

# APPROVED

FEB 17 2022

## BOARD OF RECREATION AND PARK COMMISSIONERS

BOARD REPORT

NO. 22-037

DATE: February 17, 2022

C.D. 4

### BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: GRIFFITH PARK TRAIN RIDE CONCESSION – PROPOSED PRICE INCREASE AND AMENDMENT NO. 2 TO AGREEMENT NO. 247 WITH GP RAH ENTERPRISES, LLC TO EXTEND TERM

AP Diaz	_____	*M. Rudnick	_____
H. Fujita	_____	C. Santo Domingo	_____
J. Kim	_____	N. Williams	_____

  
 \_\_\_\_\_  
 General Manager

Approved   X                        Disapproved \_\_\_\_\_                      Withdrawn \_\_\_\_\_

### RECOMMENDATIONS

1. Approve the proposed ticket price increase for the Griffith Park Miniature Train Ride Concession as set forth in this Report.
2. Approve the proposed Amendment No. 2 (Amendment), attached hereto as Attachment 1, to Concession Agreement No. 247 (Agreement), attached hereto as Attachment 2, to extend the term of the Agreement, as previously amended, by fourteen (14) months with a termination date of April 27, 2025 to account for the closure of concession operations due to the COVID-19 pandemic;
3. Direct the Board of Recreation and Park Commissioners' (Board) Secretary to transmit the proposed Amendment to the Mayor in accordance with Executive Directive No. 3 (Villaraigosa Series), the City Council for approval, and the City Attorney for approval as to form;
4. Authorize the Board President and Secretary to execute the Amendment upon receipt of necessary approvals; and,
5. Authorize RAP Staff to make any necessary technical corrections to carry out the intent of this Report..

### SUMMARY

GP Rah Enterprises, LLC (GP Rah), the operator of the Miniature Train Ride Concession in Griffith Park (Concession) located at two locations (Los Feliz Boulevard entrance and Travel Town Museum), offers rides on miniature railroad cars, a simulator ride, a seasonal Christmas Lights Festival Train Ride, and a souvenir stand as part of the Concession. GP Rah has proposed a rate increase for the Concession rides as follows:

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	<u>Current Price</u>	<u>Proposed Price</u>
Adult Single Ride Ticket	\$3.50	\$4.00
Group Tickets (20 or more)	\$2.75	\$3.00
Senior Tickets (Age 65)	\$2.75	\$3.00
Simulator Ride Tickets	\$4.00	\$5.00

The price for a Child Single Ride Ticket will remain the same at \$3.00.

The last ticket price increase was approved by the Board on August 8, 2018. The proposed ticket price increase is partly due to the nationwide coin shortage. The closure of businesses and banks caused by the Covid-19 pandemic significantly disrupted the circulation of coins, reducing inventories in parts of the country.<sup>1</sup> Indeed, GP Rah has occasionally been denied quarters by their bank which has made it a challenge to provide change for customers. By rounding up to an even dollar amount, this will eliminate the need to provide coin change. The nominal price increase will continue to ensure that the train rides are moderately priced for families and other park visitors. In addition, during the past year, the Concession experienced a loss in revenue due to mandatory closures. Once allowed to reopen, the Concession was restricted to operating with limited capacity. In addition, due to a labor shortage, Concession staff members were given at least a \$2 per hour wage increase, bringing the starting wage to \$17.50 per hour. Therefore, the increase in ticket prices will allow the GP Rah to recoup some of the revenue lost due to the Covid-19 closures and assist in funding the wage increase while still keeping ticket prices at affordable levels.

Department of Recreation and Parks (RAP) Staff researched current ticket prices of miniature train rides in Southern California and found that they are comparable to the proposed price increase:

<b>Location</b>	<b>Ticket Price</b>
Santa Barbara Zoo Train	\$5.00 - \$7.00 (plus Zoo Admission)
Irvine Park Railroad (City of Orange)	\$6.00 (plus Parking Fees)
Zoofari Express (Santa Ana Zoo)	\$6.00 (plus Zoo Admission)
Balboa Park Railroad (San Diego Zoo)	\$3.00
El Dorado Park Train Ride (Long Beach)	\$6.00 (plus Parking Fees)
Los Angeles Live Steamers	\$3.00 (open 4 hours per week)

Staff has also researched the cost for similar simulator rides locally and found that they are comparable to the proposed simulator price increase:

California Science Center	\$5.00
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<sup>1</sup> Board of Governors of the Federal Reserve (2021, May) Are U.S. coins in short supply? U.S. Federal Reserve. Retrieved from: <https://www.federalreserve.gov/faqs/why-do-us-coins-seem-to-be-in-short-supply-coin-shortage.htm>

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The Ride 7D (Ontario, Ca)	\$10.00
Petersen Automotive Museum	\$12.00 -\$17.00
San Diego Air & Space Museum	\$8.00

### CONTRACT AMENDMENT

On April 6, 2005, the Board of Recreation and Park Commissioners (Board) approved a Concession Agreement (Agreement) with GP Rah. The Agreement, Agreement No. 247, was executed on March 1, 2006, for a term of fifteen (15) years. On December 8, 2010, the Board approved an amendment to the Agreement extending the contract term for an additional three (3) additional years due to work on the Department of Water and Power River Supply Conduit which negatively affected public access to the Concession. This amendment was executed on September 7, 2011, and the amended Agreement will expire on February 28, 2024.

Due to health risks associated with the COVID-19 pandemic, the Concession was closed to the public starting March 13, 2020 in conformance with mandatory health directives. It resumed operation on April 21, 2021. This closure resulted in an 80.5% loss in gross sales in 2020 when compared to sales in 2019. Recovery to pre-pandemic sales for 2021 has not been reached so far this calendar year, but is gradually increasing. In consideration of the closure of the Concession due to the COVID-19 pandemic, staff recommends extending the term of the amended Contract for fourteen (14) months with a termination date of April 27, 2025. This will allow GP Rah additional time to recoup loss of sales due to the mandatory closures caused by the pandemic.

GP Rah has consistently met all contractual terms and conditions, including timely payment of rent, occupancy taxes, and insurance requirements. They also respond timely to RAP concerns and work well with RAP staff.

### FISCAL IMPACT

In 2019, revenue to RAP from the Concession was \$81,869.39. The additional revenue from the rate increase is estimated to generate an additional \$5,930.00 per year.

### STRATEGIC PLAN INITIATIVES AND GOALS

Approval of this Board Report advances RAP's Strategic Plan by supporting:

**Goal No. 6:** Build Financial Strength and Innovative Partnerships

**Outcome No. 2:** Improved management of rental facilities and concessions.

**Result:** The approval of this report will assist with mitigating the loss in revenue and rent to the City, as well as staffing challenges experienced by the concession due to Covid-19 closures.

This report was prepared by LaTricia Jones, Management Analyst, Special Operations Branch,

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Concessions Unit.

LIST OF ATTACHMENTS

- 1) Proposed Amendment No. 2 to Agreement for Concession Operation of Miniature Train Rides in Griffith Park
- 2) Agreement No. 247 and Amendment No. 1

**AMENDMENT NO. 2 TO CONCESSION AGREEMENT NO. 247  
FOR CONCESSION OPERATION OF MINIATURE TRAIN RIDES IN GRIFFITH PARK**

THIS AMENDMENT NO.2 TO CONCESSION AGREEMENT NO. 247 (“AMENDMENT”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter referred to as “CITY”), acting by and through its Board of Recreation and Park Commissioners (hereinafter referred to as “BOARD”) and GP RAH ENTERPRISES, LLC. (hereinafter referred to as “CONCESSIONAIRE”).

**WITNESSETH**

Whereas, on April 6, 2005, the CITY awarded CONCESSIONAIRE the right to operate miniature train rides in Griffith Park (Board Report No. 05-88) (hereinafter “CONCESSION”) in accordance with the terms and conditions of a 15-year Operating Concession Agreement No. 247 (hereinafter “AGREEMENT”); and

Whereas, the AGREEMENT was executed on March 1, 2006, and encompassed all rights and duties of the parties in connection with the CONCESSION; and

Whereas, the AGREEMENT was amended on September 7, 2011 to extend the term of the Agreement from 15 years to 18 years (changing the termination date of February 28, 2021 to February 28, 2024) due to the prolonged construction for the Los Angeles Department of Water and Power’s (DWP) River Supply Conduit Improvement project and its effect on public access to the CONCESSION; and

Whereas, the Board of Recreation and Park Commissioners (“Board”), through Board Report #\_\_\_\_\_, authorized the execution of a second amendment to the AGREEMENT to extend the term of the AGREEMENT by an additional fourteen (14) months to account for the closure of CONCESSION operations due to the COVID-19 pandemic; and

Whereas, the CITY and CONCESSIONAIRE desire to amend the AGREEMENT to extend the term of the AGREEMENT to April 27, 2025 in accordance with the above cited Board Report.

Now, therefore, the CITY and CONCESSIONAIRE hereby mutually agree to further amend the previously amended AGREEMENT as follows:

1. SECTION 5 of the AGREEMENT entitled “TERM” is hereby amended in its entirety and restated as follows below in quotation marks:

“The term of the AGREEMENT is nineteen (19) years and two (2) months, terminating on April 27, 2025. Neither CITY, nor any BOARD member, officer, or employee thereof

shall be liable in any manner to CONCESSIONAIRE because of any action taken to revoke or terminate the AGREEMENT as may be authorized under this AGREEMENT.”

2. The Standard Provisions for City Contracts (Rev. 10.21, v.4) (“Standard Provisions”), attached to this AMENDMENT as Attachment A is hereby added and incorporated fully in its entirety to the AGREEMENT and made a part of the AGREEMENT. All references to “Contractor” in the Standard Provisions shall mean CONCESSIONAIRE, and CONCESSIONAIRE shall comply with such Standard Provisions. In the event of a conflict in provisions between the Standard Provisions and any Exhibits to the AGREEMENT, the Standard Provisions shall govern.
3. Except as modified herein, all other terms and conditions of the AGREEMENT, as previously amended, shall remain unchanged and in full force and effect.

#### ATTACHMENT

For this Amendment No. 2 to Concession Agreement No. 247 document, the following is attached:

Attachment A - Standard Provisions for City Contracts (Rev. 10.21, v.4)

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have caused this AMENDMENT NO. 2 TO CONCESSION AGREEMENT NO. 247, to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: \_\_\_\_\_  
President

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Secretary

DATE: \_\_\_\_\_

GP RAH ENTERPRISES, LLC.

