and grant the Concession rights herein to another party; (iii) to exercise any other right or remedy allowed at law or equity. However, if the nature of Concessionaire's obligation is such that more than thirty (30) days is required for performance, then Concessionaire shall not be in Default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion; provided, that the foregoing extended cure period shall not apply to Concessionaire's Default relating to monetary obligations or Concessionaire's vacation or abandonment of the Concession Premises.

19.3

SPR Default and Concessionaire Remedies. SPR shall be in default if SPR fails to perform its obligations under this Agreement within thirty (30) days after its receipt of notice of nonperformance from Concessionaire; provided, that if the default cannot reasonably be cured within the thirty (30) day period, City shall not be in default if City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon City's default, Concessionaire may pursue any remedies at law or in equity that may be permitted from time to time by the laws of the State of Washington. If Concessionaire provides the City with written notice of default under this Section, and the City fails to either i) commence a cure within thirty days or ii) provide Concessionaire written notice that the Superintendent disputes City's obligation, then Concessionaire may, but is not required to, remedy City's default at its own expense, and City shall either pay within thirty (30) days of invoice the entire actual and reasonable cost thereof.

B-20 TERMINATION FOR CONVENIENCE

20.1

In addition to termination for cause and termination on expiration of the term hereof, this Agreement may be terminated by either party for convenience, by the giving of advance written notice to the other party. No such termination shall be effective earlier than sixty (60) days after the receipt of the termination notice by the receiving party. Termination under this provision shall not relieve either party of any duty or obligation owed under the terms of this Agreement prior to the termination date. If this Agreement is terminated by the City under this Section B-20, within thirty days of the effective date of termination, the City shall reimburse the Concessionaire for any remaining unamortized interest the Concessionaire may have in the Concession Premises measured by Concessionaire's investment in the Initial Improvements and any subsequently approved capital improvements made by Concessionaire to the Concession Premises, less accrued amortization and depreciation as set forth in an amortization schedule typically applied to similar improvements. Notwithstanding the foregoing, the City shall not reimburse Concessionaire for City's termination of this Agreement following damage or casualty to the Concession Premises.

B-21 FORCE MAJEURE

21.1

Neither party shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if and for such time period that the failure is due to any cause beyond a party's reasonable control, including, but not limited to an act of nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war.

B-22 TIME

22.1

If the last day for the performance of any obligation under this Agreement falls upon a non-City business day, including Saturday, Sunday, or official state legal holiday, the final day for performance shall be the City next business day.

B-23 WAIVER

23.1

Absent a specific written waiver signed by the Superintendent, the SPR shall not be deemed to have waived any right the SPR has under the terms of this Agreement or by operation of law with respect to any breach or default by Concessionaire. Such a written waiver shall be confined to its specific terms. Waiver of any obligation arising under the Agreement shall not be deemed a waiver of any other provision of the Agreement or of the Concessionaire's full compliance with the terms and conditions of the Agreement. No waiver will be implied from any knowledge the SPR may have of any breach, default, or non-compliance by Concessionaire. SPR failure to enforce any provision of this Agreement shall not be deemed as waiver or consent.

B-24 CAPTIONS

24.1

Captions are for convenient reference only, and do not limit or amplify the language of the paragraph(s) following.

B-25 SIGNS AND ADVERTISING

25.1

The City's written approval shall be required for all signs and advertisements on the Concession Premises; and such approval must be obtained prior to posting of any signs. Concessionaire shall be solely responsible for obtaining any permit required under the laws of the City of Seattle, for any sign or advertising erected at the Concession Premises.

B-26 CHANGES AND MODIFICATIONS

26.1

The parties hereto reserve the right to amend this Agreement from time to time by mutual agreement in writing. No amendment hereto shall be effective unless in writing and signed by an authorized representative of each of the parties.

B-27 APPROVALS BY THE CITY OR SUPERINTENDENT

27.1

The granting of approval or consent by the Superintendent to any action of Concessionaire does not constitute the taking of any official action, including the granting of approval, by any other City department or official, where other department's or official's action is required by law, ordinance, resolution, or rule or regulation.

