



GREEN LAKE PITCH & PUTT CONCESSIONS AGREEMENT

**Between
City of Seattle Parks and Recreation
And
Lost Evenings, LLC**

Contract ID: PR0PC25-1580

THIS CONCESSION AGREEMENT (“Agreement”) is entered into between **The City of Seattle**, a municipal corporation of the State of Washington (“City”), by and through its **Department of Parks and Recreation** (“SPR or Parks”) and its Superintendent, and **Lost Evenings, LLC**, a Washington limited liability company (“Concessionaire or Operator”). The City and Concessionaire may sometimes be referred to in this Agreement together as “the Parties” or individually as a “Party.”

RECITALS

WHEREAS, the Green Lake Pitch & Putt has been open for residents since 1947, and owned by the City of Seattle since 1953; and

WHEREAS, the Green Lake Pitch & Putt offers a recreational opportunity where community can learn and enjoy the game of golf in a smaller, community focused Pitch & Putt course; and

WHEREAS, SPR continues to desire to provide quality programming and operations that meet the mission, vision, and values of Seattle Parks and Recreation; and

WHEREAS, SPR conducted a Request for Proposal (RFP) for the operation of the Green Lake Pitch & Putt in 2024; and

WHEREAS, a panel of community members and City of Seattle staff scored the RFP responses and recommended Gilly Wagon LLC, a single member limited liability company licensed and authorized to do business in Washington State and owned by Amy Faulkner; and

WHEREAS, the Superintendent awarded the contract for Green Lake Pitch & Putt to Gilly Wagon, LLC or its assignees; and

WHEREAS, Amy Faulkner has started a second business, Lost Evenings, LLC, to facilitate the contract and operations of the Green Lake Pitch & Putt, Lost Evenings, LLC is owned and

operated solely as a single member limited liability company by Amy Faulkner, the owner of Gilly Wagon, LLC; and

NOW THEREFORE, SPR and Concessionaire, in consideration of foregoing Recitals and the mutual obligation hereinbelow, agree as follows:

ARTICLE 1 CONCESSION PREMISES

- 1.1 Premises. The Premises means the following portions of City-owned property referred to as the Green Lake Pitch & Putt, including the main building (“Building”), storage structures, and all grounds located at N 5701 E Green Lake Way, Seattle, WA 98103, situated on a portion of the real property legally described in Exhibit A.
- 1.2 Permitted Use. The Concessionaire shall use the Premises only for the purpose of managing and operating a public nine-hole golf course, providing related services and concessions, and intermittent rental of the Premises for golf-related events. Pre-approved community engagement events, and pre-approved non-golf-related rentals must be arranged and approved in advance. The Concessionaire must request pre-approval from SPR at least 60 days prior to the event and obtain all pre-approvals from SPR thirty (30) days prior to the event. The Concessionaire shall not use the Premises for any purpose whatsoever other than the uses specifically permitted herein, nor fail to operate the golf concession continuously during the Annual Operating Season, as specified in Article 2.3, for the Term of this Agreement, without the written consent of SPR. Securing the use of the Premises as a public golf concession is a material purpose and term of this Agreement and the Concessionaire’s failure to use the Premises for the Permitted Use will be considered a Default of this Agreement.
- 1.3 Common Areas. As used in this Concessions Agreement, “Common Areas” means those areas of Green Lake Park designated by the Superintendent for use by the general public, which shall include parking lots and access walkways adjacent to the Premises. Concessionaire shall have the right to access to and non-exclusive use of the Common Areas in common with City and other park users. The City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Concessionaire to compensation or a reduction of abatement of rent.
- 1.4 Condition. City contracts the Premises and Concessionaire accepts the Premises in their “as is” condition.
- 1.5 Alterations. The City, in its discretion, may increase, decrease, or change the number, locations, and dimensions of any adjacent parking lot, access walkways, Common Areas, and other improvements that are not within the Premises. The