BY: \_\_\_\_\_  
Don Gustavson

DATE: \_\_\_\_\_

BTRC No.: \_\_\_\_\_

APPROVED AS TO FORM:

MICHAEL N. FUEUR  
City Attorney

BY: \_\_\_\_\_  
Steven H. Hong  
Deputy City Attorney

DATE: \_\_\_\_\_

**ATTACHMENT A**

Standard Provisions for City Contracts (Rev. 10/21) [v.4]



# STANDARD PROVISIONS FOR CITY CONTRACTS

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## STANDARD PROVISIONS FOR CITY CONTRACTS

### **PSC-1. Construction of Provisions and Titles Herein**

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

### **PSC-2. Applicable Law, Interpretation and Enforcement**

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

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

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

### **PSC-3. Time of Effectiveness**

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

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

#### **PSC-4. Integrated Contract**

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

#### **PSC-5. Amendment**

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

#### **PSC-6. Excusable Delays**

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

#### **PSC-7. Waiver**

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

## **PSC-8. Suspension**

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

## **PSC-9. Termination**

### **A. Termination for Convenience**

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

### **B. Termination for Breach of Contract**

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
  - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
  - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
  - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
  - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
  6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
  7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
  8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

**PSC-10. Independent Contractor**

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

**PSC-11. Contractor's Personnel**

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

**CONTRACTOR** shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

#### **PSC-12. Assignment and Delegation**

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

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

#### **PSC-13. Permits**

**CONTRACTOR** and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

#### **PSC-14. Claims for Labor and Materials**

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

#### **PSC-15. Current Los Angeles City Business Tax Registration Certificate Required**

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

#### **PSC-16. Retention of Records, Audit and Reports**

**CONTRACTOR** shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding



performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

#### **PSC-17. Bonds**

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

#### **PSC-18. Indemnification**

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

#### **PSC-19. Intellectual Property Indemnification**

**CONTRACTOR**, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

#### **PSC-20. Intellectual Property Warranty**

**CONTRACTOR** represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

#### **PSC-21. Ownership and License**

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

**CONTRACTOR** agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

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

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

**PSC-22. Data Protection**

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the “City Data”). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR’S** discovery or reasonable belief of any unauthorized access of City Data (a “Data Breach”), or of any incident affecting, or potentially affecting City Data related to cyber security (a “Security Incident”), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY’S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY’S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

**PSC-23. Insurance**

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY’S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

**PSC-24. Best Terms**

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR’S** customers for similar goods and services provided under this Contract.

**PSC-25. Warranty and Responsibility of Contractor**

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

**PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment**

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-27. Child Support Assignment Orders**

**CONTRACTOR** shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-28. Living Wage Ordinance**

**CONTRACTOR** shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-29. Service Contractor Worker Retention Ordinance**

**CONTRACTOR** shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-30. Access and Accommodations**

**CONTRACTOR** represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

**CONTRACTOR** understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-31. Contractor Responsibility Ordinance**

**CONTRACTOR** shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

**PSC-32. Business Inclusion Program**

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network (“BAVN”) at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

**PSC-33. Slavery Disclosure Ordinance**

**CONTRACTOR** shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-34. First Source Hiring Ordinance**

**CONTRACTOR** shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-35. Local Business Preference Ordinance**

**CONTRACTOR** shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-36. Iran Contracting Act**

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

**PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections**

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR’S** principals, and **CONTRACTOR’S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the “Restricted Persons”)

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract # \_\_\_\_\_ . Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“**CITY**”) officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

**PSC-38.** Contractors’ Use of Criminal History for Consideration of Employment Applications

**CONTRACTOR** shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

**PSC-39.** Limitation of City’s Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

**PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards**

**CONTRACTOR** shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

**PSC-41. Compliance with California Public Resources Code Section 5164**

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR’S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

**PSC-42. Possessory Interests Tax**

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.



### **PSC-43. Confidentiality**

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

### **PSC-44. COVID-19**

Employees of Contractor and/or persons working on its behalf, including, but not limited to, subcontractors (collectively, “Contractor Personnel”), while performing services under this Agreement and prior to interacting in person with City employees, contractors, volunteers, or members of the public (collectively, “In-Person Services”) must be fully vaccinated against the novel coronavirus 2019 (“COVID-19”). “Fully vaccinated” means that 14 or more days have passed since Contractor Personnel have received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer-BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen) and all booster doses recommended by the Centers for Disease Control and Prevention. Prior to assigning Contractor Personnel to perform In-Person Services, Contractor shall obtain proof that such Contractor Personnel have been fully vaccinated. Contractor shall retain such proof for the document retention period set forth in this Agreement. Contractor shall grant medical or religious exemptions (“Exemptions”) to Contractor Personnel as required by law. If Contractor wishes to assign Contractor Personnel with Exemptions to perform In-Person Services, Contractor shall require such Contractor Personnel to undergo weekly COVID-19 testing, with the full cost of testing to be borne by Contractor. If Contractor Personnel test positive, they shall not be assigned to perform In-Person Services or, to the extent they have already been performing In-Person Services, shall be immediately removed from those assignments. Furthermore, Contractor shall immediately notify City if Contractor Personnel performing In-Person Services (1) have tested positive for or have been diagnosed with COVID-19, (2) have been informed by a medical professional that they are likely to have COVID-19, or (3) meet the criteria for isolation under applicable government orders.

**EXHIBIT 1**

**INSURANCE CONTRACTUAL REQUIREMENTS**

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

**CONTRACTUAL REQUIREMENTS**

CONTRACTOR AGREES THAT:

- 1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.
- 2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.
- 3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.
- 4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.
- 5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

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

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

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

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

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

**9. Commencement of Work.** For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

# Required Insurance and Minimum Limits

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

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

Agreement/Reference: \_\_\_\_\_

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

### Limits

\_\_\_\_ **Workers' Compensation (WC) and Employer's Liability (EL)**

WC Statutory

EL \_\_\_\_\_

Waiver of Subrogation in favor of City

Longshore & Harbor Workers

Jones Act

\_\_\_\_ **General Liability** \_\_\_\_\_

Products/Completed Operations

Sexual Misconduct \_\_\_\_\_

Fire Legal Liability \_\_\_\_\_

\_\_\_\_ **Automobile Liability** (for any and all vehicles used for this contract, other than commuting to/from work) \_\_\_\_\_

\_\_\_\_ **Professional Liability** (Errors and Omissions) \_\_\_\_\_

Discovery Period \_\_\_\_\_

\_\_\_\_ **Property Insurance** (to cover replacement cost of building - as determined by insurance company) \_\_\_\_\_

All Risk Coverage

Boiler and Machinery

Flood \_\_\_\_\_

Builder's Risk

Earthquake \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_ **Pollution Liability** \_\_\_\_\_

\_\_\_\_ **Surety Bonds** - Performance and Payment (Labor and Materials) Bonds \_\_\_\_\_

\_\_\_\_ **Crime Insurance** \_\_\_\_\_

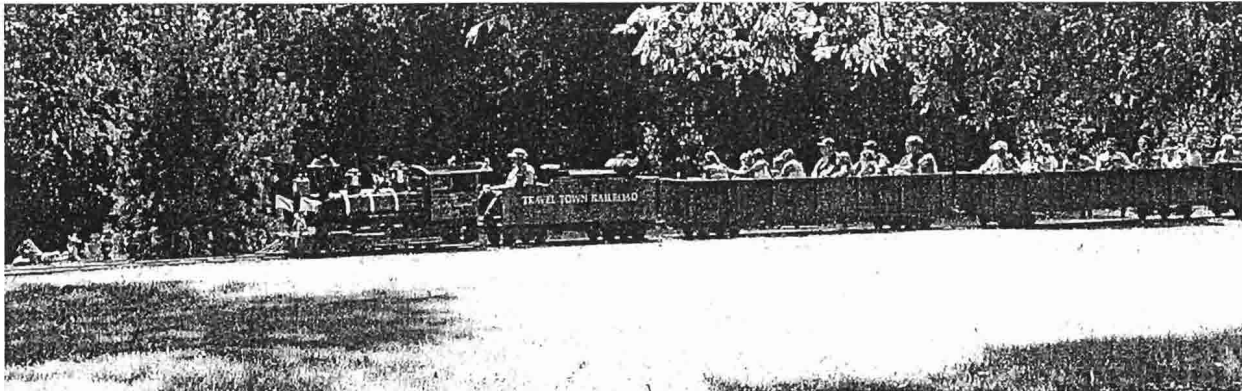
**Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



CITY OF LOS ANGELES  
DEPARTMENT OF  
RECREATION AND PARKS



# Agreement for Concession Operation of Miniature Train Rides in Griffith Park



Administrative Resources Division  
3900 Chevy Chase Drive  
Mail Stop 628  
Los Angeles, California 90039  
(818) 243-6488 phone  
(818) 243-1459 fax

THIS AGREEMENT, made and entered into this 1<sup>st</sup> day of March, 2006, by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter "CITY"), acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS (hereinafter "BOARD"), and GP RAH, Enterprises, LLC (hereinafter "CONCESSIONAIRE").

WITNESSETH

WHEREAS, the principal purpose of CITY in entering into this Concession Agreement (hereinafter "AGREEMENT") is to serve the public by continuing the Griffith Park tradition of providing safe and entertaining miniature train rides to visitors; and

WHEREAS, the BOARD has determined that the incumbent CONCESSIONAIRE is a sole-source operator, as owner of the existing Griffith Park miniature train ride equipment and numerous train ride-related capital improvements, and has agreed with said CONCESSIONAIRE on terms under which to operate the CONCESSION and sell ownership of equipment and improvements to the CITY, said terms and conditions embodied in this AGREEMENT; and

WHEREAS, CONCESSIONAIRE desires to secure and enter into AGREEMENT in accordance with the foregoing and shall undertake to provide continuing services of the type and character required therein by CITY to meet the needs of the public who desire the experience of miniature train rides at the Los Feliz/Crystal Springs park entrance and Travel Town Museum areas of Griffith Park; and

WHEREAS, due to the fact that the CITY does not own the Griffith Park railroad improvements or equipment, it is not practicable for the CITY to competitively bid this service, nor is it economical or feasible to have CITY employees operate the services; and

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

**SECTION 1. DEFINITIONS:**

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

AGREEMENT: This Concession AGREEMENT consisting of 11 pages and 7 Exhibits (A, B1-B3, C1-C4, D, E, F, and G) attached thereto.

CONCESSION: Miniature Train Ride Operation in Griffith Park (two locations, see PREMISES below)

CONCESSIONAIRE: GP RAH Enterprises, LLC  
17216 Saticoy Street, #387  
Van Nuys, CA 91406

CONCESSION MANAGER: The person with whom the GENERAL MANAGER deals with on a daily basis regarding the CONCESSION.

DEPARTMENT: The Department of Recreation and Parks, acting through the BOARD.

GENERAL MANAGER: GENERAL MANAGER of the DEPARTMENT, or that person's authorized representative, acting on behalf of CITY. All actions of the GENERAL MANAGER are subject to review at the pleasure of the BOARD.

PARK: Griffith Park

PREMISES: Griffith Park Train Ride  
4400 Crystal Springs Drive (at Los Feliz Boulevard)  
Los Angeles, CA 90027

Travel Town Museum Train Ride  
5200 Zoo Drive  
Los Angeles, CA 90027

STANDARD CONDITIONS: Standard Conditions and Regulations for the Operation of Concessions

**SECTION 2. CONCESSION GRANTED**

CONCESSIONAIRE shall be granted the exclusive right and obligation to utilize PREMISES to provide and maintain a miniature train/amusement ride service to patrons. CONCESSIONAIRE shall provide improvements and maintenance of the PREMISES in accordance with other provisions of this AGREEMENT.

