

**GOLDEN GARDENS BATHHOUSE CONCESSIONS AGREEMENT
BETWEEN
THE CITY OF SEATTLE PARKS AND RECREATION
AND
THE KITE CAFE LLC**

CONTRACT ID: PR0PC25-1466

THIS CONCESSION AGREEMENT (“Agreement”) is entered into upon execution (the “Effective Date”) by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington (“City”), by and through Seattle Parks and Recreation and its Superintendent (“SPR” and “Superintendent”, respectively) (“Superintendent” herein includes the Superintendent’s designee), and THE KITE CAFE LLC, dba The Kite Cafe, a Washington limited liability company (“Concessionaire”). The City, SPR, and Concessionaire are known herein as the “Parties” or individually as a “Party.”

1. CONCESSION PREMISES AND ADJACENT AREA

1.1 Description. As used in this Agreement, the “Concession Premises” means the following portions of City-owned property referred to as Golden Gardens Bathhouse located at 8498 Seaview Place N.W., Seattle, King County, Washington 98117 (“Building”):

The rentable area of 480 square feet located at the south end of the Building as outlined in the floor plan of the Building attached as Exhibit A (“Floor Plan”) to this Agreement. The rentable storage area of approximately 20 square feet is located at the north end of the Building as outlined in the floor plan of the Building attached as Exhibit A (“Storage Space”) to this Agreement, subject to the terms and conditions herein.

1.2 Grant of Right to Use the Concession Premises AS-IS. Throughout the Term, the Concessionaire shall have the right to exclusive use and occupancy of the Concession Premises for the purpose of operating the Concession granted under this Agreement as further set out in Section 3. Concessionaire accepts Concession Premises in an AS-IS condition as of the Effective Date, and the City makes no representation about the fitness of the Concession Premises for the intended purpose.

1.3 Grants of Right to use Patio Area. Throughout the Term, Concessionaire shall have the rights to use the patio area to the south of the Concession Premises (“Patio Area”) to place tables, chairs, and potted plants. Signage may be placed with a Certificate of Approval from the Department of Neighborhoods. Any item that Concessionaire would like to use in the Patio Area must be approved by SPR in writing in advance and Concessionaire assumes all liability for any damage or loss.

In addition, during Food Service Hours Thursdays through Sundays and on any legal holidays, Concessionaire shall have the exclusive right to use the Patio Area to place a 12’ by 6’ jeep (“Jeep”) for creation and sales of handspun milkshakes and hand dipped ice cream. While Concessionaire is using the Patio Area to vend with the Jeep, the Patio Area, as identified on Exhibit A, shall be considered part of the “Concession Premises” such that all obligations and restrictions placed on the use of the Concession Premises throughout the Agreement shall apply

to the use of the Jeep in the Patio Area. The Jeep must remain under the patio awning and not extend beyond the footprint of the awning onto the park walkways. Concessionaire is permitted to have a small folding table and a cooler outside the vehicle and under the awning. Only the Kite Cafe Jeep is permitted; Concessionaire may not use another vehicle, kiosk, or method of vending milkshakes, ice cream, or other food items in the Patio Area. No third-party vending will be permitted. This right is subject to the same restrictions listed in Section 2 of the Agreement, specifically, that SPR may grant to a third party a temporary food concession right along with the use of the park through a Special Event Permit at Golden Gardens Park periodically during the term of this Agreement.

1.4 Grants of Right to use Parking Space. Throughout the Term, Concessionaire shall have the rights to use one (1) designated parking space north of the recycling area, with an approved SPR parking pass. All other parking is first-come, first-served. If designated parking space is taken by another park user, Concessionaire should contact the Dispatch Desk at 206-684-7250.

2. GRANT OF CONCESSION RIGHTS

SPR hereby grants to the Concessionaire, subject to the terms herein, the exclusive right and privilege to operate a year-round restaurant food and beverage business at the Concession Premises during the Term of this Agreement in a manner that is compatible with this Agreement and SPR's purpose and use of Golden Gardens. No other food concessions will be granted by SPR to a third party during the term of this Agreement; EXCEPT, SPR may grant to third party a temporary food concession right along with the use of the Park through a Special Event Permit at Golden Gardens Park periodically during the term of this Agreement. Concessionaire has permission to sell merchandise as appropriate and approved by SPR; however, there is no exclusivity to merchandise sales at Golden Gardens Park.

3. TERM OF AGREEMENT

3.1 Initial Term. This Agreement shall be effective upon execution ("Effective Date") and shall be for an initial term of five (5) years legislated through City Council. This contract shall expire five years from the Effective Date.

3.2 Extended Term. At the Superintendent's discretion, this Agreement may be extended for one additional term of up to five (5) years on such terms and conditions as the Superintendent may determine. Concessionaire shall give SPR written notice of its intention to extend or not extend at least six (6) months prior to the expiration of the initial Term. SPR superintendent shall have sixty (60) days following the date of Concessionaire's request to extend their term for an additional five (5) years. When used in this Agreement, the word "Term" includes both the Initial and the Extended Terms unless the context clearly indicates otherwise.

4. CONSIDERATION

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

- a. Timely payments of the monthly Concession Base Fee in Section 5.1.
- b. Provision of all equipment and services to operate the Concession in the manner required under Section 7.
- c. Obtaining and maintaining all required King County health permits and City of Seattle business licenses.
- d. Operations of Concessions Premises for the required minimum service hours listed in Section 7.1.

5. CONCESSION BASE FEE

5.1 Monthly Concession Base Fee and Leasehold Excise Tax.

Concessionaire shall commence paying annual concession base fee of \$16,300, and concession base fee shall be paid by installments every month for the duration of the Term. This is equal to the appraised value done in March 2023. On or before the 5th day of each month, Concessionaire shall pay to City of Seattle at the address and to the account specified by the City, without notice or demand of any setoff or deduction whatsoever, in lawful money of the United States the following:

- a. An installment of the annual concession base fee in the amount of \$1,358.34 monthly. If Commencement date does not occur at the start of the calendar month, Concessionaire shall pay prorated amount for first month no later than five days after commencement.
- b. Monthly amount of applicable Leasehold Excise Tax required under Section 10.