City reserves the right, from time to time, to install, use, maintain, repair, relocate, and replace pipes, ducts, conduits, wires, and appurtenant meters and equipment for service to the Premises including the Building in areas above the suspended ceiling surfaces, below the floor surfaces, within the walls, and elsewhere in the Building; and to alter or expand the Building; and to alter, relocate, or substitute any of the Common Areas. Parks reserves the right to close the Premises, or any portion thereof for making repairs or improvements. Parks will endeavor to give Concessionaire reasonable notice in advance of such closures. Upon closure Concessionaire may be asked to vacate the Premises temporarily. Parks may close the Premises or any portion of the Premises without notice, in case of emergency.

ARTICLE 2. TERM OF AGREEMENT

- 2.1 Initial Term. This Agreement shall be effective when signed by an authorized representative of both parties ("Commencement Date") and shall be for an initial term of five (5) years ("Term") and shall commence upon contract execution. This contract shall expire five (5) years from the date of execution.
- 2.2 Extension. At the Superintendent's discretion, this Agreement may be extended for two (2) additional terms of up to five (5) 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 Superintendent's notice to accept that 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 City's best interest with respect to the Concession Premises. When used in this Agreement, the word "Term" includes both the Initial and the Extended Terms unless the context clearly indicates otherwise.
- 2.3 Operating Season. The Operating Season will begin as agreed upon by SPR and Concessionaire but no later than March 1, annually, and continue through October 31, or as weather conditions permit. Early or delayed end to the season will be coordinated with the Parks Concessions Coordinator.

ARTICLE 3 DEVELOPMENT

- 3.1 ADA Restroom. As agreed upon the Concessionaire is responsible for development and oversight of the ADA restroom upgrades in partnership with Seattle Parks and Recreation Planning and Development team. The restroom must be fully ADA accessible as determined by the City of Seattle and be ready for customer use by the third year of operation.

- 3.2 Approved by SPR. All construction and development of the facility must be approved by SPR through the development process. Concessionaire will work with the Parks Concessions Coordinator to begin all development processes, connecting with staff in the Planning and Development office. The Concessionaire understands that SPR has final say over what the project will look like and how it will be constructed.

ARTICLE 4 CONSIDERATION

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

- a) Timely payments of the monthly Concession Fee in Article 7.
- b) Provision of all equipment and services to operate the Concession in the manner required under Section Article 1.2.
- c) Obtaining and maintaining all required Washington State Permit Snack Bar permit, King County and City of Seattle permits and City of Seattle business licenses.

ARTICLE 5. PERMITTED OPERATIONS

- 5.1 Use of Premises. The Concessionaire shall use the Premises only for the Permitted Use specified in Article 1.2. Concessionaire shall promptly comply, at its sole cost and expense, with such reasonable rules and regulations relating to the use of the Premises and Common areas as City, from time to time, may promulgate. In the event of any conflict between the rules and regulations promulgated by the City and the terms of this Agreement, the terms of this Agreement prevail.
- 5.2 Community Events. The Concessionaire will submit and have approved a schedule of Community Events prior to May 1 annually. Only Events approved by SPR may be held. In order to receive approval, proposed Events must do the following: (a) be considerate of neighbors, (b) ensure that the Pitch & Putt is following all laws and ordinances, (c) be coordinated with SPR's Events and Athletic scheduling teams to ensure no overuse of the Lower Woodland parking lot. All revenue from Events will be included in the monthly reports and paid in accordance with the 10% of gross receipts.
- 5.3 Rentals. The Concessionaire shall have the right to rent the premises for all golf related events without pre-approval as long as the Concessionaire and group renting the Premises meet all Agreement requirements. Rentals that are not golf related in nature must be pre-approved by SPR a minimum of thirty (30) days prior to the rental. All revenue from rentals will be included in the monthly reports and paid in accordance with the 10% of gross receipts.

- 5.4 Staffing of Premises. The Concessionaire shall provide qualified personnel in sufficient numbers to meet the program staffing needs during all hours of operations, events, and rentals.