CONCESSIONAIRE shall not perform or conduct any activity on the PREMISES which is not directly related to the purpose set forth in the AGREEMENT for the subject concession without the prior written consent of the GENERAL MANAGER.

At CONCESSIONAIRE'S option and with the written approval of the GENERAL MANAGER, CONCESSIONAIRE may provide other limited amusement/ride related service(s) within the defined premises such as a simulator ride, souvenir gift sales, and ancillary holiday themed

miniature train rides with photos. Any sublicensing of these related activities require the written approval of the GENERAL MANAGER. Souvenir sales are expected to be sublicensed.

### **SECTION 3. PREMISES**

CONCESSIONAIRE is granted the exclusive right to use two Griffith Park Miniature Train Ride Concession Facilities – the Travel Town and Los Feliz Locations (hereinafter PREMISES) as set forth in Exhibits “A,” “B1-B3,” and “C1-C4”, attached hereto and incorporated herein. The adjacent parking lots associated with said PREMISES are not for the exclusive use of the CONCESSIONAIRE, but are shared with neighboring concession operators, and Travel Town Museum guests, however the principal use of the adjacent lot is acknowledged by the DEPARTMENT as related to the concessions or other appurtenant facilities.

### **SECTION 4. INCORPORATION OF STANDARD CONDITIONS**

CONCESSIONAIRE shall abide by all provisions of the “Standard Conditions for the Operation of Concessions”, attached hereto as Exhibit “D” and incorporated herein. These Standard Conditions cover all aspects of PREMISES operations except that in cases where there is a conflict between the Standard Conditions and the terms of this AGREEMENT, the latter is deemed to be controlling.

### **SECTION 5. TERM**

Term will be for fifteen (15) years, effective on the date of execution.

### **SECTION 6. RENTAL**

CONCESSIONAIRE shall pay to CITY four and one-quarter percent (4.25%) of gross receipts received from all standard train rides and ten percent (10%) of gross receipts from merchandise and other rides/services (i.e. SR2 Simulator, Train Ride to Visit Santa). On or before the fifteenth day of each month, payment is due for the prior month. Payment shall be in the form of a check or money order. At the same time, CONCESSIONAIRE shall also submit a Monthly Remittance Advice for the month for which payment is submitted. Forms for this purpose are attached as Exhibit “E”, which may be duplicated. A variation of this form may be submitted by the CONCESSIONAIRE upon prior written approval of the GENERAL MANAGER.

The CONCESSIONAIRE shall mail all payments and reports to:

Department of Recreation and Parks  
Park Services Division  
P.O. Box 5358  
Glendale, CA 91221-5385



Use of the premises for purposes not expressly permitted herein, whether or not approved in writing by GENERAL MANAGER, may result in additional charges.

## **SECTION 7. OWNERSHIP TRANSFER OF EQUIPMENT AND IMPROVEMENTS AND RESERVE FUND**

In consideration of the rental percentage and the term length under this agreement, CONCESSIONAIRE shall transfer ownership of certain train ride equipment and related capital improvements to CITY at the conclusion of this AGREEMENT's term. Items to become City-owned property are listed in Exhibit "F," attached and incorporated herein. CONCESSIONAIRE shall provide adequate insurance (see SECTION 9.) on said equipment and improvements to ensure full replacement as necessary prior to conclusion of the AGREEMENT's term and transfer of equipment and improvement ownership.

CONCESSIONAIRE shall set aside a reserve in the amount of 1% of total standard train ride gross annual receipts from all permitted operations for the purpose of repair, refurbishment, or replacement of equipment and capital improvements to be transferred to the CITY when they are worn or damaged and need to be repaired, refurbished, or replaced. The reserve shall be cumulative and carry-over from year-to-year during the term of the agreement. In the event of agreement termination for any reason, or at the conclusion of the agreement term, any amount in this account will be turned over to the CITY. These dollars are not to be used for routine repair and maintenance or loose equipment replacement. Annually in January the CONCESSIONAIRE will submit prior-year's expenditures from the fund and propose expenditures in the coming year for review and approval of the GENERAL MANAGER. In the event of emergency, CONCESSIONAIRE may request in writing the use of the reserve for other purposes, or the GENERAL MANAGER may request use of the reserve on a specific repair, refurbishment, or replacement.

## **SECTION 8. OPERATING RESPONSIBILITIES**

### **A. Prices**

All prices charged shall be prominently posted and shall not exceed prevailing market prices for the same standard grade of service or merchandise at similar venues in the surrounding community. Prices and subsequent price changes for rides and other services by CONCESSIONAIRE are subject to approval from the BOARD.

### **B. Hours/Days of Operation**

CONCESSIONAIRE shall offer PREMISES services to the public at least six hours per day, seven days per week, except during inclement weather. CONCESSIONAIRE may close concession on December 25.

Prior to operation, CONCESSIONAIRE shall submit in writing to the GENERAL MANAGER the proposed hours of operation. Said hours of operation and all future deviations therefrom shall receive prior approval from the GENERAL MANAGER.

**C. Fixtures and Equipment**

CONCESSIONAIRE shall provide and install at its own sole expense all equipment, furnishings, and materials necessary to operations licensed including, but not limited to: miniature locomotives and cars, ticket sales machines, cash registers, shelving, fuel storage and delivery for locomotives, racks, counters, display cases, lighting, and heating and air conditioning.

CONCESSIONAIRE may use a Point of Sale system in lieu of a cash register upon review and approval of the GENERAL MANAGER.

All fixtures and equipment required for said concession shall be purchased, installed and maintained and all expendables shall be purchased by CONCESSIONAIRE at its expense and shall remain its personal property.

**D. Maintenance of Equipment and Premises**

CONCESSIONAIRE shall provide all maintenance, repair, replacement, and service required on all equipment and furnishings used in the CONCESSION, whether or not owned by CONCESSIONAIRE, and keep such equipment in good repair and in a clean and orderly condition and appearance. To accomplish this requirement, CONCESSIONAIRE shall establish an adequate preventive maintenance program and the provisions of same shall be subject to periodic review by CITY'S representatives. Insofar as sanitation and appearance of the PREMISES is involved, the GENERAL MANAGER may direct CONCESSIONAIRE to perform necessary repairs and maintenance. The cost of repairing the heating and air-conditioning equipment serving the CONCESSION PREMISES shall be assumed by the CONCESSIONAIRE. CONCESSIONAIRE is responsible for all utility and sewer lines in the PREMISES, except irrigation lines in some landscaped areas noted below.

CONCESSIONAIRE shall be responsible for the materials, maintenance, and repair of the track right-of-way, the track itself, the track crossings, the fencing, and all interior areas and surfaces of the PREMISES and all improvements at both sites. Common passageways leading to other CONCESSION facilities or offices maintained by the CITY which also lead to the PREMISES shall not be considered under the control of CONCESSIONAIRE for purposes of this section. In the event PREMISES are damaged as a result of vandalism, it shall be the responsibility of the CONCESSIONAIRE to repair or replace any damages. CONCESSIONAIRE'S duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning, and painting that may be required to properly maintain the PREMISES in a safe, clean, wholesome, sanitary, orderly, and attractive condition. CONCESSIONAIRE shall also be responsible for electrical,

mechanical, and plumbing maintenance of PREMISES, such as light fixtures, toilets, and faucets.

Because the CONCESSION locations are located at two of the more prominent areas of Griffith Park, the appearance of the PREMISES is of particular importance to the DEPARTMENT. CITY shall maintain the landscaped areas surrounding the CONCESSION. CITY shall be responsible for maintenance of the lawn areas common to the train ride and other adjacent concessions, and for the lawn area within the train ride track at and the Los Feliz and Crystal Springs Drive corner of the PARK. CITY shall be responsible for maintenance of irrigation lines in these areas.

CONCESSIONAIRE shall be responsible for the repair of any exterior alarm device, including such repairs occasioned by normal wear and tear, vandalism, and the elements. Other applicable maintenance responsibilities are defined within the STANDARD CONDITIONS.

**E. Utilities**

The CONCESSIONAIRE will be responsible for all utility charges associated with the operation of the concession except for water and the main trash pickup (i.e. dumpsters) both of which will be provided for by the DEPARTMENT. At the Griffith Park Train Ride Location (Crystal Springs Drive at Los Feliz Boulevard) CONCESSIONAIRE shall make payments for electricity and natural gas directly to the corresponding utility companies. CONCESSIONAIRE shall pay a flat fee of \$75.00 per month to the DEPARTMENT for utility charges associated with the concession operation at the Travel Town Museum Train Ride location. This flat fee is subject to change by the DEPARTMENT based on actual utility charges from previous months. The DEPARTMENT or CONCESSIONAIRE may install separate utility meters at the Travel Town Museum Train Ride location, at which point CONCESSIONAIRE shall make payments for electricity and natural gas directly to the corresponding utility companies. In all cases, CONCESSIONAIRE will pay directly for telephone and data services, which will be in the name of the concessionaire and will not be transferable to other locations.

**F. Safety**

CONCESSIONAIRE shall train its ride operators in proper operating procedures to ensure safety of the ride passengers, workers, and park visitors. Inspection of the ride equipment and track shall be conducted frequently and regularly. Preventative Maintenance to all ride equipment shall be conducted on a regular and ongoing basis. Other applicable safety responsibilities are defined within the STANDARD CONDITIONS.

**G. Fuel Storage and Maintenance**

CONCESSIONAIRE shall be responsible for the safe storage, maintenance and delivery of all hazardous materials on the PREMISE to the satisfaction of the Los Angeles Fire

Department. In addition, CONCESSIONAIRE shall be completely responsible for the safe removal and disposal of any hazardous and/or toxic materials on the premises, to the satisfaction of the Los Angeles Fire Department.

**H. Amplified Sound**

The use of amplified sound in conformance with the Article 5 of Chapter XI of the Los Angeles Municipal Code, is permitted in connection with regular operations of this CONCESSION, subject to disapproval by the GENERAL MANAGER.

**I. Fund Raising Activities**

CONCESSIONAIRE will be expected to cooperate with Department personnel on all matters relative to the conduct of fund-raising and/or special events. CONCESSIONAIRE, along with fellow existing Griffith Park amusement ride concessionaires, will be granted a first right of refusal to provide amusement-ride service(s) at DEPARTMENT-sponsored events at the Griffith Park Train Ride and Travel Town Museum Train Ride areas in the case that the amusement ride service is appropriate for the event and logistically favorable.

**J. Scheduled Events in Griffith Park**

Long standing annual events in Griffith Park (i.e. walk-a-thons, 5K runs, Kid's Day L.A.) may on occasion increase or decrease the usual amount of business at this concession location due to increased park attendance and/or limited/restricted traffic access. CONCESSIONAIRE shall endeavor to adjust personnel scheduling and service to park visitors accordingly. Regular hours must be maintained, at a minimum, during scheduled special events.