5.2 Annual Gross Receipts: Gross Receipts means total revenue and income received by Concessionaire from conducting business in and from the Concession Premises, less retail sales tax. Should annual gross sales receipts exceed one-million dollars (\$1,000,000), concessionaire will pay 1% of gross sales receipts above \$1,000,000. Annual sales reporting shall be per calendar year and submitted no later than January 15th of the following year.

5.3 Place and Manner of Payment.

All payments to the City shall be mailed to:

City of Seattle
Treasury Department Accounts Receivable
PO Box 94626
Seattle WA 98124-6926

Concessionaire may also pay in person at:

Seattle Municipal Tower
700 Fifth Ave, Fourth Floor
Seattle, WA, 98104

Long-Term Concessions Agreement: The Kite Cafe
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All Concession Fee payments shall have the invoice number issued by Parks accounting written on the check.

5.4 Adjustments to Concession Base Fee: Beginning on the anniversary of the Effective Date and annually thereafter, the concession base fee will be adjusted upward based on CPI, but no more than four percent (4%) annually on the first day of the following month and on each anniversary of that date thereafter until this Agreement terminates.

5.5 Late and Refused Payments

5.5.1 Monthly interest rate of one percent (1%) per month will be applied to past due items, based on Ordinance 117969. After the due date, interest is assessed on unpaid amounts. Interest is calculated beginning on the invoice date and accrued every 30 days until the bill is paid.

5.5.2 Returned checks for insufficient funds may incur a reasonable handling fee for each instrument including payment of interest, collection costs, and attorney's fees, based on RCW 62A.3-301.

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 five (5) business days' 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 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 except as qualified below. If any audit reveals a miscalculation of Gross Receipts, the Concessionaire shall pay any additional amounts owing in Concession Fees. If an audit inspection or examination pursuant to this section discloses significant under reporting of Gross Receipts by Concessionaire SPR may seek reimbursement of the actual and reasonable costs of the audit as a claim against Concessionaire.

6.3 Retention. The Concessionaire shall retain all financial books, records, documents, register rolls, 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 5 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 Point of Sale ("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 POS System without the Superintendent's written authorization.

7. OPERATION AND SERVICES

7.1 Minimum Service Hours. Unless otherwise approved by the Superintendent, Concessionaire shall be open for business year-round and will provide service for the minimum number of hours as shown in the Chart below during the following months:

Minimum hours of operation of the Premises are as follows

Month	Minimum total required hours of operation Saturday-Sunday	Minimum total required hours of operation Monday-Friday
January thru February	4 hours	No Requirements
March	8 hours	No Requirements
April	8 hours	4 hours
May	12 hours	16 hours
June Thru August	16 hours	40 hours
September	12 hours	16 hours
October	8 hours	8 hours
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.

If Golden Gardens Park remains open but access to concession stand is fully restricted due to a natural catastrophe, SPR may consider concession base fee adjustment.

7.2 Park Hours: 4:00 AM – 10:30 PM Memorial Day through Labor Day.
4:00 AM – 11:30 PM Fall through Spring.
Hours are subject to change.

7.3 Food Service Hours: Operator can be open for 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 Gardens Bathhouse, visible from the outside.

7.5 Reporting of Gross Receipts: Concessionaire shall report on an annual basis the total income from conducting business at the concession premises and patio area, the proceeds from all retail and wholesale sales of food, beverages, merchandise, and services, as indicated in Section 5.2.

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

7.7 Prohibited Products: Concessionaire is prohibited from selling alcohol, cigarettes/nicotine, or marijuana products including CBD. Concessionaire shall sell nothing in a glass container. See Sections 11 and 13 for additional requirements.

8. PRICE LIST

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 from the public at all times on the Concession Premises. Concessionaire shall provide menu items and healthy options to patrons that are consistent with the menu and prices shown on Exhibit B that has been approved by SPR, and which may be amended by mutual agreement of both parties in writing. 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. Should Concessionaire choose to change menu prices, a list with updated fees is due to SPR at least 30 days prior to anticipated price changes.

9. ACCOUNTING MONTHS AND YEAR

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

10. TAXES

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, along with any monthly concession base fee payment owed to SPR. Washington State Leasehold Excise Tax (LET) 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. LET is currently at 12.84%.

11. UTILITIES AND SERVICES

11.1 Utilities. The Concessionaire shall obtain separate 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 propane, electricity, telephone and communication services due to its occupancy and use of the premises. All other utilities to the Premises shall be paid for by SPR. Utilities paid by SPR are 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.

11.2 Refuse Collection. Concessionaire shall provide at the Concession Premises and Patio Area 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. Should Concessionaire need additional dumpsters, this will be provided by Concessionaire at its sole cost and coordinated with SPR.

11.3 Recycling. Concessionaire shall provide its customers with recycling receptacles. 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.

11.4 Compostables. Concessionaire shall abide by the local laws, including SMC 21.36.084 through SMC 21.36.086, as amended from time to time, regarding the requirement to use recyclable or compostable food service ware as well as provide for the collection and delivery of such food service ware to the appropriate facilities.

11.5 Security Systems. SPR may supply the Building with a security system operated by a company of its choosing. In such event, SPR shall provide Concessionaire with the security code to access the Premises, and Concessionaire shall arm the system at the close of business each day if they are the last person to exit the Building. SPR shall not be responsible for any failure of the security system.

12. ENTIRE AGREEMENT

This Agreement, including all exhibits, represents 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 except by signed Amendment. The following exhibits are hereby incorporated and made a part of this agreement:

Exhibit A - Golden Gardens Park Map and Bathhouse Floor Plan

Long-Term Concessions Agreement: The Kite Cafe
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Exhibit B - Approved Menu
Exhibit C - Concession Monthly Report of Open Hours Form
Exhibit D - Insurance Requirements
Exhibit E - Concessionaire Equipment List

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.

13. CARE OF CONCESSION PREMISES

13.1 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.

13.2 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, therefore, 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 Concession Premises and City's monitoring of compliance with this Section 16.2, 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.

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

13.4 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.

13.5 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 any improvements, minor plumbing and electrical repairs (replacing light bulbs, wall sockets, faucets, sink drainpipes, and valves), custodial care, and regular interior 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.