ARTICLE 6. OPERATION AND SERVICES

- 6.1 Minimum Service Hours. Unless otherwise approved by the Superintendent, Concessionaire shall be open for business as agreed upon by SPR and Concessionaire from March through October and will provide service for the minimum number of hours as shown in the Chart below during the following months:

Start Date	End Date	Opening	Last Tee	Closing	Sunset
03/01	04/11	8:00AM	6:30PM	7:30PM	7:25:03 PM
04/12	05/01	8:00AM	7:00PM	8:00PM	7:56:15 PM
05/02	05/29	8:00AM	7:30PM	8:30PM	8:24:17 PM
05/30	07/20	8:00AM	8:00PM	9:00PM	8:58:17 PM
07/21	08/10	8:00AM	7:30PM	8:30PM	8:56:24 PM
08/11	08/24	8:00AM	7:00PM	8:00PM	8:26:51 PM
08/25	09/07	8:00AM	6:30PM	7:30PM	8:01:35 PM
09/08	09/21	8:00AM	6:00PM	7:00PM	7:33:50 PM
09/22	10/12	8:00AM	5:30PM	6:30PM	7:05:06 PM
10/13	10/31	8:00AM	5:00PM	6:00PM	6:23:11 PM

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

- 6.2 Off-Peak Months. Concessionaire may open during off-peak months for special events or rentals as preapproved by SPR. All event and rental requirements as identified in Article 5.2 and 5.3 must be upheld.
- 6.3 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 Green Lake Pitch & Putt, visible from the outside.
- 6.4 Pricing; Golf and Concessions. All pricing for the Pitch & Putt must be pre-approved by SPR. This includes pricing for golf, food and non-food concessions, rentals, and any additional costs charged to the public. Concessionaire must provide sixty (60) days prior to opening for the season for SPR to review and approve or deny the pricing. If denied, SPR and Concessionaire will work

together to determine appropriate pricing for Green Lake Pitch & Putt and all costs to the public.

- 6.4 Permission for Sale of Alcohol. The Operator is responsible for all costs related to the purchasing of all food and beverage inventory at the Pitch & Putt. The decision to sell alcohol at a Pitch & Putt must be approved by the Department, and is subject to the operator meeting all legal requirements and providing proper liability insurance, liquor liability coverage, Washington State Liquor permits, etc.
- 6.5 Prohibited Products: Concessionaire is prohibited from selling cigarettes/nicotine or marijuana products including CBD. Concessionaire shall sell nothing in a glass container.
- 6.6 Electrification of Small Equipment: Concessionaire agrees to comply with the City of Seattle's goal to use only electronic equipment in its outdoor maintenance. Accordingly, by January 1, 2027, Concessionaire's leaf blowers shall all be electric, and it will only use electric leaf blowers. In addition, Concessionaire will transition all other small equipment to electric as such equipment is replaced. Concessionaire will not use any new non-electronic small equipment. Future extensions shall be subject to compliance with this section.

ARTICLE 7 CONCESSION FEE

- 7.1 Monthly Concession Fee and Leasehold Excise Tax. Concessionaire shall commence paying a Concession Fee of 10% of gross receipts on or before the 20th day following opening for the season and monthly thereafter. A Concession Fee of 10% shall be paid by installments every month, from opening through November, calculated based on the previous month's gross receipts, for the duration of the Term. Sales reports from the previous month are due by the 5th of the month in a format mutually agreed upon by SPR and Concessionaire. On or before the 20th day of each month, opening through November, the Concessionaire shall pay to the City at the address provided and to the account specified by 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 Fee in the amount of a percentage of the yearly Gross Receipts by Concessionaire at the Concession Premises will be paid to SPR no later than December 20. SPR will assess upon closure of season annually and invoice if needed no later than December 1, and any amounts due paid by December 20. Beginning with Commencement Date **the Concession Fee shall be 10% of Gross Receipts or \$26,000 annually, whichever is greater** (as defined in Article 10.1). Monthly amount of applicable Leasehold Excise Tax required under Article 13.