**K. Facility and Program Approvals**

CONCESSIONAIRE must submit to the Department prior to operation:

- (a) Complete list of amusement/ride services and items to be sold and their corresponding prices; and
- (b) List of equipment to be used on DEPARTMENT property; and
- (c) Plans and specifications for installations and improvements.

**L. Failure to Operate**

Should CONCESSIONAIRE fail to use the PREMISES for a period of thirty (30) consecutive days, this AGREEMENT shall cease, terminate, and be forfeited unless CONCESSIONAIRE, prior to the expiration of any such period of thirty (30) consecutive days, notifies GENERAL MANAGER in writing that such non-use is temporary and obtains the written consent of GENERAL MANAGER of such non-use.

**M. Caretakers**

CONCESSIONAIRE is permitted to install overnight caretakers facility on the PREMISES located at 4400 Crystal Springs Drive. Caretaker must pay CONCESSIONAIRE rent of at least 20% of fair market value, and CONCESSIONAIRE shall remit 10% of this rent to the CITY.

**SECTION 9. INSURANCE**

CONCESSIONAIRE shall procure at its expense, and keep in effect at all times during the term of this agreement, the types and amounts of insurance specified on the Required Insurance page attached hereto, marked Exhibit "G" and made a part hereof. CONCESSIONAIRE shall provide adequate insurance coverage on equipment and improvements listed in Exhibit "F" to ensure its full replacement since AGREEMENT includes ownership transfer of said equipment and improvements to the CITY upon conclusion of the AGREEMENT.

**SECTION 10. PERFORMANCE BOND**

CONCESSIONAIRE shall provide a Performance Bond upon execution of this AGREEMENT by CITY in the amount of \$25,000.00. The form, agreement of deposit and indemnity, and the terms of deposit maintenance of said bond are set forth in the STANDARD CONDITIONS.

**SECTION 11. IMPROVEMENTS**

No improvements are required under this permit; however, CONCESSIONAIRE may propose and DEPARTMENT may approve improvements to the premises. Ownership of said improvements, if authorized, would remain with DEPARTMENT. At DEPARTMENT'S sole discretion, DEPARTMENT may participate jointly in the funding or installation of improvements.

**SECTION 12. DAMAGE OR DESTRUCTION TO PREMISES:**

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

and reconstruct the same within twelve (12) months of such destruction and pay the costs therefore, or CITY may repair and reconstruct the same within twelve (12) months of such destruction and CONCESSIONAIRE shall be responsible for reimbursing CITY for the cost and expense incurred in making such repairs.

**SECTION 13. WRITTEN NOTICES**

Written notices to CITY shall be addressed to:

City of Los Angeles  
Department of Recreation and Parks  
1200 West 7<sup>th</sup> Street, Suite 700  
Los Angeles, CA 90017  
Attention: GENERAL MANAGER

and

City of Los Angeles  
Department of Recreation and Parks  
Administrative Resources Division  
3900 W. Chevy Chase Drive, Mail Stop 628  
Los Angeles, CA 90039

Written notices to CONCESSIONAIRE hereunder shall, until CITY's receipt of written notice otherwise from CONCESSIONAIRE, be addressed to CONCESSIONAIRE at:

Mr. Don Gustavson  
GP RAH Enterprises, LLC  
17216 Saticoy Street, #387  
Van Nuys, CA 91406

The execution of any such notice by GENERAL MANAGER shall be as effective for CONCESSIONAIRE as if it were executed by CITY, or by Resolution or Order of said CITY. All such notices may either be delivered personally to GENERAL MANAGER, in the one case, or to any officer or responsible employee of CONCESSIONAIRE in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

**SECTION 14. INCORPORATION OF DOCUMENTS**

The following Exhibits are to be attached to and made part of this AGREEMENT by reference:

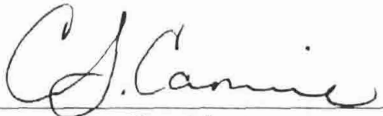
- A. Griffith Park Train Ride Concessions – Vicinity Map
- B. Travel Town Train Ride Concession (B1-B3)
- C. Los Feliz Train Ride Concession (C1-C4)
- D. Standard Conditions and Regulations for the Operation of Concessions
- E. Remittance Advice Form
- F. Train Ride Equipment and Related Capital Improvement Ownership Transfer List
- G. Insurance Requirements

In the event of any conflict or inconsistency between the provisions of this AGREEMENT and those of the documents incorporated herein by reference, this AGREEMENT shall be controlling.

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

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

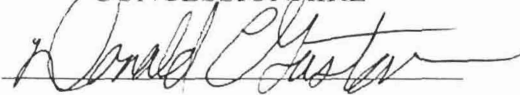
Date: 3/1/06

BY:   
President

BY:   
Secretary

Date: February 15, 2006

GP RAH ENTERPRISES, LLC  
CONCESSIONAIRE

BY: 


TITLE: President

BY: 

TITLE: SECRETARY

APPROVED AS TO FORM:

Date: 3-1-06

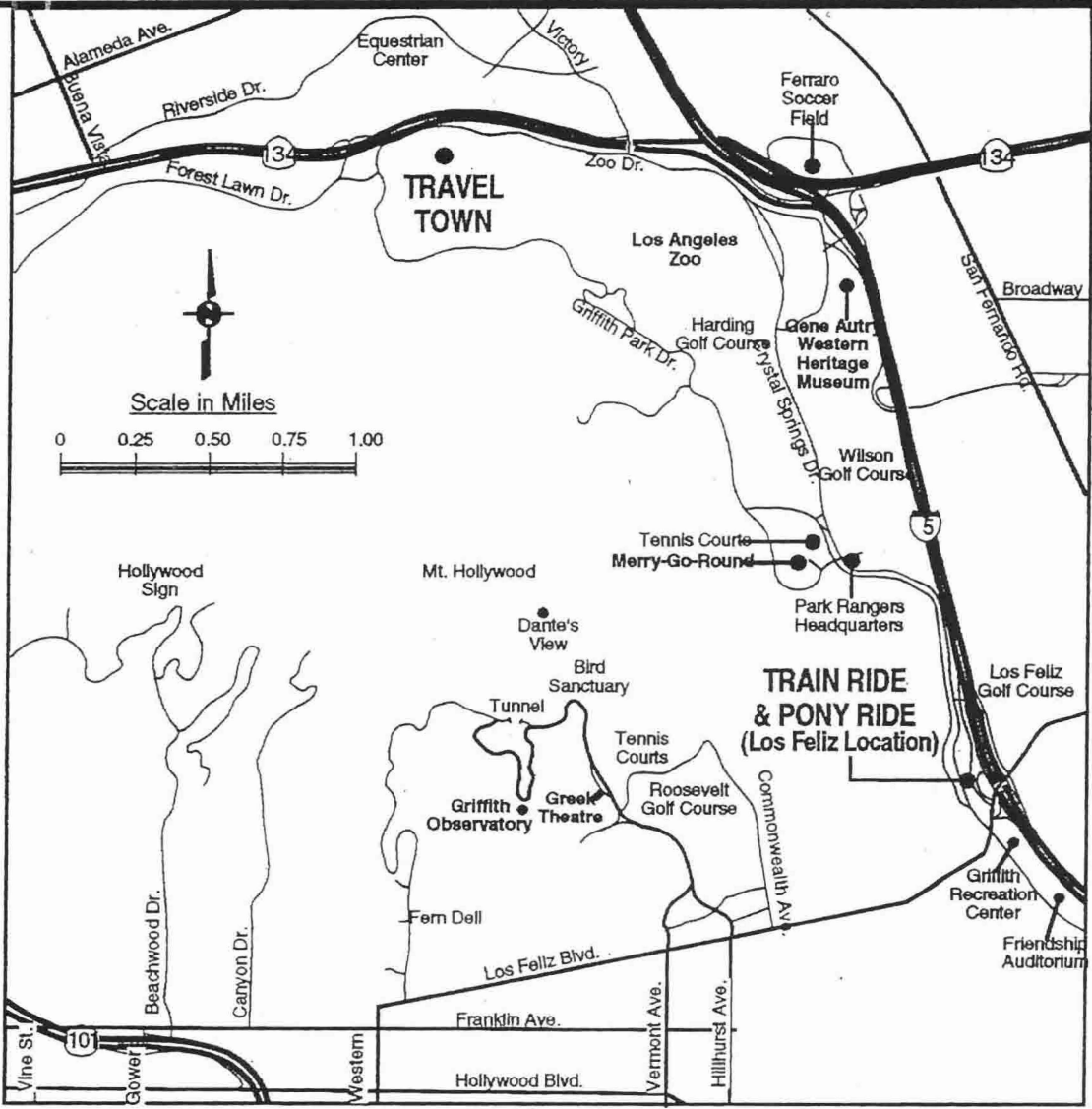
BY:   
MARK BROWN, Sr. Assistant City Attorney