13.6 City Maintenance: 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.

13.7 Security Cameras. Concessionaire may install cameras on the Premises for the sole purpose of monitoring and surveilling the Premises for safety and security as well as aiding law enforcement, provided Concessionaire complies with the following:

- a. The cameras’ location will be selected in coordination with SPR and shall not be in a place where there is a reasonable expectation of privacy, such as restrooms.
- b. Concessionaire shall post notices in conspicuous places informing its employees and customers that security cameras are operating.
- c. Such cameras shall provide video surveillance only, not audio.
- d. The camera footage will be used only for security, safety, and aiding law enforcement.
- e. Concessionaire shall have full responsibility for the operation of such cameras and any maintenance of camera footage.

13.8 Fire Suppression System and Extinguishers. Concessionaire is responsible for scheduling and maintaining the fire suppression hood system every six months and will provide the system test reports to SPR. The fire extinguishers will be maintained by SPR, and concessionaire will provide access to the vendor for maintenance.

13.9 No Grease or Propane in Patio Area: Concessionaire is not allowed to use products containing grease or use propane or generator for power to the Jeep in the Patio Area. Concessionaires will use the battery and inverter system on the Jeep for power. If needed, an

electrical cord is permitted to run through the window and plugged into the outlet below the window.

13.10 Fire Oil/Fluids Spill Abatement: Concessionaire will use a drip pan and cleanup materials to ensure the Patio Area remains clean. Concessionaire warrants that the Jeeps' engine and transmission were new and has no leaks as of May 2025. Should a leak occur, The Kite Cafe is solely responsible for immediate cleanup and the Jeep must be removed immediately from the patio.

13.11 Jeep Entering and Exiting Park: The Jeep used to vend in the Patio Area shall enter and exit the Park using a curb ramp. A spotter will be used to guide the Jeep in and out and the Jeep will travel at no more than five (5) mph. The route will be the most direct at the south end of the main parking lot in front of the Building and directly south of the playground. The vehicle will not remain in the park overnight.

14. EQUIPMENT

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 Patio Area shall be at the sole risk of Concessionaire and Concessionaire hereby releases City from any liability or responsibility for loss or damage thereto. Unless the need for repair or maintenance is caused by Concessionaire, 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 E and should be updated as new equipment is acquired by the Concessionaire.

15. COMPLIANCE WITH LAWS; NONDISCRIMINATION; EQUALITY OF TREATMENT

15.1 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, including obtaining all required food handling certificates and any required public health clearances.

15.2 Nondiscrimination. Without limiting the generality of Section 15.1, 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. Failure to comply with any of the terms of these provisions shall be a material breach of the Agreement.

15.3 Equality of treatment. Concessionaire shall conduct its business in a manner which assures fair, equal and non-discriminatory treatment at all times in all respects to all persons without regard to race, color, religion, sex, age, or national origin. No person shall be refused service, be given discriminatory treatment, or be denied any privilege, use of facilities, or participation in activities on the Premises on account of race, color, religion, sex, age, marital status, political ideology or national origin. Failure to comply with any of the terms of this provision shall be a material breach of this Agreement.

16. INDEMNIFICATION

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 16 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

17. INSURANCE

Insurance to be secured by Concessionaire. Prior to the commencement of any activity, including development, 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 D.

18. IMPROVEMENTS AND ALTERATIONS

18.1 Concessionaire's Responsibilities. Except for cosmetic, non-structural alterations made by Concessionaire in connection with its repair and maintenance obligations under Section 13.5 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 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.

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

18.3 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.

19. SUBCONTRACTING, SUBCONCESSIONS, AND ASSIGNMENT OF AGREEMENT

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, sub concession, or assignment shall not relieve Concessionaire from any of the requirements of this Agreement.

20. STANDARDS

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 Long-Term Concessions Agreement: The Kite Cafe
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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.

21. TEMPORARY CLOSURE OF CONCESSION PREMISES

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. For any SPR designated closure SPR will prorate any minimum concession payment due.

22. ENTRY and KEY POLICIES

22.1 Entry. 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.

22.2 Keys. Access through keycards and keys is granted to Concessionaire for City owned and managed property and facilities. The City oversees access for the security and safety of the Building. The SPR facilities access and security systems unit designates management and can terminate access, or request the return of City property including, but not limited to keycard, keys, electronic keys (CyberKey), etc., with notice. Upon request to surrender city issued keys and/or badges, Concessionaire must return those items to an approved Contracts Administration & Support Office (CASO) designee or directly to the SPR Access Control unit.

Each key must be assigned and checked out by the Concessionaire for whom they will be issued. All costs associated with replacing any keys for Golden Gardens Bathhouse will be the responsibility of the Concessionaire including if SPR deems lock core replacement necessary. Alarm code will be provided by SPR and can only be given to concessionaire's staff.

22.3 Key Audits. The City may request key audits at any time, without notice. A response is required within seventy-two (72) hours of a key audit request. Audits initiated by the city may be performed on site or scheduled with Access Controls, determined by Access Controls. SPR will provide instruction at the time of a Concessionaire-initiated audit.

22.4 Lost or Stolen Keys/Electronic Keys/Keycards

If a key is lost or stolen, Concessionaire must notify the SPR Access Control team immediately. Concessionaire will be billed for the cost of rekeying the door(s) in an amount to be determined by SPR. The current cost for replacement of keys and keycards is fifty dollars (\$50.00) each, and two hundred and fifty dollars (\$250.00) for electronic keys (CyberKey). All keys, electronic keys, and keycards remain the property of the City and **Duplication is Strictly Prohibited**. Access Control number is 206-684-4021 or email @ accesscontrols.parks@seattle.gov.

23. NOTICES

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

Department of Parks and Recreation
Contracts Administration and Support Office
Attention: JoAnn Gunter, Parks Concessions Coordinator
300 Elliott Ave W, Suite 100
Seattle, WA 98119
(206) 858-0277
joann.gunter@seattle.gov

And to the Concessionaire at the following address:

The Kite Cafe
Attn: Matthew Kelly and Anthony Meyer
5847 6th Ave NW
Seattle WA 98107
206-422-8071
info@thekitecafe.com

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

24. DEFAULT

24.1 Definition. The following shall be a default (“Default”) by Concessionaire:

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

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

24.1.3. 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 is liquidated, voluntarily or otherwise; or

24.1.4. Concessionaire’s receipt of two or more notices of Default under Section 24.2, whether or not remedied in the time period allowed.