- 7.2 Place and Manner of Payment. All payments to the City shall be paid to:
City of Seattle
Treasury Department Accounts Receivable
PO Box 94626
Seattle WA 98124-6926

All Concession Fee payments shall have the invoice number and Customer number, issued by Parks Accounting, written on the check or form of payment. The Concessionaire may also pay in person at:
Seattle Municipal Tower,
700 Fifth Ave, Fourth Floor,
Seattle, WA, 98104.

- 7.3 Late and Refused Payments. The Concessionaire acknowledges that late payment to the City of the Concession Fee or any other sum due to the City hereunder will cause SPR to incur costs not contemplated by this Agreement including but not limited to processing and accounting charges and the cost of legal enforcement of this Agreement, the exact amount of which would be extremely difficult and impractical to ascertain. Therefore, in the event the Concessionaire fails to pay any sum after such amount is due to the City, such amount shall bear interest at the rate of one percent (1%) per billing cycle from the date due until the date paid. Additionally, the bank fee charge shall be paid by the Concessionaire to the City for each check refused payment for insufficient funds or any other reason. If any of the aforementioned fees or charges change, SPR shall provide a written explanation to the Concessionaire of the amount by which such fees and charges have changed.

ARTICLE 8 FINANCIAL RECORDS/ AUDIT

- 8.1 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.
- 8.2 Audit. Concessionaire shall permit its records to be inspected by the City, with five 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 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 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.

- 8.3 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 this Article shall survive termination or expiration of the Agreement for the applicable duration of any statute of limitations.
- 8.4 Point of Sale. The Concessionaire shall enter all sales on a type of cash register or 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. 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.
- 8.5 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, which shall not be unreasonably withheld, conditioned, or delayed.

ARTICLE 9 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: Green Lake Pitch & Putt Map
Exhibit B: Insurance Requirements
Exhibit C: Concessionaire Responsibility 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.

ARTICLE 10 DEFINITION OF GROSS RECEIPTS

10.1 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; 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.

10.2 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”.

ARTICLE 11 ACCOUNTING MONTHS AND YEAR

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

ARTICLE 12 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 of the public at all times on the Concession Premises. Concessionaire shall provide menu items and healthy options to

patrons and must be pre-approved by SPR, which may be amended by mutual agreement of both parties in writing.

ARTICLE 13. 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 Concessions 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%.

ARTICLE 14 UTILITIES AND SERVICES

- 14.1 General. Concessionaire shall pay when due to the appropriate providers, all charges for utilities for the Premises, including but not limited to electricity, water and sewer services, and data and telecommunications services. Concessionaire shall pay three hundred (\$300.00) each month during the Annual Operating Season for water used for irrigation of the golf course since there is no separate meter to document actual usage. In the event an upgrade is made and a meter is installed the Concessionaire would then pay the actual amount of water use per meter reading during the operating months.
- 14.2 Janitorial and Refuse Collection. Concessionaire shall provide all necessary housekeeping and janitorial services for the Premises to a level consistent with other similar Parks facilities and operations and to the Superintendent or designee's reasonable satisfaction. The Concessionaire shall be responsible for proper storage and removal of trash, litter pickup, compost/yard waste, and recycling consistent with City Standards.
- 14.3 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.
- 14.4 Interruption. The City shall not be liable for any loss, injury, or damage to person or property caused by, or resulting from, any variation, interruption, or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations, or improvements or due to accident, strike, or conditions or

events beyond the City's reasonable control shall be deemed an eviction of the Concessionaire or relieve the Concessionaire from any of the Concessionaire's obligations hereunder or to give the Concessionaire a right of action against the City for damages. The Concessionaire acknowledges its understanding that there may be City planned utility outages affecting the Premises and that such outages may interfere, from time to time with the Concessionaires use of the Premises. The City shall provide the Concessionaire with not less than forty-eight (48) hours prior written notice of any City-planned electricity outage on the Premises. The City has no obligation to provide emergency or backup power to the Concessionaire. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of the Concessionaire. If utilities are interrupted at the Premises during the Operating Season as to render them unfit for the Permitted Uses for three (3) or more days, then the Concessionaire Fees and Charges shall be abated for the duration of the disruption in the proportion that the number of days disruption bears to the number of days of the month.