DRAFT

DRAFT

EXHIBIT  
A



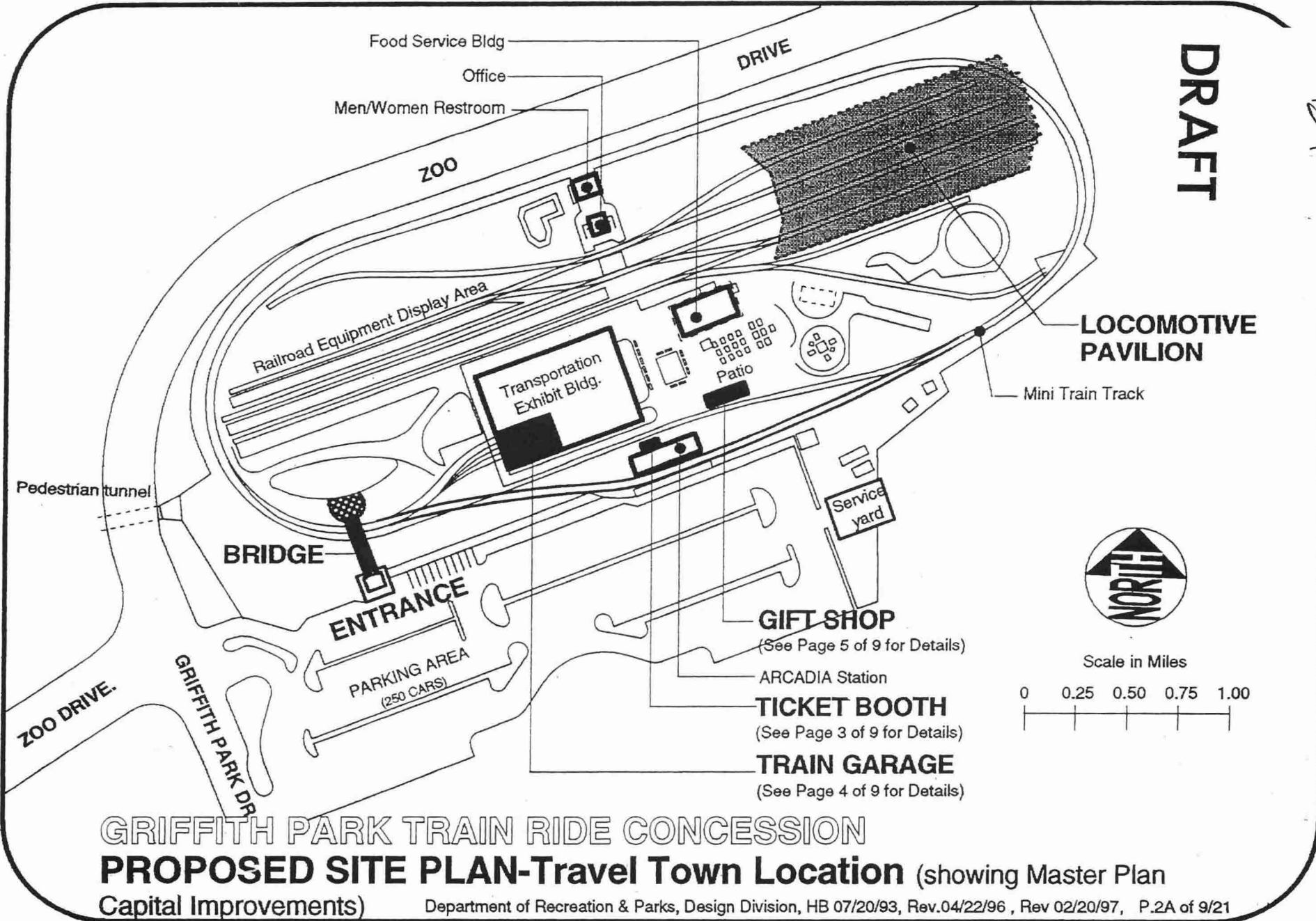
**GRIFFITH PARK  
Vicinity Map**

Thomas Guide '95 Edition, P.563, 564&593, 594

**GRIFFITH PARK-TRAIN RIDE CONCESSIONS  
VICINITY MAP-Travel Town & Los Feliz Locations**

B-1

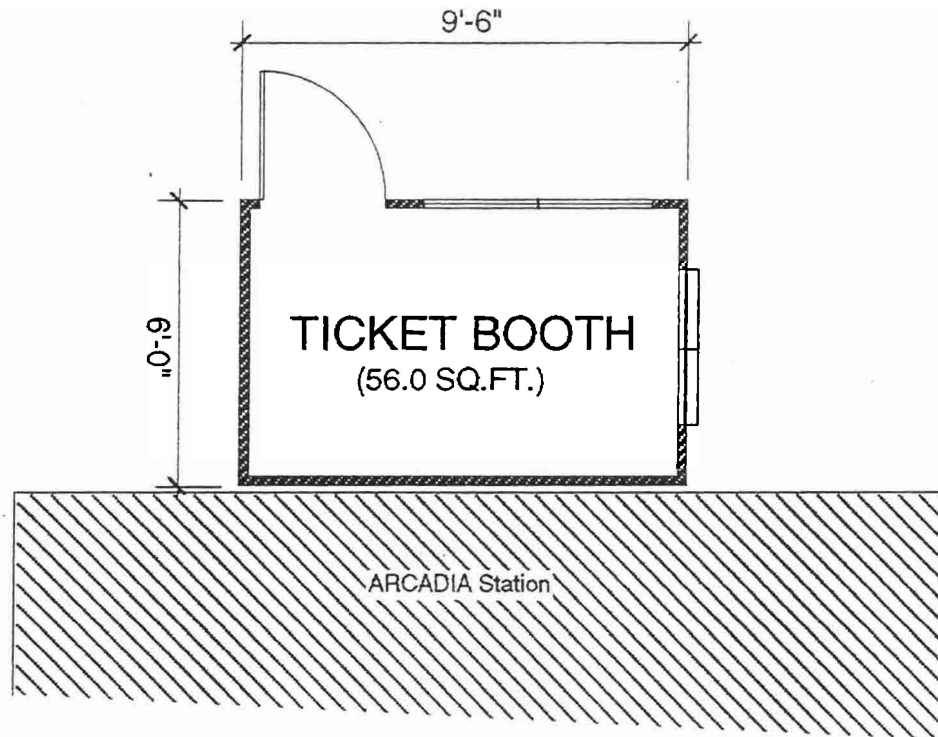
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**GRIFFITH PARK TRAIN RIDE CONCESSION**  
**PROPOSED SITE PLAN-Travel Town Location** (showing Master Plan  
 Capital Improvements) Department of Recreation & Parks, Design Division, HB 07/20/93, Rev.04/22/96 , Rev 02/20/97, P.2A of 9/21

**DRAFT**

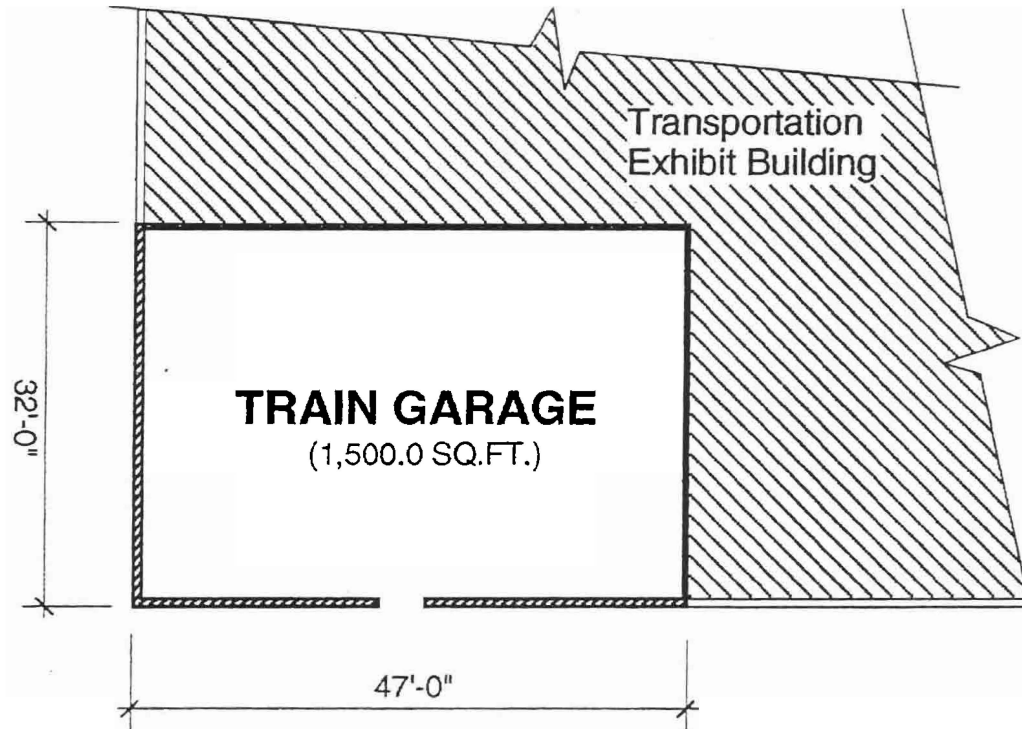
B-2



Scale : 1/4"=1'-0"

**GRIFFITH PARK-TRAIN RIDE CONCESSION**  
**TICKET BOOTH-Travel Town Location**

**DRAFT**



B-3



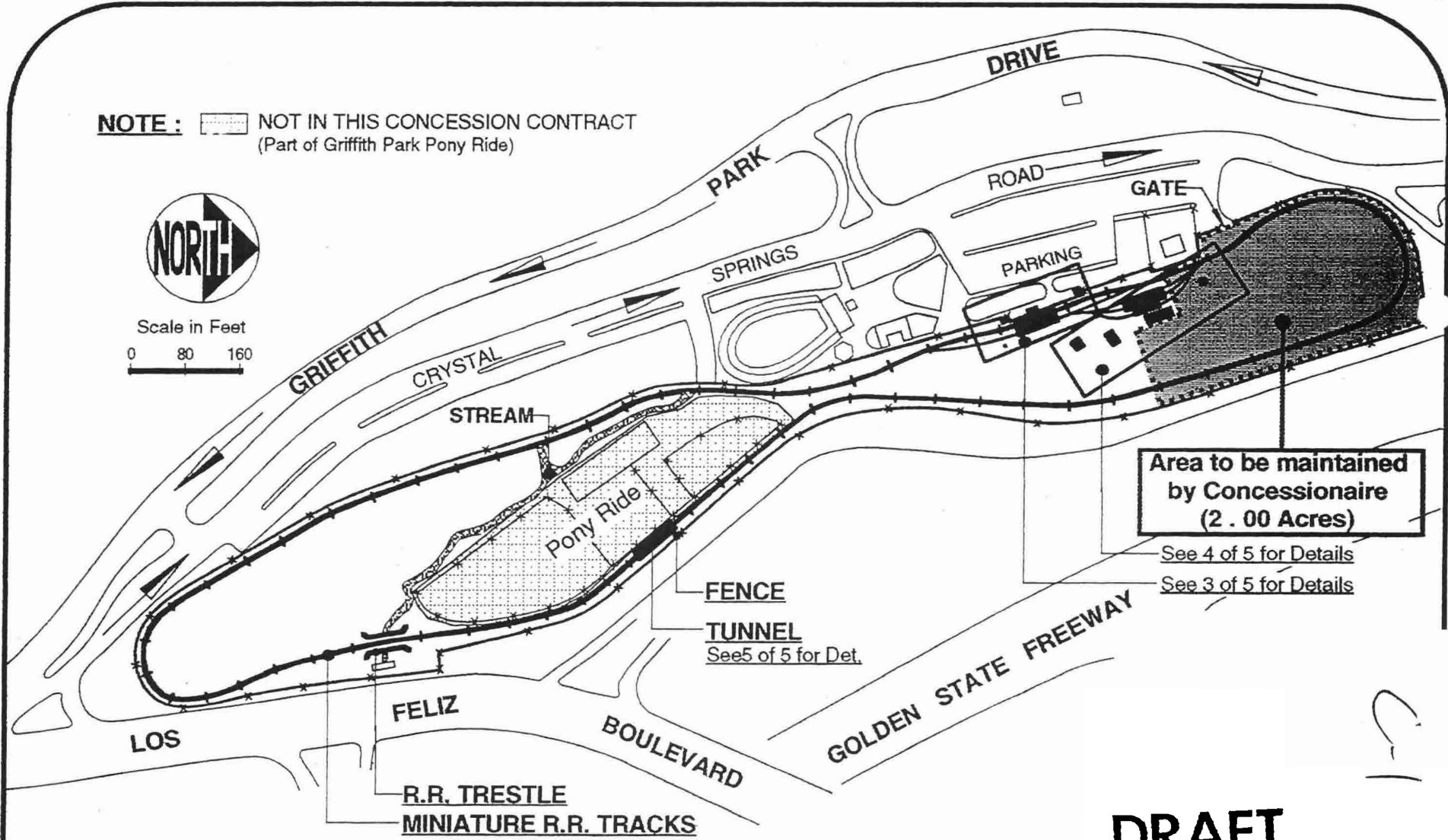
Scale : 1/16"=1'-0"