B-28 SEVERABILITY

28.1

Should any term, provision, condition or other portion of this Agreement or any provision of any document incorporated by reference be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the remainder shall continue in full force and effect.

B-29 SUCCESSORS IN INTEREST

29.1

Unless otherwise provided, the terms, covenants, and conditions in this Agreement shall apply to and bind the Concessionaire and any and all heirs, successors, executors, administrators, and assigns of the Concessionaire, all of whom shall be jointly and severally liable with the signatory to this Agreement.

B-30 NO RELATIONSHIP ESTABLISHED

30.1

SPR shall in no event be construed to be a partner, associate, or joint venture of the Concessionaire or any party associated with the Concessionaire. The Concessionaire shall not create any obligation or responsibility on behalf of the City or bind the City in any manner.

B-31 CONSENT

31.1

Any time consent is required of a party to this Agreement, unless otherwise specifically stated, such consent shall not be unreasonably withheld, conditioned, or delayed.

To memorialize the agreements made, both parties hereby have caused this Concession Agreement to be executed by their respective representative(s) by signing below:

FOR THE CONCESSIONAIRE,:

By: _____ Date: _____

Owner

FOR SEATTLE PARKS AND RECREATION DEPARTMENT

By: _____ Date:_____

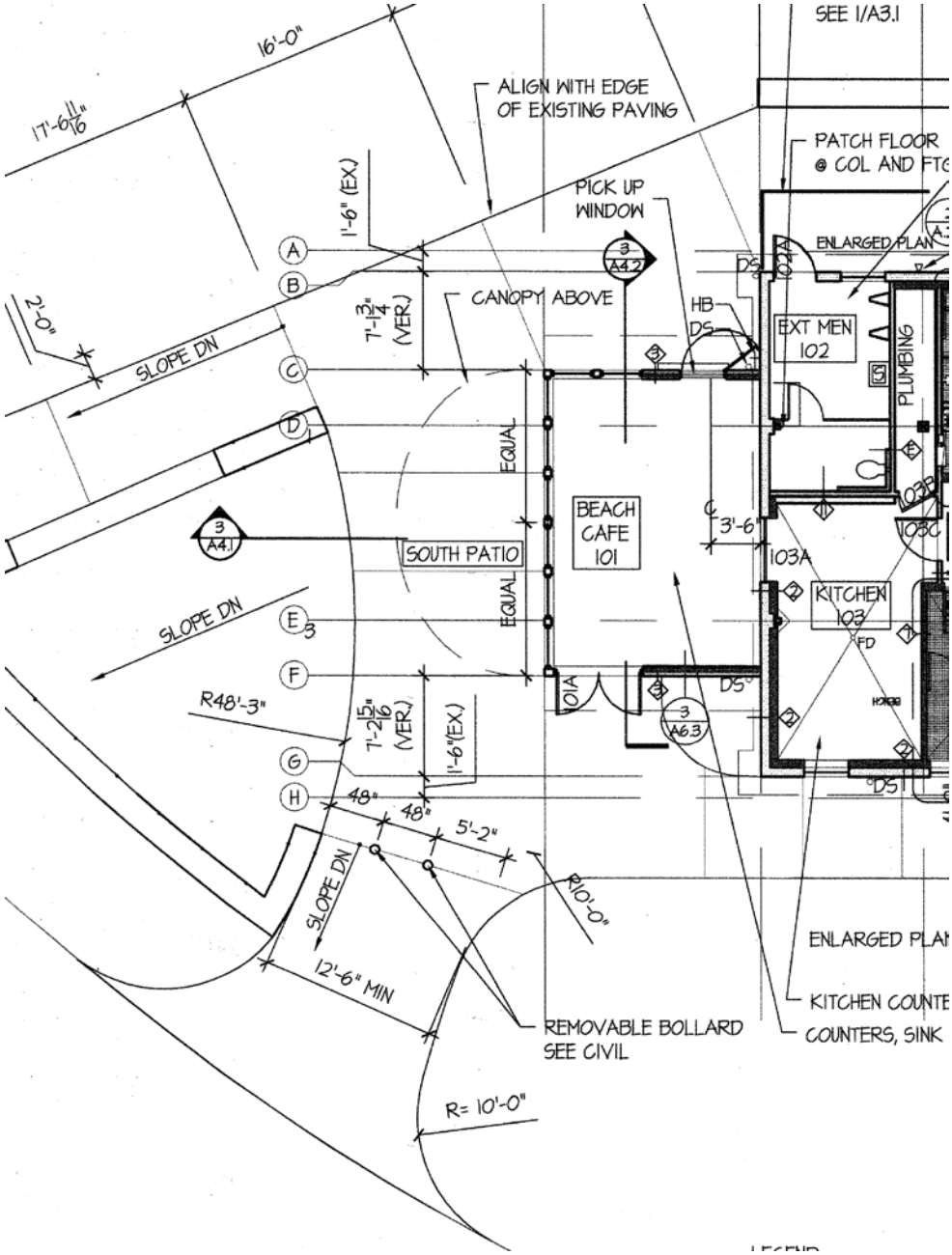
Jesús Aguirre, Superintendent

Golden Gardens Concession Agreement

EXHIBIT A - Golden Gardens Park Map and Bathhouse Floor Plan


SEATTLE PARKS AND RECREATION
Golden Gardens Park Beach Area
Legend
Building outline
Parks Boundary
N
W
E
S
75 0 75 150
Feet
1 inch = 150 feet
©2016, CITY OF SEATTLE
All rights reserved.
No warranties of any sort, including accuracy, fitness or merchantability accompnay this product.
Orthophoto source:
Pictometry, June-August 2013
Map date: July 26, 2016
Document Path: V:\Project\NORTH\Golden Gardens\Ortho - Beach Area - 2013 (P-11x17).mxd