ARTICLE 15 KEYS, SECURITY SYSTEMS, AND CAMERAS

- 15.1a Keys. Concessionaire will provide their own keys or access pad to the facility and sheds. SPR is not responsible for the damage they may cause to the door with installation nor for any damaged/vandalized hardware or locks. SPR must be provided with keys to all locks and, if using a keypad, the lock code. SPR will only access the facility without notification to the Concessionaire in cases of extreme emergency.
- 15.1b 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 Green Lake Pitch & Putt will be the responsibility of the Concessionaire including if SPR deems lock core replacement necessary.
- 15.2 Security Systems. The Concessionaire, at no cost to the City, and with preapproval of the City, may, in its sole discretion, install a Security System.
- 15.3 Security Cameras. With preapproval from the City the 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.

ARTICLE 16 CARE OF CONCESSION PREMISES

- 16.1 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, trespassers, the public, or employees, including, but not limited to, cracking or breaking of glass.
- 16.2 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 Concession 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.
- 16.3 Cleanup Costs. Concessionaire shall be fully and completely liable to the 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 the Concessionaire's use, disposal, transportation, generation, and/or sale of Hazardous Substances in or about the Premises. Concessionaire shall indemnify, defend, and hold the City harmless from any and all of the costs, fees, penalties, charges, and expenses assessed against, or imposed, upon City (as well as City's attorneys' fees and costs) as a result of the Concessionaire's use, disposal, transportation, generation, and/or sale of Hazardous Substances on or about the Premises, provided that the Concessionaire's obligation hereunder shall not extend to any costs, fees, penalties, charges and expenses necessitated by an act or omission of the City, or its officers, agents, employees, contractors, licensees, or invitees. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Agreement.

- 16.4 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.
- 16.5 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.
- 16.6 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, cracked or broken glass, minor plumbing and electrical repairs (replacing light bulbs, wall sockets, faucets, valves, etc.), and regular interior painting. The foregoing sentence does not extend to maintenance occasioned by an act or omission of the City or its officers, agents, employees, or contractors, for which City shall be responsible. If the 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. Maintenance responsibilities are further outlined in Exhibit C.

ARTICLE 17 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 Premises 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.

ARTICLE 18 COMPLIANCE WITH LAWS; NONDISCRIMINATION; EQUALITY OF TREATMENT

- 18.1 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.
- 18.2 Nondiscrimination. Without limiting the generality of Article 18.1, 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.
- 18.3 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.

ARTICLE 19 INDEMNIFICATION

- 19.1 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 Article 19 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

ARTICLE 20 INSURANCE

- 20.1 Insurance to be secured by Concessionaire. Prior to the commencement of any activity, including development under Article 3, 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.

ARTICLE 21 IMPROVEMENTS AND ALTERATIONS

- 21.1 Concessionaire's Responsibilities. Except for cosmetic, non-structural alterations made by Concessionaire in connection with its repair and maintenance obligations under Article 16.6 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.
- 21.2 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.
- 21.3 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.

ARTICLE 22 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. The Concessionaire's sale of its business shall constitute an attempted assignment of the agreement.

ARTICLE 23 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 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.

ARTICLE 24 TEMPORARY CLOSURE OF CONCESSION PREMISES

SPR reserves the right to temporarily close the Concession Premises, suspend operation and remain off property, 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 Fee due.

ARTICLE 25 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.