24.2 SPR Remedies. If Concessionaire has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within ten (10) 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.

24.3 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 terminate the Agreement without further liability to Concessionaire, although it has an obligation to leave the Premises in acceptable condition.

25. TERMINATION FOR CONVENIENCE

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.

26. FORCE MAJEURE

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, pandemic, or war.

27. TIME

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 City legal holiday, the final day for performance shall be the City's next business day.

28. WAIVER

Absent a specific written waiver signed by the Superintendent, SPR shall not be deemed to have waived any right 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 that SPR may have of any breach, default, or non-compliance by Concessionaire. SPR's failure to enforce any provision of this Agreement shall not be deemed a waiver or consent.

29. CAPTIONS

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

30. SIGNS AND ADVERTISING

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. Per Ordinance 121716, all signage must be approved first by the Department of Neighborhoods due to Historical Landmarks Preservation Ordinance under chapter 25.12.

31. CHANGES AND MODIFICATIONS

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

32. APPROVALS BY THE CITY OR SUPERINTENDENT

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 departments or officials' action is required by law, ordinance, resolution, or rule or regulation.

33. SEVERABILITY

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.

34. SUCCESSORS IN INTEREST

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.

35. NO RELATIONSHIP ESTABLISHED

SPR shall in no event be construed to be a partner, associate, or joint venturer 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.

36. CONSENT

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.

37. BACKGROUND CHECKS AND IMMIGRATION STATUS

The City may require background checks for some or all of the Contractors and their employees and contracted workers who may perform work under this Agreement. The City reserves the right to require such background checks at any time. The City has strict policies regarding the use of background checks, criminal checks, and immigrant status for contract workers. The policies are incorporated into this Agreement and available for viewing on-line at <http://www.seattle.gov/purchasing-and-contracting/social-equity/background-checks>.

Federal Immigration Enforcement Notification Requirements

- A. This Section applies to Contractors and their employees and contracted workers who (i) are working at City facilities and properties, or (ii) have access to City records, databases, technology, or information systems.
- B. As used in this Section, “Federal Immigration Authority” means an employee or agent of any federal immigration agency, including the Immigration and Customs Enforcement (ICE), the U.S. Department of Homeland Security (DHS), Homeland Security Investigations (HSI), Enforcement Removal Operations (ERO) Customs and Border Protection (CBP), and U.S.

Citizenship and Immigration Services (USCIS) or any other federal agency representative seeking to enforce immigration law.

- C. Prior to responding to any requests from a Federal Immigration Authority for access to City property or City information provided to Contractors through this Agreement, the Contractor shall notify the Project Manager immediately.

Such requests may include:

- a. requests for access to non-public areas in City buildings and venues (i.e., areas not open to the public such as staff work areas that require card key access and other areas designated as “private” or “employee only”); or
 - b. requests for City records, databases, technology or information (written or oral).
- D. Access to non-public areas or information shall not be provided without prior review and consent of the City. The Contractor shall request that the Federal Immigration Authority wait until the Project Manager is able to verify the credentials and authority of the Federal Immigration Authority and direct the Contractor on how to proceed.
- E. Contractor shall inform its employees and subcontractors of the requirements of this Section and shall include the requirements in this Section in all subcontracts for work under this Agreement.
- F. The requirements in this Section are intended to enable the City to verify that access to non-public City facilities, property, and information complies with federal and local law. Nothing in this Section shall be construed to require any City employee, the Contractor its employees, or its subcontractors to obstruct, interfere with, or otherwise fail to comply with requirements of federal and local law.

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

CONCESSIONAIRE, THE KITE CAFE LLC

By: _____ Date: _____
Matthew Kelly, Co-Owner

Anthony Meyer, Co-Owner

Date: _____

SEATTLE PARKS AND RECREATION

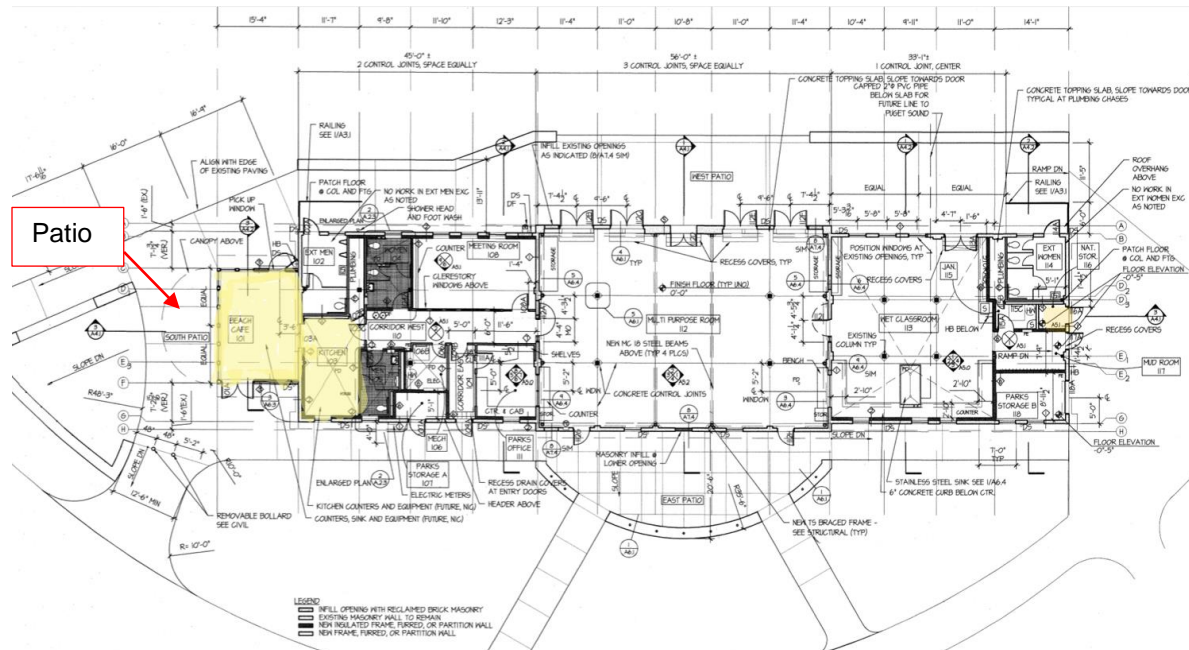
By: _____ Date: _____
Anthony-Paul (AP) Diaz, Esq., Superintendent