**GRIFFITH PARK-TRAIN RIDE CONCESSION**  
**TRAIN GARAGE-Travel Town Location**

**NOTE:** [Hatched Area] NOT IN THIS CONCESSION CONTRACT  
(Part of Griffith Park Pony Ride)



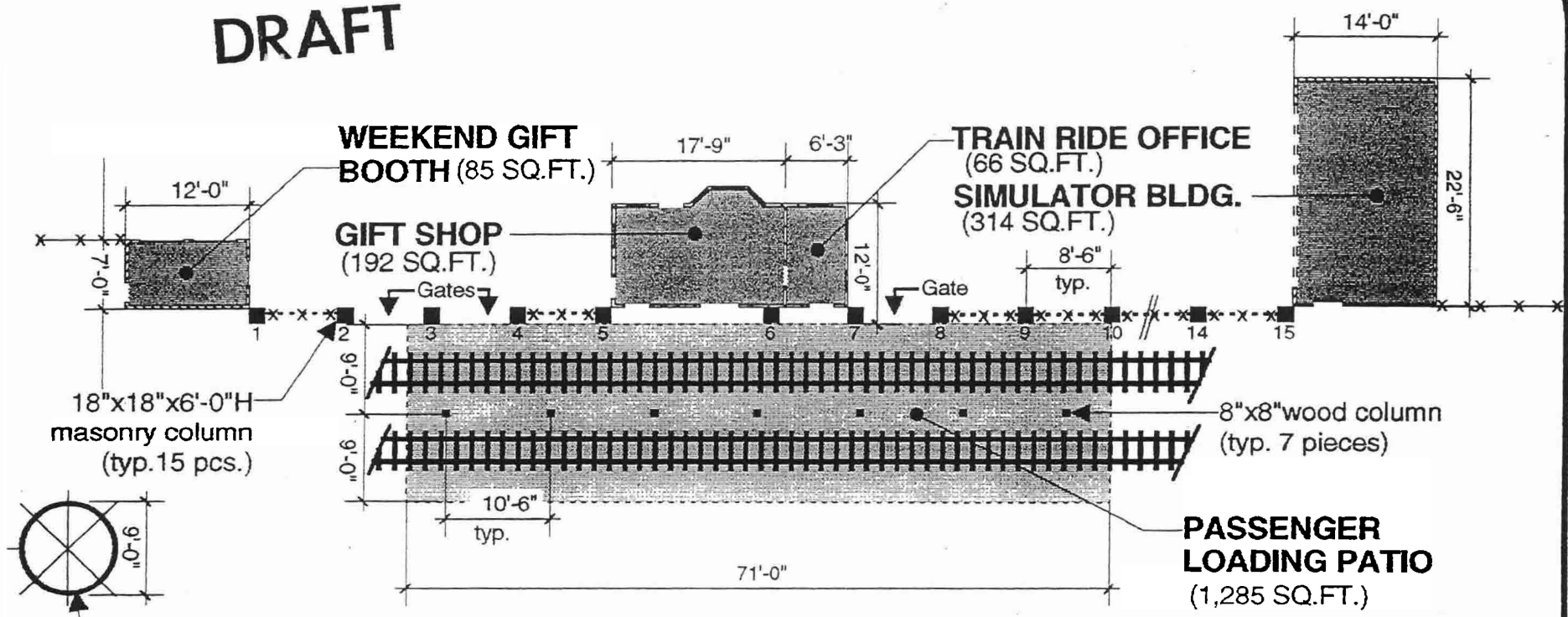
Scale in Feet  
0 80 160



**DRAFT**

# GRIFFITH PARK-TRAIN RIDE CONCESSION SITE PLAN - Los Feliz Location

**DRAFT**



**WATER TOWER**



Scale: 1/16" = 1'-0"

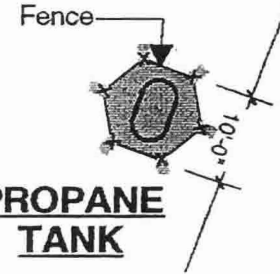
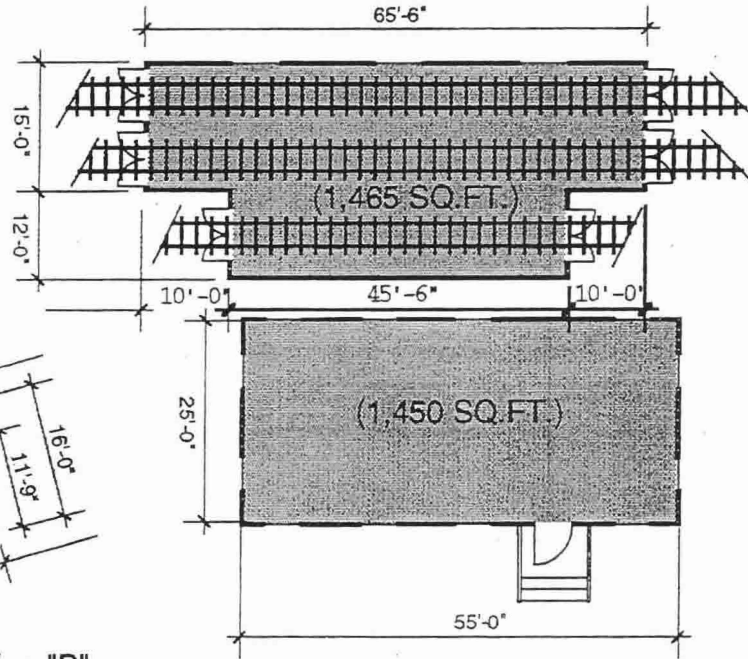
C2

## GRIFFITH PARK-TRAIN RIDE CONCESSION

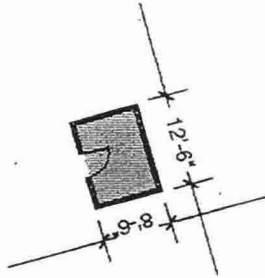
**TRAIN RIDE OFFICE / GIFT SHOP / WEEKEND GIFT BOOTH / SIMULATOR BLDG. / PASSENGER / LOADING PATIO AND WATER TOWER (Los Feliz Location)**

**DRAFT**

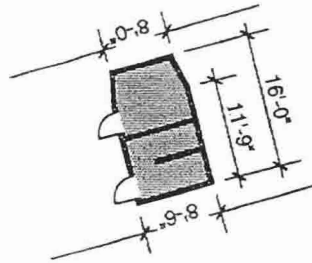
**CAR BARN**



**PROPANE TANK**



Building "A"  
**STORAGE**  
(95 SQ. FT.)



Building "B"  
**STORAGE**  
(160 SQ. FT.)

**TRAILER**  
**Care Taker's Residence**



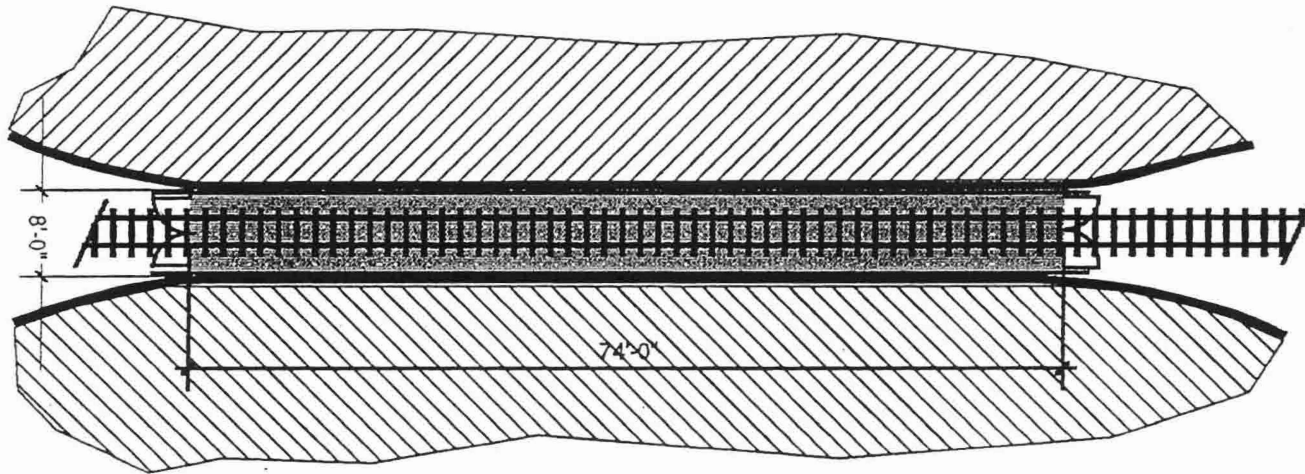
Scale in Feet :



**GRIFFITH PARK-TRAIN RIDE CONCESSION**  
**CAR BARN, STORAGE BLDGS., TRAILER & PROPANE TANK**  
(Los Feliz Location)

C-3

**DRAFT**



**TUNNEL**



Scale: 1/16"=1'-0"

*C-21*

**GRIFFITH PARK TRAIN RIDE CONCESSION**

**TUNNEL (Los Feliz Location)**





CITY OF LOS ANGELES  
DEPARTMENT OF  
RECREATION AND PARKS



STANDARD CONDITIONS  
AND REGULATIONS  
For The Operation of Concessions

Administrative Resources Division  
3900 Chevy Chase Drive  
Mail Stop 656-3  
Los Angeles, California 90039  
(213) 485-5520

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**STANDARD CONDITIONS AND REGULATIONS  
FOR THE OPERATION OF CONCESSIONS  
(STANDARD CONDITIONS)**

**DEFINITIONS**

For the purpose of these Standard Conditions, the following words and phrases are defined and shall be construed as hereinafter set out:

BOARD:	Board of Recreation and Park Commissioners.
CITY:	City of Los Angeles, acting by and through its Board of Recreation and Park Commissioners.
CONCESSION:	The permitted operations granted by the Permit/Agreement.
DEPARTMENT:	The Recreation and Parks Department of the City of Los Angeles.
FACILITY:	The Recreation and Parks Department facility at which the CONCESSION is permitted to operate.
GENERAL MANAGER:	General Manager of the Department of Recreation and Parks, or that person's authorized representative, acting as an Agent of CITY. All actions of the General Manager are subject to review by the BOARD.
CONCESSIONAIRE:	The person or entity permitted by the Permit or Concession Agreement to operate a CONCESSION at the FACILITY.
PERMIT/AGREEMENT:	The written, executed Concession Agreement to which these STANDARD CONDITIONS are attached.
PREMISES:	The geographical area, as defined in the PERMIT/AGREEMENT, in which the concession may be operated.
LAAC:	The Los Angeles Administrative Code.
LAMC:	The Los Angeles Municipal Code.

**SECTION 1. CONCESSION GRANTED**

For and in consideration of the payment of the fees and charges as hereinafter provided, and subject to all of the terms, covenants, and conditions of the PERMIT/AGREEMENT and these Standard Conditions, CITY hereby grants to CONCESSIONAIRE the privilege to provide only those services set forth in the PERMIT/AGREEMENT, and not for any other purpose without the prior written consent of the GENERAL MANAGER. The concession rights herein granted shall be carried on at the FACILITY solely within the limits and confines of said areas designated as PREMISES in the PERMIT/AGREEMENT. CONCESSIONAIRE, by accepting the PERMIT/AGREEMENT, agrees for itself, its successors and assigns that it will not make use of the PREMISES in any manner which might interfere with the recreational uses of the FACILITY.