ARTICLE 26 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: Pamela Wilson, Parks Concessions Coordinator
300 Elliott Ave W, Suite 100
Seattle, WA 98119
(206) 684-7818
Pamela.Wilson@seattle.gov

And to the Concessionaire at the following address:

Lost Evenings, LLC
Attn: Amy Faulkner
6345 Seaview Ave NW
Seattle, WA 98107
206-659-8943
Amy@teamgillywagon.com

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

ARTICLE 27 DEFAULT

27.1 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 Article 27.2, whether or not remedied in the time period allowed.

27.2 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.

- 27.3 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.

ARTICLE 28 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.

ARTICLE 29 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.

ARTICLE 30 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, state legal holiday, the final day for performance shall be the City's next business day.

ARTICLE 31 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.

ARTICLE 32 SIGNS AND ADVERTISING

- 32.1 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.
- 32.2 Use of Name. Upon termination of this Agreement, the Concessionaire, at its expense, as promptly as practicable: (i) shall take all necessary action to cause any websites, social media accounts or other promotional media to be amended in order to eliminate any reference to the Green Lake Pitch & Putt, including the domain name and account names (except to the extent required by law, regulation or rule); and (ii) shall cease to use in any other manner, including, but not limited to, use in any sales literature or promotional material, the name "Green Lake Pitch & Putt" or any name, mark or logo type derived from it or similar to it (except to the extent required by law, regulation or rule).

ARTICLE 33 BACKGROUND CHECKS AND IMMIGRANT 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 the 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 Contractor 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.

ARTICLE 34 CHANGES AND MODIFICATIONS

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.

ARTICLE 35 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.

ARTICLE 36 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.

ARTICLE 37 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.

ARTICLE 38 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.

ARTICLE 39 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.

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

City of Seattle, Seattle Parks and Recreation

Signature

Signature

Name

Name

Title

Title

Date

Date

EXHIBITS

EXHIBIT A - Green Lake Pitch & Putt Map and Legal Description

EXHIBIT B - Insurance Requirement

EXHIBIT C - Maintenance Responsibilities

Green Lake Pitch & Putt Concession Agreement

EXHIBIT A – Green Lake Pitch & Putt Map and Legal Description





Legal Description

Real property in King County, Washington:

Those parts of the NW1/4 and SW1/4 of Section 5; the NE1/4, SE1/4 and SW1/4 of Section 6; the NE1/4 and NW1/4 of Section 7; the NW1/4 of Section 8, all in Township 25 North, Range 4 East W.M. more particularly described as being all of Green Lake and all shore and uplands bordering thereon and lying on the inner or lakeside of a line described as the marginal lines of West Green Lake Way, Aurora Avenue North, West Green Lake Drive North, East Green Lake Drive North and East Green Lake Way North as these roads encircle Green Lake.

Tax parcel Numbers: Entire Green Lake Park - 952810-0790

Green Lake Pitch and Putt - 955120 0005

(Note: The Green Lake Pitch and Putt is situated in the SW corner of Green Lake Park.)

Green Lake Pitch & Putt Concession Agreement

EXHIBIT B - Insurance Requirement

1. Insurance.

1.1 Minimum Insurance to be Secured and Maintained. Prior to the Commencement Date, Concessionaire shall secure and shall thereafter maintain (or cause its Subtenant(s) to secure and maintain) in full force and effect, at no expense to City, and throughout the entire Term, minimum insurance as specified below:

1.1.1 Commercial General Liability Insurance including:

Premises/Operations Liability

Products/Completed Operations Liability

Personal/Advertising Liability

Contractual Liability

Stop Gap/Employers Contingent Liability

Independent Contractors Liability

Liquor Liability/Host Liquor Liability

Fire Damage Legal Liability

Sexual Misconduct and Molestation Liability

Such policy(ies) must be endorsed as provided in Subsection 1.3. hereof and provide the following minimum limits:

\$2,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage

\$1,000,000 each Offense Personal and Advertising Injury

\$ 100,000 each Occurrence Fire Legal Liability

\$1,000,000 each Accident/ Disease - Each Employee Stop Gap

Such minimum limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the City of Seattle.