Golden Gardens Concession Agreement

EXHIBIT A – Golden Gardens Park Map and Bathhouse Floor Plan



Golden Gardens Concession Agreement EXHIBIT A CONTINUED - Golden Gardens Park Map and Bathhouse Floor Plan and Storage Area



South End Concession Stand & Patio Awning



North End Storage Area

Golden Gardens Concession Agreement

EXHIBIT B - Approved Menu and Pricing

Item Name	Categories	Price
Chex Mix	Chips	1.50
Cracker Jacks	Chips	1.50
Dot's Pretzels	Chips	1.50
Goldfish Cheddar	Chips	1.00
Mini Pretzels	Chips	1.50
Pirate S Booty Baked Puffs White Cheddar Oz	Chips	1.25
Pirate's Booty Aged White Cheddar	Chips	1.25
Skinny Pop	Chips	1.50
Skinny Pop Original Popcorn	Chips	1.50
SkinnyPop Popcorn, Sweet and Salty	Chips	1.50
SkinnyPop Popcorn, White Cheddar	Chips	1.50
SkinnyPop Original Popcorn	Chips	1.50
Toasted Corn	Chips	2.00
Veggie Straws, Sea Salt	Chips	1.50
Hawaiian Hulapeno	Chips	1.50
Hawaiian Luau BBQ Potato Chips	Chips	1.50
Hawaiian Original	Chips	1.50
Hawaiian Sweet Maui Onion	Chips	1.50
Tim's Potato Chips, Honey BBQ	Chips	1.50
Tim's Potato Chips, Jalapeno	Chips	1.50
Tim's Potato Chips, Original	Chips	1.50
Tim's Potato Chips, Salt and Vinegar	Chips	1.50
Americano	Coffee & Tea	4.50
Cappuccino	Coffee & Tea	5.50
Cappuccino	Coffee & Tea	5.75
Chai Latte	Coffee & Tea	6.50
Chai Latte	Coffee & Tea	6.75
Cold Brew	Coffee & Tea	4.50
Cold Brew	Coffee & Tea	5.00
Drip Coffee	Coffee & Tea	3.50
Drip Coffee	Coffee & Tea	4.00
Espresso	Coffee & Tea	3.75
Extra Shot	Coffee & Tea	1.25
Flat White	Coffee & Tea	5.50
Latte	Coffee & Tea	5.50

Latte	Coffee & Tea	5.75
Strawberry Watermelon Lemonade	Coffee & Tea	3.50
Strawberry Watermelon Lemonade	Coffee & Tea	4.00
Iced Mocha	Coffee & Tea	6.00
Iced Mocha	Coffee & Tea	6.25
Hot Cocoa	Coffee & Tea	4.75
Hot Cocoa	Coffee & Tea	5.00
Mocha	Coffee & Tea	6.00
Mocha	Coffee & Tea	6.25
Arnold Palmer	Coffee & Tea	3.50
Arnold Palmer	Coffee & Tea	4.00
Iced Americano	Coffee & Tea	4.50
Iced Latte	Coffee & Tea	5.50
Iced Latte	Coffee & Tea	5.75
Lemonade	Coffee & Tea	3.50
Lemonade	Coffee & Tea	4.00
Mango Lemonade	Coffee & Tea	3.50
Mango Lemonade	Coffee & Tea	4.00
Iced Tea	Coffee & Tea	3.50
Iced Tea	Coffee & Tea	4.00
Cortado	Coffee & Tea	5.50
Steamer	Coffee & Tea	3.50
London Fog	Coffee & Tea	5.75
London Fog	Coffee & Tea	6.00
Hot Tea	Coffee & Tea	4.00
Aquafina 16.9oz Bottle	Drinks	2.00
Aquafina 20oz	Drinks	2.50
Celsius Energy Drink Peach Vibe	Drinks	3.98
Coca-Cola 20oz bottle	Drinks	3.58
Coca-Cola Zero Sugar 20oz Bottle	Drinks	2.99
Crush Orange 20oz bottle	Drinks	2.99
Diet Coke Bottle 20oz Bottle	Drinks	2.99
Diet Dr. Pepper 20oz bottle	Drinks	2.99
Diet Pepsi 20oz bottle	Drinks	2.99
Dole Apple Juice 15.2oz bottle	Drinks	3.00
Dole Orange Juice 15.2oz bottle	Drinks	3.00
Dr Pepper 20oz bottle	Drinks	2.99
Gatorade Cherry 20oz bottle	Drinks	3.58
Gatorade Cool Blue 20oz bottle	Drinks	3.58