CITY reserves the right to further develop or improve the FACILITY and the PREMISES as it sees fit, and without interference or hindrance by CONCESSIONAIRE. Such development or improvement may

require the suspension or termination of the PERMIT/AGREEMENT. CITY shall not be liable for loss of business which results from the construction of any development or improvements to the FACILITY or the PREMISES.

CITY reserves the right to suspend the PERMIT/AGREEMENT during the occurrence of Special Events at the FACILITY. A Special Event shall be an event advertised to the general public and which is not in the normal and usual use of the facility.

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

## **SECTION 2. PREMISES**

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

## **SECTION 3. TERM OF CONCESSION PERMIT/AGREEMENT**

The term of this Concession PERMIT/AGREEMENT shall be the period as specified in the PERMIT/AGREEMENT. The right of the GENERAL MANAGER to revoke or renew the PERMIT/AGREEMENT is and shall remain unconditional. Neither CITY, nor any BOARD member, officer, or employee thereof shall be liable in any manner to CONCESSIONAIRE because of any action taken to revoke or renew the PERMIT/AGREEMENT.

## **SECTION 4. TIME OF EXECUTION**

Unless otherwise provided, this PERMIT/AGREEMENT shall be considered executed when:

- A. The Office of the City Attorney has indicated in writing of its approval of this PERMIT/AGREEMENT as to form and legality; AND
- B. Said PERMIT/AGREEMENT has been approved by the CITY's Council, Board, officer, or employee authorized to give such approval, AND
- C. Said PERMIT/AGREEMENT has been signed on behalf of the CONCESSIONAIRE by the person or persons authorized to bind the CONCESSIONAIRE hereto, AND
- D. This PERMIT/AGREEMENT has been signed on behalf of the CITY by the person designated to so sign by the CITY's Council, Board, officer, or employee authorized to enter into this PERMIT/AGREEMENT.

## **SECTION 5. NUMBER OF ORIGINALS**

The number of original texts shall be equal to the number of the parties hereto, one text being retained by each party.

**SECTION 6. INDEPENDENT CONTRACTORS/ CONSULTANTS**

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

**SECTION 7. CONCESSION RENTAL**

**A. Payments:**

As part of the consideration for CITY'S granting the concession rights herein above set forth, CONCESSIONAIRE shall pay to CITY a rental in the amount specified in the PERMIT/AGREEMENT. Such rental may be specified as a monthly flat rate amount, which may be periodically adjustable, or a percentage of CONCESSIONAIRE'S gross receipts, or some specified, predetermined combination thereof.

**B. Gross Receipts Defined**

The term "gross receipts" is defined to mean the total amount charged or received for the sale of any goods, wares or merchandise, or for the performance of any act or service (whether such act or service is done as a part of or in connection with the sale of goods, wares, merchandise or not), for which a charge is made or credit is allowed, including all receipts, cash, credits, and property of any kind or nature. However, "gross receipts" does not include cash discounts allowed or taken on sales, nor the amount of any sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser and paid by CONCESSIONAIRE. In the event merchandise is taken in trade, "gross receipts" means the full price of the merchandise sold, less the fair market trade-in allowance. When the traded merchandise is sold, "gross receipts" means the actual selling price less retail sales taxes. In the case of vending machines, "gross receipts" shall be the total amount taken by the vending machines, less sales tax, excise taxes, and CRV. The term "gross receipts" shall not include:

1. Receipts from the sale of waste or scrap materials resulting from the operation of CONCESSIONAIRE'S business;
2. Receipts from the sale of or the trade-in value of any furniture, fixtures or equipment used on the PREMISES, and owned by CONCESSIONAIRE;
3. The value of any merchandise, supplies or equipment exchanged or transferred from or to other business locations of CONCESSIONAIRE where such exchanges or transfers are not made for the purpose of avoiding a sale by CONCESSIONAIRE which would otherwise be made from or at the PREMISES;
4. Receipts in the form of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers or manufacturers;
5. Receipts with respect to any sale where the subject of such sale, or some part thereof, is thereafter returned by the purchaser to and accepted by CONCESSIONAIRE, to the extent of any refund actually granted or adjustment actually made, either in the form of cash or credit;
6. The amount of any cash or quantity discounts received from sellers, suppliers or manufacturers;
7. The amount of any discounts given to CONCESSIONAIRE'S employees;

8. Receipts from the sale at cost of uniforms or clothing to CONCESSIONAIRE'S employees where such uniforms or clothing are required to be worn by said employees;
9. Proceeds from any arbitration, lawsuit, judgment or settlement of a lawsuit or other dispute unless such receipts are otherwise expressly included in the definition of "gross receipts";
10. The cost or value of free meals given to employees of CONCESSIONAIRE pursuant to such employees' employment contracts. CONCESSIONAIRE shall not be credited with nor allowed to have any reduction in the amount of gross receipts, as herein defined, which results from any error in cash handling by concessionaire, or from losses resulting from bad checks received from the consumers or purchasers, or from any arrangement for a rebate, kickback, or hidden credit given or allowed to customer.
11. Discounts or surcharges applied to receipts for services or merchandise, with the concurrence of both CONCESSIONAIRE and CITY

**C. Method of Payment**

1. Flat Rate Rental  
If the PERMIT/AGREEMENT requires a flat rate monthly rental, then unless otherwise specified, the rental amount shall be due on the first (1st) day of the month of operation and shall be considered past due after the fifteenth (15th) day of that month.
2. Percentage of Gross Receipts Rental  
If the PERMIT/AGREEMENT requires a percentage rental, then unless otherwise specified, the rental payment to be paid by CONCESSIONAIRE to CITY hereunder shall be payable in monthly installments during each year of the term of the PERMIT/AGREEMENT. Within fifteen (15) days after the end of each calendar month, CONCESSIONAIRE shall pay CITY as the rental payment for such previous calendar month the guaranteed minimum monthly fee or the percent of gross receipts received in said previous month, whichever sum is greater.

CONCESSIONAIRE must furnish to CITY an annual statement of gross receipts and expenses for the Concession. CONCESSIONAIRE shall transmit with its rental payment a Monthly Gross Receipts and Rent Report for the month for which rent is submitted. The GENERAL MANAGER shall provide a form for this purpose, and the completed form shall include a statement of the Gross Receipts by source of sales, and such other information as the GENERAL MANAGER may properly require.

**D. Pro Rata Payment**

If the execution or termination of the PERMIT/AGREEMENT falls on any date other than the first or last day of any calendar month, the applicable rental payment for said month, if it is based on a flat rate or a minimum rental, shall be paid by CONCESSIONAIRE to CITY pro rata in the same proportion that the number of days the

PERMIT/AGREEMENT is in effect for that month bears to the total number of days in that month.

**E. Late Payment Fee**

Failure of CONCESSIONAIRE to pay any of the rental payments or any other fees, changes, or payments required herein on time is a breach of this Agreement for which CITY may terminate same or take such other legal action as it deems necessary. CITY expects all compensation to be paid on time and CONCESSIONAIRE agrees to pay on time. Payments postmarked after the due date will be considered late.

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

Unless otherwise specified in the PERMIT/AGREEMENT, the charges for late or delinquent payments shall be \$50.00 plus interest calculated at the rate of eighteen percent (18%) per annum, assessed monthly on the balance of the unpaid amount.

**SECTION 8. ADDITIONAL FEES AND CHARGES**

If CITY pays any sum or incurs any obligations or expense which CONCESSIONAIRE has agreed to pay or reimburse CITY for, or if CITY is required or elects to pay any sum or to incur any obligations or expense by reason of the failure, neglect or refusal of CONCESSIONAIRE to perform or fulfill any one or more of the conditions, covenants or agreements contained in the PERMIT/AGREEMENT, or as a result of an act or omission of CONCESSIONAIRE contrary to said conditions, covenants and agreements, CONCESSIONAIRE agrees to pay to CITY the sum so paid or the expense so incurred, including all interest, costs, (including CITY'S 15% administrative overhead cost), damages and penalties. This amount shall be added to the rental payment thereafter due hereunder, and each and every part of the same shall be and become additional rental payment, recoverable by CITY in the same manner and with like remedies as if it were originally a part of the basic rental payment set forth in Section 4 hereof.

For all purposes under this Section, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum by CITY for any work done or material furnished shall be *prima facie* evidence against CONCESSIONAIRE that the amount of such payment was necessary and reasonable. Should CITY elect to use its own operating and/or maintenance personnel in making any repairs, replacements and/or alterations and to charge CONCESSIONAIRE with the cost of same, receipts and timesheets will be used to establish the charges, which shall be presumed to be reasonable in absence of contrary proof submitted by CONCESSIONAIRE.



**SECTION 9. OPERATING RESPONSIBILITIES**

CONCESSIONAIRE shall, at all times during the term of the PERMIT/AGREEMENT, strictly comply with the following conditions and requirements:

**A. Cleanliness**

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

CONCESSIONAIRE at its own expense, shall see that all garbage or refuse is collected as often as necessary and in no case less than twice a week. It shall furnish all equipment and materials necessary therefore, including trash receptacles of a size, type and number approved by GENERAL MANAGER. If no trash storage area is made available, CONCESSIONAIRE shall provide at its own expense and with the GENERAL MANAGER'S prior written approval, an enclosed area concealing the trash storage from public view.

**B. Conduct**

CONCESSIONAIRE shall at all times conduct its business in a quiet and orderly manner to the satisfaction of the GENERAL MANAGER.

**C. Disorderly Persons**

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

**D. Non-Discrimination/ Equal Employment Practices/ Affirmative Action**

1. CONCESSIONAIRE, in its CONCESSION operations at the FACILITY, for itself, its personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical handicap or sexual orientation shall be excluded from participation, denied the benefits of or be otherwise subjected to discrimination in access to or in the use of the facilities covered by the PERMIT/AGREEMENT; (2) that in the construction of any improvements on, over or under the PREMISES authorized to be utilized herein and the furnishing of services thereon, no person on the grounds of race, color, national origin, religion, ancestry, sex, age, physical handicap or sexual orientation shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

2. CONCESSIONAIRE agrees that in the event of breach of any of the above nondiscrimination covenants, with proper notification as per Section 15, CITY shall have the right to terminate the PERMIT/AGREEMENT and to reenter and repossess said land and the facilities thereon and hold the same as if said PERMIT/AGREEMENT had never been made or issued.
3. In addition, CONCESSIONAIRE, during the term of the PERMIT/AGREEMENT, agrees not to discriminate in its employment practices against any employee or applicant for employment because of the employee's or applicant's race, color, religion, national origin, ancestry, sex, age, physical handicap or sexual orientation. All subcontracts entered into by CONCESSIONAIRE shall be approved in advance by CITY and shall contain a like provision.

**E. Personnel**

CONCESSIONAIRE shall provide the GENERAL MANAGER with certificates on each employee indicating freedom from communicable tuberculosis as required by Section 5163 of the Public Resources Code.