1.1.2. Business Automobile Liability including coverage for owned, non-owned, Concessionaire or hired vehicles with a minimum limit of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage.

Such minimum limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the City of Seattle.

1.1.3. Workers' Compensation securing Concessionaire's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; provided, that if Concessionaire is qualified as a self-insurer in accordance with Chapter 51.14 of the Revised Code of

Washington, Concessionaire shall certify that qualification by a letter that is signed by a corporate officer of Concessionaire and delivered to City that sets forth the limits of any policy of excess insurance covering its employees.

1.1.4 Property Insurance under which the Premises, the existing building, furniture, fixtures, equipment, personal property and inventory and all alterations, additions and improvements that Concessionaire makes to the building and Premises, are insured throughout the Concession Term in an amount equal to the replacement cost value thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss, 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, 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 continued payment of fixed costs during any interruption of Concessionaires' business; (v) earth movement (including earthquake), for full replacement cost value of the property/improvements/content. City shall be named as a loss payee as respects property insurance covering alterations, additions, and improvements under such policy.

1.2 General Requirements Regarding Concessionaire's Insurance.

1.2.1 The insurance required by Subsections 1.1.1 applicable Liability insurance shall be endorsed to include the City of Seattle and its officers, elected officials, employees, agents and volunteers as additional insureds. The applicable insurance required by Subsections 1.1.1 shall be primary as respects City; shall provide that any other insurance maintained by City shall be excess and not contributing insurance with Concessionaire's insurance; and shall provide that such coverage shall not be reduced or canceled without forty-five (45) days" prior written notice to City, except ten (10) days prior written notice to City with respect to non-payment of premium, at its address as specified in Subsection 1.9 hereof.

1.2.2 All insurance policies required hereunder shall be subject to reasonable approval by City's Risk Manager as to company, form, and coverage. All policies shall be issued by a company rated A-: V or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington surplus lines broker.

1.2.3 Any deductible or self-insured retention in excess of \$20,000 must be disclosed to, and shall be subject to reasonable approval by, City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of Concessionaire.

1.2.4 Coverage and/or limits may be reasonably altered or increased as necessary to reflect type of or exposure to risk. City shall have the right to periodically review the appropriateness of such coverage and limits in view of inflation and/or changing industry conditions and to require an increase in such coverage or limits upon ninety (90) days" prior written notice.

1.3 Evidence of Insurance. Before occupying the Premises, the following documents must be delivered to the City at its address as specified in or pursuant to Subsection 1.9., as evidence of the insurance coverage secured and maintained by Concessionaire.

1.3.1 On or before the Commencement Date, and thereafter, not later than five (5) days prior to the expiration or renewal date of each such policy:

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.

A copy of the endorsement naming 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;

A copy of an endorsement stating that the coverages provided by such policy to City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to City, except ten (10) days prior written notice to City with respect to non-payment of premium, at its address as specified in or provided pursuant to Subsection 1.9; and

For the Commercial General liability and Business Automobile insurance to be secured and maintained pursuant to Subsection 1.1.1 and 1.1.2 hereof, a copy of the "Separation of Insureds" or "Severability of Interests" clause in such policy.

1.3.2 Pending receipt of the documentation specified in this Section 1, Concessionaire may provide a copy of a current complete binder. An ACORD certificate of insurance will not be accepted in lieu thereof.

1.4 No Limitation of Liability. Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only; they shall not be construed to limit the liability of Concessionaire or any insurer for any claim required to be covered hereunder. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by the tenant, whether those limits are primary, excess, contingent or otherwise. Tenant expressly understands and agrees that this provision shall override any limitation of liability or similar provision in any agreement.

1.5 Reconstruction Following Loss. Concessionaire shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to prepare plans and specifications for, and thereafter to carry out, all work necessary to repair and restore the alterations, additions and improvements that Concessionaire made to the Premises that is at least equivalent to, or more suitable than, the alterations, additions and improvements that were damaged or destroyed, subject in all cases to any restrictions based on the building's status as a landmark or historical building.