EXHIBIT A CONTINUED - Golden Gardens Park Map and Bathhouse Floor Plan



Golden Gardens Concession Agreement

EXHIBIT B - Approved Menu

Golden Gardens Concession Agreement

EXHIBIT C - Concession Monthly Report of Gross Receipts Form

Concessionaire Name: _____

For Month of: _____Year: 201__

Concession Location: Golden Garden Park

Total Gross Sales Listed On Page 2:	$_____._____ "A"
Less Sales Tax Collected:	$_____._____ "B"
Equals Net Sales (A minus B):	$_____._____ "C"
Concession Fee Dollar Amount From Your Permit:	$_____._____ "D"
State Leasehold Excise Tax (12.84% times of D):	$_____._____ "E"
TOTAL REMITTED (F=D + E) to Parks:	$_____._____ "F"

Make your check payable to "Seattle Parks" and mail your check and this Monthly Report to reach Seattle Parks by the 10th day of the month following the month being reported.

Mail total Payment ("F") to: The City of Seattle Parks and Recreation, Attn:
Theresa Burns, Concessions Coordinator, 800 Maynard Ave. S. Suite 300, Seattle, WA 98134

I, the undersigned, do hereby certify, under penalty of perjury, that the above gross sales statement is true and correct.

Signed: _____ Date: _____, ___ 201__

(month) (day)

Golden Gardens Concession Agreement

EXHIBIT C - Concession Monthly Report of Gross Receipts Form

Concessionaire Name: _____

For Month:_____, 20____

Day of Month	Time Opened and Closed	# of hours	Daily Gross Sales
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
24			
25			
26			
27			
28			
29			
30			
31			
		Total Gross	
		Net Tax Collected	
		Net Sales	$

Golden Gardens Concession Agreement

Exhibit D-Insurance Requirement

1. Furnished Coverages and Limits of Liability: Lessee shall, at no expense to the City, maintain, and cause its subtenant(s), if any, to maintain in full force and effect the following minimum limits of insurance, and adhere to all terms and conditions below, at all times beginning on the Commencement Date and ending on the Expiration Date of this Lease:.