Gatorade Frost Arctic Blitz	Drinks	3.58
Gatorade Fruit Punch 20oz bottle	Drinks	3.58
Gatorade Glacier Freeze 20oz bottle	Drinks	3.58
Gatorade Lemon Lime 20oz bottle	Drinks	3.58
Gatorade Orange 20oz bottle	Drinks	3.58
La Croix Sparkling Water Lemon	Drinks	1.36
La Croix Sparkling Water Pamplemousse	Drinks	1.36
Lacroix Lime Sparkling Water	Drinks	1.36
LifEWTR Enhanced Water	Drinks	3.25
Mtn Dew 20oz bottle	Drinks	3.58
Mtn Dew Baja Blast 20oz bottle	Drinks	3.58
Naked Juice Power C Machine 15.2oz	Drinks	5.00
Naked Juice Smoothie berry blast 10ounce	Drinks	2.59
Naked Mighty Mango 10oz	Drinks	2.59
Naked Strawberry Banana 10oz	Drinks	2.59
Naked, Blue Machine 10oz	Drinks	2.59
Naked, Juice Green Machine 15.2oz	Drinks	4.49
Naked, Juice Strawberry Banana 15.2oz	Drinks	4.49
Naked, Mighty Mango 20 oz	Drinks	5.00
Ocean Spray Cranberry 15.2oz	Drinks	3.50
Pepsi 20oz Bottle	Drinks	3.58
Proud Source Sparkling Water	Drinks	2.93
Proud Source Water	Drinks	2.93
Rishi Sparkling - Black Lemon	Drinks	4.05
Rishi Sparkling - Dandelion Ginger	Drinks	4.05
Rishi Sparkling - Grapefruit Quince	Drinks	4.05
Something & Nothing, Cucumber Soda	Drinks	4.05
Something & Nothing, Yuzu Soda	Drinks	4.05
Sprite Bottle 20oz bottle	Drinks	3.58
Starry 20 oz bottle	Drinks	3.58
Talking Rain, Sparkling Artesian Water Natural	Drinks	1.36
Topo Chico Mineral Water	Drinks	3.17
Tree Top Apple Juice	Drinks	2.25
Tree Top Cranberry	Drinks	2.25
Tree Top Orange Juice	Drinks	2.25
Yachak Organic Organic Passion Fruit Yerba Mate	Drinks	4.73
Yachak Organic Yerba Mate Blackberry	Drinks	4.73
Yachak Organic Yerba Mate Ultimate Mint	Drinks	4.73
Pepsi Zero Sugar Cola 12 Fluid Ounce Aluminum Can	Drinks	2.00

CELSIUS Fantasy Vibe 12oz can	Drinks	3.98
CELSIUS Sparkling Arctic Vibe 12oz can	Drinks	3.98
CELSIUS Sparkling Lemon Lime 12oz can	Drinks	3.98
CELSIUS Sparkling Tropical Vibe 12oz can	Drinks	3.98
Canada Dry Ginger Ale 12oz can	Drinks	2.25
Coca Cola 12oz can	Drinks	2.25
Coke Zero Sugar 12oz Can	Drinks	2.00
Crush Orange 12oz Can	Drinks	2.00
Diet Coke Can 12oz Can	Drinks	2.00
Diet Dr Pepper 12oz can	Drinks	2.00
Diet Pepsi 12oz can	Drinks	2.00
Dr. Pepper 12oz Can	Drinks	2.00
Mug Root Beer 12oz can	Drinks	2.25
Pepsi 12oz Can	Drinks	2.25
Red Bull Energy Drink 12oz can	Drinks	4.49
Sprite 12 oz can	Drinks	2.25
Starry 12oz can	Drinks	2.25
Big Bopper Sandwich	Ice Cream	5.00
Blue Raspberry Icee	Ice Cream	1.80
Breyers Mrs. Fields Ice Cream Cookie Sandwich	Ice Cream	4.53
Chips Galore	Ice Cream	4.25
Cookies N' Cream Ice Cream Bar	Ice Cream	3.50
Cookies n Cream Ice Cream Sandwich	Ice Cream	5.00
Fudge Bar	Ice Cream	2.00
Giant King Cone	Ice Cream	4.53
Good Humor, Strawberry Shortcake Dessert Bar	Ice Cream	3.25
Hersheys Smores Icecream Bar	Ice Cream	3.25
Ice Cream Sandwich	Ice Cream	2.00
Italian Ice-Lemon	Ice Cream	2.25
Italian Ice-Strawberry	Ice Cream	2.25
Klondike Bar	Ice Cream	3.40
Klondike Cookies and Creme	Ice Cream	4.45
Mississippi Mud Ice Cream Sandwich	Ice Cream	3.50
Orange Dream Bar	Ice Cream	3.00
Original Bomb Pop	Ice Cream	4.00
Popsicle, Nickelodeon, Spongebob Squarepants	Ice Cream	3.50
Reeses Icecream Stick	Ice Cream	3.25
Ruby Jewel Lemon Cookies	Ice Cream	4.53
RubyJewell Vanilla Bean Ice Cream Sandwich	Ice Cream	4.53

Seattle Pops	Ice Cream	6.00
Sherbert cup	Ice Cream	2.00
Strawberry Shortcake	Ice Cream	2.50
Twist Cone	Ice Cream	5.00
Vanilla Crunch Bar	Ice Cream	3.00
Strawberry Banana Seattle Pop	Ice Cream	6.00
3D Jet Kite - Blue Angel	Kites	66.00
56 in. Delta Kite - Electromagnetic Rainbow	Kites	27.50
56 in. Delta Kite - Warm Orbit	Kites	27.50
56 in. Stream Delta Kite - Rainbow Orbit	Kites	31.90
Gyro Delta Kite - Rainbow	Kites	40.70
Hot Cut Streamer Kite Tails - Neon	Kites	3.00
Kid's 28in Fringe Delta: Purple Dragon	Kites	15.95
Kid's 28in Fringe Delta: Sea turtle	Kites	15.95
Kid's 28in Fringe Delta: T-Rex	Kites	15.95
Kid's Diamond Kite: Butterflies	Kites	22.00
Kid's Diamond Kite: Fierce Shark	Kites	22.00
Kid's Diamond Kite: Premier Kite Sold Here	Kites	22.00
Kid's Diamond Kite: Skull and Crossbones	Kites	22.00
Lg. Easy Flyer Kite - Macaw	Kites	38.50
Lg. Easy Flyer Kite - Mandala	Kites	33.00
Mini Diamond Kites: Butterfly	Kites	10.00
Mini Diamond Kites: Sonicfox	Kites	10.00
Mini Diamond Kites: Trex	Kites	10.00
Mini Dino Backpack Kite	Kites	10.00
Mini Rechargeable Fan	Kites	12.00
MiniSled Kite: Jolly Roger	Kites	12.00
MiniSled Kite: Tie Dye	Kites	12.00
MiniSled Kite: Wavy Gradient	Kites	12.00
Pocket Flyer Single Line Kite Electric	Kites	24.95
Pocket Flyer Single Line Kite Inferno	Kites	24.95
Pocket Flyer Single Line Kite Ultraviolet	Kites	24.95
Prism Kite Technology Sinewave Ultraviolet Mesmerizing Parafoil Kite Ready to Fly with 200 Foot Line and Removable 20 Foot Tail	Kites	40.00
Rainbow Bird Kite	Kites	33.00
Sinewave Aurora	Kites	40.00
Sinewave Plasma	Kites	40.00
Thunderbird Kite - 60 in. Phoenix	Kites	27.50
Thunderbird Kite - 60 in. Rainbow Geometric	Kites	27.50