1.6 Waiver of Subrogation. City and City's insurer(s) shall waive subrogation for damage to or destruction of the Building, Premises and City's furniture, fixtures, equipment and inventory in favor of Concessionaire except with respect to losses of City's aforesaid property of up to \$100,000 that are attributable to Concessionaire's negligence and to which Concessionaire's Fire Legal Liability insurance responds; however, in the event of a loss to City's aforesaid property attributable to Concessionaire's negligence, Concessionaire agrees to reimburse City for the amount of its property insurance deductible up to \$20,000. Concessionaire and Concessionaire's insurer(s) shall waive subrogation for damage to or destruction of Concessionaire's alterations, additions and improvements, furniture, fixtures, equipment and

inventory in favor of City; however, in the event of a loss to Concessionaire's aforesaid property attributable to City's negligence, City agrees to reimburse Concessionaire for the amount of its property insurance deductible up to \$100,000.

1.7 Assumption of Risk. The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Concessionaire.

1.8 City Use of Premises; Third-Party Users. To the extent City uses, or permits any Third-Party Users to use, the Premises as contemplated in this Contract, Concessionaire may condition such use on receipt of evidence that such user maintains reasonably adequate commercial general liability insurance, listing Concessionaire as an additional insured on such policies. City waives, as between City and Concessionaire, any Claims arising from or related to Third-Party Users' use of and activities within the Premises.

Green Lake Pitch & Putt Concession Agreement

EXHIBIT C – Maintenance Responsibilities

	Concessionaire Maintenance Responsibility	City of Seattle Maintenance Responsibilities
Facility (Pro Shop/Club House)	Routine Maintenance <ul style="list-style-type: none"> • Replacing windows and doors as needed • Cracked or broken glass • Minor plumbing (faucets, etc.) • Minor electrical (replacing light bulbs, etc.) • Painting interior and exterior of clubhouse as needed • Signage for facility 	Major Maintenance <ul style="list-style-type: none"> • Structural • Masonry • Roof • Electrical • Plumbing • HVAC • Replace facility gutters and downspouts
Golf Course	<ul style="list-style-type: none"> • Mowing Greens • Mowing aprons/fringe • Daily ball mark repair • Necessary irrigation/hand watering of greens and fairways • Over seeding of greens • Leaf, limb, and pinecone removal on course • Fertilizing greens (SPR notified with date, formulation, and quantity.) • Fungiciding greens and disease control (must be done by a licensed applicator, report submitted to SPR within 24 hours) • Changing cups on greens • Verticutting greens Furnishing and maintaining: <ul style="list-style-type: none"> • Rubber tee mats • Practice (green) mats with rubber tees • Hole cups, poles and flags • Putting cups, poles, and flags • Ball washer and towels 	<ul style="list-style-type: none"> • Maintenance and upkeep of the irrigation system • Providing hoses and quick coupler sprinklers as needed

	<ul style="list-style-type: none"> • Trash receptacles at each tee • Bences for each tee area • Aerating the greens 2 times per year • Top dressing the greens 2 times per year • Periodic aerating of fairway • Overseed (till, compost, seed) grass around tee boxes. 	
Grounds	<ul style="list-style-type: none"> • Maintaining flowerbeds/gardens around clubhouse and entrance • Edging around sidewalks, clubhouse, and tee areas • Maintaining shrubs • Maintaining grass growth along interior perimeter of fence line. • Weeding around trees, shrubs, and flowerbeds • Signage for property • Trash receptacles around property • Providing and maintaining sheds and utility storage structures (pre-approved by SPR) 	<ul style="list-style-type: none"> • Maintaining trees • Maintaining exterior perimeter fence line • Removal of compost/debris near maintenance equipment entrance as needed • Providing/maintaining picnic tables & benches around the clubhouse • Providing and maintaining fencing around perimeter of property

END OF AGREEMENT