A. Commercial General Liability (CGL) written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits of Liability:

$1,000,000 per Occurrence
$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations Aggregate
$1,000,000 Personal/Advertising Injury Liability
$ 1,000,000 Damage to Premises Rented to You

Employers Liability / Washington Stop
$1,000,000 Each Accident / Each Disease / Policy Limit

Alternatively, may be evidenced as Employer's Liability insurance under Part B of a Workers Compensation insurance policy.

Coverage shall include: Premises and Operations; Broad Form Property Damage (Including Completed Operations); Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract); Personal Injury and Advertising Liability; Independent Contractors; Severability of Interest Clause; Waiver of Subrogation endorsement in favor of Owner as required by contract; General Aggregate Limits of Insurance shall apply separately; "Claims Made" and "Modified Occurrence" policy forms are not acceptable.

The limits of liability described above are minimum limits of liability only. Regardless of provisions to the contrary under the terms of any insurance policy maintained by Lessee, the specification of any such minimum limits shall neither be (1) intended to establish a maximum limit of liability to be maintained by Lessee regarding this Agreement, nor (2) construed as limiting the liability of any of Lessee's insurers, which must continue to be governed by the stated limits of liability of the relevant insurance policies.

B. Automobile Liability insurance at least as broad as ISO CA 00 01 including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of $1,000,000 each accident for bodily injury and property damage.

C. Workers' Compensation insurance securing Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington.

D. Property Insurance under which the Lessee's furniture, trade fixtures, equipment and inventory ("Business Personal Property") and all alterations, additions and improvements that Lessee makes to the

Premises are insured throughout the Lease Term in an amount not less than the replacement cost new thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss (earthquake optional), not less broad than provided by the insurance industry standard "Causes of Loss - Special Form" (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, or above-ground oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (iv) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of Rent and Additional Charge and other fixed costs during any interruption of Lessee's business. Coverage shall contain a waiver of coinsurance or agreed amount endorsement(s). City shall be named as a loss payee, as its interest may appear, as respects property insurance covering the alterations, additions and improvements under such policy.

E. In the event that the City deems insurance to be inadequate to protect Lessee and the City, Lessee shall increase coverages and/or liability limits as the City shall deem reasonably adequate within sixty (60) days after the date of written notice.

2. Terms and Conditions for Lessee's Insurance.

A. The City of Seattle as Additional Insured: The CGL insurance and, in addition, Excess and/or Umbrella liability insurance, if any, shall include "The City of Seattle, its officers, officials, employees, agents and volunteers" as additional insureds. Lessee's insurance shall be primary and non-contributory to any insurance maintained by or available to the City. The term "insurance" in this paragraph shall include insurance, self-insurance (whether funded or unfunded), alternative risk transfer techniques, capital market solutions or any other form of risk financing.

B. Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited: Lessee's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. Lessee's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the Lessee's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. Lessee's CGL policy shall NOT include any of the following Endorsements (or their equivalent endorsement or exclusions): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer's Liability exclusion, (e) any "Insured vs. Insured" or "cross-liability" exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. Lessee's failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Agreement with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Lessee or reduced and/or offset against the Agreement.

C. Cancellation Notice: Coverage shall not be cancelled without forty-five (45) day written notice of such cancellation, except ten (10) day written notice as respects cancellation for non-payment of premium, to the City at its notice address except as may otherwise be specified in Revised Code of Washington (RCW) 48.18.290 (Cancellation by insurer.). The City and the Lessee mutually agree that for the purpose of RCW 48.18.290 (1) (b), for both liability and property insurance the City is deemed to be a "mortgagee,

pledge, or other person shown by (the required insurance policies) to have an interest in any loss which may occur thereunder."

D. Umbrella or Excess Liability "follow form" insurance over primary CGL insurance limit, if necessary, to provide total minimum limits of liability of $2 million per occurrence, $3 million aggregate. These required total minimum limits of liability may be satisfied with primary limits or any combination of primary and umbrella/excess limits.

E. Minimum Security Requirements: Each insurance policy required hereunder shall be (1) subject to reasonable approval by City that it conforms with the requirements of this Section, and (2) be issued by an insurer rated A–:VIII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington unless procured under the provisions of chapter 48.15 RCW (Unauthorized insurers).