Thunderbird Kite - 60 in. Rainbow Stars	Kites	27.50
Thunderbird Kite - 90 in. Rainbow Geometric	Kites	40.70
Vertex Aurora	Kites	32.95
Vertex Infrared	Kites	32.95
Vertex Ultraviolet	Kites	32.95
Zenith 5 Aurora	Kites	39.95
Zenith 5 Infrared	Kites	39.95
Zenith 5 Ultraviolet	Kites	39.95
Zippy Flow Tail Delta Kite: Mermaid Unicorn	Kites	16.95
Chelan Cherry Vanilla	Milkshakes	9.00
Chelan Cherry and Chocolate Shake	Milkshakes	9.00
Chelan Cherry and Chocolate Shake (VEGAN)	Milkshakes	10.00
Chocolate Shake	Milkshakes	9.00
Chocolate Shake (VEGAN)	Milkshakes	10.00
Cold Brew and Cookies Shake	Milkshakes	9.00
Cold Brew and Cookies Shake (VEGAN)	Milkshakes	10.00
Cookies and Cream Milkshake	Milkshakes	9.00
Cookies and Cream Shake (Vegan)	Milkshakes	10.00
Strawberries n Cream Shake	Milkshakes	9.00
Strawberries n Cream Vegan	Milkshakes	10.00
Strawberry Shake	Milkshakes	9.00
Strawberry Shake (VEGAN)	Milkshakes	10.00
Vanilla Shake	Milkshakes	9.00
Vanilla Shake (VEGAN)	Milkshakes	10.00
Chapstick Moisturizer Original Lip Balm Tube	Non-food Retail	4.00
Banana Boat Sunscreen Packet	Non-food Retail	2.00
Banana Boat Ultra Sport Sunscreen Lotion SPF 30 oz	Non-food Retail	6.00
Beach Ball	Non-food Retail	2.00
Camping Hammock	Non-food Retail	25.00
Carmex Lip Balm	Non-food Retail	3.50
ChapStick	Non-food Retail	4.00
Coppertone Sport Sunscreen Spray	Non-food Retail	16.00
Coppertone sunscreen	Non-food Retail	10.00

Cough Drops	Non-food Retail	4.00
Foam Balls	Non-food Retail	1.00
Foam Spiral Football	Non-food Retail	5.00
Frisbee / Disc	Non-food Retail	12.00
Grey Towels	Non-food Retail	15.00
Sunglasses	Non-food Retail	15.00
Tennis Ball Set	Non-food Retail	10.00
Tums	Non-food Retail	5.00
Volleyball	Non-food Retail	20.00
Hat	Non-food Retail	25.00
Tote Bag	Non-food Retail	25.00
BRM Brown Sugar Oatmeal	Nuts, Seeds and Protein Bars	4.00
Bobo's Oat Bars - All Natural Bar Lemon Poppyseed	Nuts, Seeds and Protein Bars	3.25
Bobos Oat Apple Pie Oat Bite	Nuts, Seeds and Protein Bars	1.50
Bobos Oat Strawberry Oat Bite	Nuts, Seeds and Protein Bars	1.50
CLIF Chocolate Chip	Nuts, Seeds and Protein Bars	2.50
CLIF Peanut Butter	Nuts, Seeds and Protein Bars	2.50
Protein Puck Mighty Moxie Peanut Butter Bar	Nuts, Seeds and Protein Bars	3.25
Sun Butter, Coconut, Puck	Nuts, Seeds and Protein Bars	3.25

Think Jerky	Nuts, and Bars	Seeds Protein	4.00
Trail Mix	Nuts, and Bars	Seeds Protein	1.00
Cinnamon Roll	Pastries		6.00
Sticky Bun	Pastries		6.00
Apple	Picnic Snacks		2.00
Charcuterie Box	Picnic Snacks		9.50
Mama Lil's Peppers	Picnic Snacks		1.00
Orange	Picnic Snacks		0.91
Overnight Oats	Picnic Snacks		6.00
Pickle	Picnic Snacks		1.50
Pickle Chip Cup	Picnic Snacks		2.50
Muffin	Picnic Snacks		3.25
The Bainbridge	Salads		14.00
The Whidbey	Salads		14.00
Montlake	Salads		13.00
The Alki	Salads		13.00
The Carkeek	Salads		12.00
Loyal Heights (Nut Butter and Jelly - no peanuts!)	Sandwiches		6.00
Magnolia (Grilled Cheese)	Sandwiches		6.00
The Crown Hill	Sandwiches		16.50
The Greenwood	Sandwiches		15.50
The Shilshole	Sandwiches		16.50
The Sunset	Sandwiches		17.50
5 Gum	Sweets		4.00
Bubba Bubba Watermelon	Sweets		4.00
Fruit Snacks	Sweets		1.00
GoGo SqueeZ, AppleApple	Sweets		1.50
GoGo SqueeZ, AppleCinnamon	Sweets		1.50
GoGo SqueeZ, ApplePeach	Sweets		1.50
GoGo SqueeZ, AppleStrawberry	Sweets		1.50
Gummy Bears	Sweets		2.50
Hubba Bubba Gum	Sweets		4.00
M&M Peanut	Sweets		2.50
Moon Pie Double Decker Chocolate Marshmallow Sandwich oz	Sweets		1.00
Nerds Gummy Clusters very Berry Candy oz Bag	Sweets		3.00
Peeps Marshmallow Chicks	Sweets		0.91