F. Deductible or Self-Insured Retention: Any deductible or self-insured retention ("S.I.R.") must be disclosed to, and shall be subject to reasonable approval by, the City. Lessee shall cooperate to provide such information as the City may reasonably deem to be necessary to assess the risk bearing capacity of the Lessee to sustain such deductible or S.I.R. The cost of any claim falling within a deductible or S.I.R. shall be the responsibility of Lessee. If a deductible or S.I.R. for CGL or equivalent insurance is not "fronted" by an insurer but is funded and/or administered by Lessee or a contracted third party claims administrator, Lessee agrees to defend and indemnify the City to the same extent as the City would be protected as an additional insured for primary and non-contributory limits of liability as required herein by an insurer.

3. City's Property Insurance Coverage and Limits.

A. City will maintain at its expense Property Insurance or self-insurance under which the Premises, excluding Lessee's Business Personal Property and Tenant Improvements, are insured throughout the Lease Term in an amount not less than the replacement cost new thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss (including earthquake), not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, or above-ground oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises. City's Property Insurance currently is subject to a $250,000 deductible for most claims for which Lessee shall be responsible only to the proportional extent to which the loss or damage is attributable to Lessee's negligent acts that are, or should be, covered by Tenant's Fire/Tenant Legal Liability insurance.

B. During such time as Lessee is engaged in the performance of the Improvements or other renovation of the Premises, the Lessee shall maintain in full force and effect "All Risks" Builder's Risk Property insurance or equivalent for the portion of the Premises under renovation, including fire and flood, on a replacement cost new basis subject to a deductible of no more than $50,000 each loss. In the event of a claim under the builder's risk policy, Lessee or its contractor(s) shall be responsible for paying any deductible under the policy if Lessee or any of its agents, employees, or contractors is responsible for the loss or damage. It shall be Lessee's responsibility to properly coordinate with the City's Risk Management Division the placement of Builder's Risk Property insurance prior to any new construction on, or structural alteration of, the Premises.

The City may change the terms of its insurance in Sections 3.A. and 3.B. at any time based on market conditions, with no compensation due to the Lessee.

4. Waiver of Subrogation. Unless such waiver would void the property insurance coverage to be provided pursuant to this section, the City and Lessee waive all subrogation rights each may have against the other, or any subtenant, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this section or other property insurance applicable to the Premises, except such rights as they have to proceeds of such insurance held by the City or the Lessee or both as fiduciary. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged

5. Evidence of Insurance. On or before the Commencement Date, and thereafter not later than the last business day prior to the expiration date of each such policy, the following documents must be delivered to City at its notice address as evidence of the insurance coverage required to be maintained by Lessee:

A. Certification of insurance documenting compliance with the coverage, minimum limits and general requirements specified herein; and

B. A copy of the policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;

C. A copy of the CGL insurance policy provision(s) and endorsements expressly including the City of Seattle and its officers, elected officials, employees, agents and volunteers as additional insureds (whether on ISO Form CG 20 26 or an equivalent additional insured or blanket additional insured policy wording), showing the policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;

D. Pending receipt of the documentation specified in this Exhibit D – Insurance Requirements. Lessee may provide a copy of a current complete binder. An ACORD certificate of insurance will not be accepted in lieu thereof.

Evidence of Insurance as set forth above, shall be issued to:

The certificate holder shall be:
The City of Seattle c/o Seattle Parks and Recreation
800 Maynard Avenue South, #300
Seattle, WA 98134

with an electronic copy to terri.burns@seattle.gov

6. Assumption of Property Risk. The placement and storage of Lessee's Business Personal Property in or about the Premises shall be the responsibility, and at the sole risk, of Lessee.

7. Adjustments of Claims: The Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the Lessee under this Agreement.

8. Lessee's Responsibility: The procuring of the policies of insurance required by this Agreement shall not be construed to limit the Lessee's liability hereunder. Notwithstanding said insurance, the Lessee shall be obligated for the full and total amount of any damage, injury or loss caused by negligence of the Lessee, or any of its agents, officers and employees or through use or occupancy of the Premises.