Sour Patch Kids	Sweets	3.00
Sour Patch Kids Watermelon	Sweets	2.50
Tootsie Roll Pops	Sweets	0.45
Wrigley's Doublemint Chewing Gum	Sweets	0.45
Blow Pop	Sweets	0.45
Sour Skittles	Sweets	2.50
Haribo, Gold-Bears, Gummi Candy	Sweets	3.50
Nerds Gummy Clusters 3 oz. Share Pack	Sweets	3.00
Skittles	Sweets	2.50
Starburst	Sweets	2.50
3 Musketeers	Sweets	3.00
Hershey's Chocolate	Sweets	2.50
Hershey's Chocolate with Almonds	Sweets	2.50
Kit Kat	Sweets	2.50
M&Ms	Sweets	2.50
Milky Way	Sweets	2.50
Reese's Cup	Sweets	3.00
Snickers	Sweets	3.00
Twix	Sweets	3.00
Grandma's Cookies	Sweets	2.00
That's it Mini Fruit Bars, Blueberry	Sweets	1.00
That's it Mini Fruit Bars, Mango	Sweets	1.00
That's it Mini Fruit Bars, Strawberry	Sweets	1.00
10 " Beamo Disk	Toys	7.00
Castle Mold Assortment	Toys	1.81
Sand Bucket 4 Piece	Toys	5.44
Sand Claw	Toys	1.81
Wooden Shovel	Toys	6.80
Pinky Hi- Bounce Balls: 2.25 Inch Party Favor Multi-Colored	Toys	3.62

Golden Gardens Concession Agreement

EXHIBIT C - Concession Monthly Report of Open Hours Form

OPEN HOURS			
The Kite Café			
Month/Year:			Date:
Day of Month	Time Open (Ex: 8:30 AM)	Time Closed (Ex: 6:45 PM)	# of Hours
1			0.00
2			0.00
3			0.00
4			0.00
5			0.00
6			0.00
7			0.00
8			0.00
9			0.00
10			0.00
11			0.00
12			0.00
13			0.00
14			0.00
15			0.00
16			0.00
17			0.00
18			0.00
19			0.00
20			0.00
21			0.00
22			0.00
23			0.00
24			0.00
25			0.00
26			0.00
27			0.00
28			0.00
29			0.00
30			0.00
31			0.00
			0.00
			Total Hours

Golden Gardens Concession Agreement

EXHIBIT D - Insurance Requirement

1. **Furnished Coverages and Limits of Liability:** Concessionaire shall, at no expense to the City, maintain, and cause its subconcessionaire(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 Concessionaire Agreement:.

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

\$2,000,000 per Occurrence (combination of CGL and excess or umbrella limits are acceptable)
\$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 Concessionaire, the specification of any such minimum limits shall neither be (1) intended to establish a maximum limit of liability to be maintained by Concessionaire regarding this Agreement, nor (2) construed as limiting the liability of any of Concessionaire'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 Concessionaire'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 Concessionaire's furniture, trade fixtures, equipment and inventory ("Business Personal Property") and all alterations, additions and improvements that Concessionaire makes to the Premises are insured throughout the Term of this Agreement 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 Concessionaire'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 Concessionaire and the City, Concessionaire 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 Concessionaire'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. Concessionaire'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: Concessionaire'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. Concessionaire'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 Concessionaire'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. Concessionaire'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. Concessionaire'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 Concessionaire 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 Concessionaire 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.** 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).
- E.** 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. Concessionaire shall cooperate to provide such information as the City may reasonably deem to be necessary to assess the risk bearing capacity of the Concessionaire 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 Concessionaire. 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 Concessionaire or a contracted third party claims administrator, Concessionaire 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 Concessionaire's Business Personal Property and Improvements, are insured throughout the 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 SPR 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 Concessionaire shall be responsible only to the proportional extent to which the loss or damage is attributable to Concessionaire's negligent acts that are, or should be, covered by Concessionaire's Fire/Concessionaire Legal Liability insurance.

- B.** During such time as Concessionaire is engaged in the performance of the Improvements or other renovation of the Premises, the Concessionaire 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, Concessionaire or its contractor(s) shall be responsible for paying any deductible under the policy if Concessionaire or any of its agents, employees, or contractors is responsible for the loss or damage. It shall be Concessionaire’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 Concessionaire.

- 4.** Waiver of Subrogation. Unless such waiver would void the property insurance coverage to be provided pursuant to this section, the City and Concessionaire waive all subrogation rights each may have against the other, or any subconcessionaire, 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 Concessionaire 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 Concessionaire:
- 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. Concessionaire 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
Contracts Administration and Support Office
300 Elliott Ave W, Suite 100
Seattle, WA 98119

with an electronic copy to joann.gunter@seattle.gov

- 6.** Assumption of Property Risk. The placement and storage of Concessionaire's Business Personal Property in or about the Premises shall be the responsibility, and at the sole risk, of Concessionaire.
- 7.** Adjustments of Claims: The Concessionaire 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 Concessionaire under this Agreement.
- 8.** Concessionaire's Responsibility: The procuring of the policies of insurance required by this Agreement shall not be construed to limit the Concessionaire's liability hereunder. Notwithstanding said insurance, the Concessionaire shall be obligated for the full and total amount of any damage, injury or loss caused by negligence of the Concessionaire, or any of its agents, officers and employees or through use or occupancy of the Premises.

Golden Gardens Concession Agreement

EXHIBIT E - Concessionaire Equipment List

Square Point of Sale
Cash Register
JBL Speaker
Deli Case
Retail Freezer 3x
Freezer 2x
Beverage Dispenser
Coffee Grinder
LaSpaziale 2 Group Espresso Machine
Ice Machine
Square receipt printer
Square Ticket Printer
Gatorade Merchandiser Sliding Door Cooler
Induction Burner x2
Panini Press
Drip Coffee Machine
Katana Sandwich 27" refrigerator
Katana Sandwich 48" refrigerator
Katana 2 door Reach-in refrigerator
Deli Slicer
Food Processor
Underbar Dishwasher (Rental)

Phone/Device Chargers
Internet Modem
Ring Camera
Microwave
Various small countertop appliances
60" Doorway Air Curtain Fan
Large Fans x3
Janitorial Chemical Dispenser (Rental)
Handwashing Sink Soap Dispenser (Rental)
3-Compartment Sink Chemical Dispenser (rental)
Temporary flagpoles with mounts x6
24"x24" Safe
Various racking & shelving
Installed Custom Cabinetry
Installed Custom dining bar
Counter stools x6
Retail Chip Racks x2
Various retail gridwall, hooks and other fixtures
Track Lighting
Coffee Brewer
Counter Top Barista Pitcher Sink

END OF AGREEMENT