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

**Manager and Responsible Representative:** CONCESSIONAIRE shall select and appoint, subject to approval by GENERAL MANAGER, a Concession Manager of CONCESSIONAIRE'S operations at the FACILITY. If CONCESSIONAIRE elects to subcontract the management of any or all of the CONCESSION operations to a managing entity or entities, the provisions of this section shall also apply to any such entity.

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

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

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

**F. Merchandise and Price Schedules**

CITY agrees that CONCESSIONAIRE'S merchandise, including its schedule of prices, charges and rates for same, shall be within CONCESSIONAIRE'S discretion; subject, however, to disapproval by GENERAL MANAGER if the selection of items offered is inadequate, of inferior quality, or if any of said prices, charges and rates are excessively high or low. Such determination shall not be unreasonable and shall take into account the business considerations presented by CONCESSIONAIRE. The prices to be charged shall be comparable to prices charged in similar establishments in the neighborhood. CONCESSIONAIRE shall provide the GENERAL MANAGER with a list of charges for merchandise and services. This list shall be updated whenever charges are changed.

All services and/or merchandise carried in stock, displayed, offered for sale and/or sold by CONCESSIONAIRE in said PREMISES shall be of high quality and must be related to the ordinary business of the permitted CONCESSION operations. No limitation, adulterated, misbranded or impure articles shall be sold or kept for sale by CONCESSIONAIRE. All merchandise kept for sale or rented by the CONCESSIONAIRE shall be kept subject to the approval or rejection of the GENERAL MANAGER and CONCESSIONAIRE shall remove from the PREMISES any article which may be rejected and shall not again offer it for sale without the consent of the GENERAL MANAGER. The GENERAL MANAGER may order the improvement of the quality of any merchandise kept or offered for sale or rental.

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

**G. Diversion of Business**

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

**H. Hours of Operation**

The CONCESSION shall be operated during normal FACILITY hours and, unless otherwise specified in the PERMIT/AGREEMENT, must be open for business each day that the FACILITY is open. Hours of operation include all holidays that the FACILITY is open. CONCESSIONAIRE must post the hours of operation in a location visible to the public, and must be open for business during the hours posted. Hours of operation may not be changed without prior written approval of GENERAL MANAGER.

**I. Equipment, Furnishings and Expendables**

All equipment, furnishings, and expendables required for said CONCESSION shall be purchased and installed, by CONCESSIONAIRE at its sole expense and shall remain its personal property. If, upon termination of the PERMIT/AGREEMENT, CITY does not renew said PERMIT/AGREEMENT, CONCESSIONAIRE shall have the right to remove its own equipment, furnishings, and expendables, but not improvements, from the PREMISES and shall be allowed a period of thirty (30) days to make such removal. If not removed within that period, said equipment, furnishings and expendables shall become the property of CITY.

**J. Maintenance, Refurbishing and Repair of Equipment**

CONCESSIONAIRE shall, at all times and at its expense, keep and maintain the PREMISES including all equipment, whether owned and/or installed by CONCESSIONAIRE or CITY, such as, but not limited to, heat exchangers, fans, controls and electric panels, installed by CITY, together with all of the fixtures, plate and mirror glass, equipment and personal property therein, in good repair and in a clean, sanitary and orderly condition and appearance.

No equipment provided by CITY shall be removed or replaced by CONCESSIONAIRE without the prior written consent of the GENERAL MANAGER, and if consent is secured, such removal and/or replacement shall be at the expense of CONCESSIONAIRE.

**K. Maintenance of Premises**

CONCESSIONAIRE shall, at its expense, keep and maintain all the interior walls and surfaces of PREMISES and all improvements, fixtures, trade fixtures, and utility systems which may now or hereafter exist thereon, whether installed by CITY or CONCESSIONAIRE, in good, operable, useable and sanitary order throughout the term of the PERMIT/AGREEMENT, providing for such repairs, replacements, rebuilding and restoration as may be required by or given prior written approval by the GENERAL MANAGER to comply with the requirements hereof. Common passageways leading to other CONCESSION facilities or offices maintained by CITY which also lead to the PREMISES shall not be considered under the control of CONCESSIONAIRE for purposes of this Section. For the purposes of this provision, improvements shall include all buildings and appurtenances recessed into or attached by any method to the ground or to another object which is recessed or attached to the ground or to other CITY-owned facilities (such as buildings, fences, posts, signs, electrical hook-ups, plumbing, tracks, tanks, etc.).

CONCESSIONAIRE'S duties shall include all sweeping, washing, servicing, repairing, replacing, cleaning and interior painting that may be required to properly maintain the premises in a safe, clean, orderly and attractive condition. Those duties shall also include electrical, mechanical and plumbing maintenance in the interior of the premises, such as light fixtures, toilets and faucets. However, CITY shall maintain the walls of the PREMISES. CITY shall maintain the exterior of all buildings and will endeavor to perform all exterior repairs occasioned by normal wear and tear, and the elements, unless otherwise provided for in the PERMIT/AGREEMENT.

In the event that any structural or other improvements or furnishings and supplies constructed or installed by CONCESSIONAIRE in any one or all of the various PREMISES are damaged or destroyed, in whole or in part, from any cause whatsoever, CONCESSIONAIRE shall forthwith proceed with the removal of the debris and damaged or destroyed structural or other improvements, equipment, furnishings and supplies. Thereafter CONCESSIONAIRE shall proceed with all dispatch with the reconstruction work necessary to restore the damaged or destroyed PREMISES to the condition they were in prior to the occurrence of such damage or destruction. CONCESSIONAIRE shall pay all costs and expenses incurred in connection therewith.

CITY does not have any duty to make any improvements, replacements or repairs whatsoever to the PREMISES and any structures, improvements, fixtures, trade fixtures, equipment and utilities during the term hereof.

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

**L. Claims for Labor and Materials**

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

**M. Signs and Advertisements**

CONCESSIONAIRE shall not erect, construct or place any signs, banners, ads, or displays of any kind whatsoever upon any portion of the FACILITY or PREMISES without the prior written approval from the GENERAL MANAGER. If CONCESSION is located on U.S. Army Corps of Engineers' (COE's) property, CONCESSIONAIRE shall also be required to obtain COE's prior written approval. Certain signs and

advertisements may also require the prior written approval of the Cultural Affairs Department or other appropriate agencies.

Upon the expiration or earlier termination of the PERMIT/AGREEMENT, CONCESSIONAIRE shall remove, obliterate or paint out, as GENERAL MANAGER may direct, any and all of its signs and displays on the PREMISES and in connection therewith, and shall restore said PREMISES and improvements thereto to the same condition as prior to the placement of any such signs or displays.

In the facility licensed hereunder, a sign shall be posted in a prominent place stating that the CONCESSION is operated under a Concession PERMIT/AGREEMENT issued by CITY through the Department of Recreation and Parks.

**N. Taxes and Permits**

CONCESSIONAIRE shall pay all taxes of whatever character that may be levied or charged upon the rights of CONCESSIONAIRE to use the PREMISES, or upon CONCESSIONAIRE'S improvements, fixtures, equipment or other property thereon or upon CONCESSIONAIRE'S operations hereunder. In addition, by executing the PERMIT/AGREEMENT and accepting the benefits thereof, a property interest may be created known as a "Possessory Interest" and such property interest will be subject to property taxation. CONCESSIONAIRE, as the party in whom the Possessory interest is vested, may be subject to the payment of the property taxes levied by the State and County upon such interest.

For and during the entire term of the PERMIT/AGREEMENT, the CONCESSIONAIRE must hold a Los Angeles Business Tax Registration Certificate required by the CITY'S Business Tax Ordinance (LAMC Article 1, Chapter 2, sections 21.00 et. seq.). For and during the entire term covered by the PERMIT/AGREEMENT, the CONCESSIONAIRE shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended.

Pursuant to Section 21.3.3 of Article 1.3 of the LAMC Commercial Tenants Occupancy Tax, CONCESSIONAIRE must pay to the CITY of Los Angeles for the privilege of occupancy, a tax at the rate of \$1.48 per calendar quarter or fractional part thereof for the first \$1,000 or less of charges (rent) attributable to said calendar quarter, plus \$1.48 per calendar quarter for each additional \$1,000 of charges or fractional part thereof in excess of \$1,000. Said tax shall be paid to the Department of Recreation and Parks quarterly, on or before the fifteenth (15<sup>th</sup>) of April, July, October, and January of each calendar year, for the preceding three (3) months.

CONCESSIONAIRE shall obtain and maintain at its sole expense any and all approvals, permits, or licenses that may be required in connection with the operation of the CONCESSION including, but not limited to: tax permits, business licenses, health permits, building, police and fire permits, etc.

**O. Utilities**

CONCESSIONAIRE shall be responsible for those utility charges as described in the PERMIT/AGREEMENT. Charges may include, but are not limited to deposits, installation costs, meter deposits and all service charges for gas, electricity, water, heat, air-conditioning and other utility services to PREMISES, and shall be paid by CONCESSIONAIRE regardless of whether such utility services are furnished by CITY or by utility service corporations. Water shall be utilized by CONCESSIONAIRE in the most efficient manner possible, and CONCESSIONAIRE expressly agrees to comply with all CITY water conservation programs.

The CITY reserves the right to adjust utility fees annually based on prior years' usage. If the CONCESSIONAIRE desires to install a separate utility meter for their CONCESSION and be billed directly from the utility service provider instead of paying the CITY'S utility fee, CONCESSIONAIRE will assume full responsibility, financial and otherwise, for the separate meter and must first obtain prior written approval from the CITY. The CITY reserves the right to install a separate utility meter for the CONCESSION; in such event, CONCESSIONAIRE shall be billed directly from the utility service provider instead of paying the CITY's utility fee.

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

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

**P. Vending Machines**

CONCESSIONAIRE shall first receive written approval from the GENERAL MANAGER before installing or permitting vending, electronic game, or other coin operated machines to be installed. The GENERAL MANAGER shall have the right to order the immediate removal of any unauthorized machines.

**Q. Safety**

CONCESSIONAIRE shall correct safety deficiencies and violations of safety practices immediately after the condition becomes known or GENERAL MANAGER notifies CONCESSIONAIRE of said condition. CONCESSIONAIRE shall cooperate fully with CITY in the investigation of accidents occurring on the PREMISES. In the event of injury to a patron or customer, CONCESSIONAIRE shall act reasonably to ensure that

the injured person receives prompt and qualified medical attention, and as soon as possible thereafter, CONCESSIONAIRE shall submit a CITY Form General No. 87 "Non-Employee Accident or Illness Report." If CONCESSIONAIRE fails to correct hazardous conditions specified by the GENERAL MANAGER in a written notice, which have led, or in the opinion of CITY agents could lead, to injury, the GENERAL MANAGER may at his option, and in addition to all other remedies which may be available to CITY, to repair, replace, rebuild, redecorate or paint any such PREMISES to correct the specified hazardous conditions, with the cost thereof, plus fifteen percent (15%) for administrative overhead, to be paid by CONCESSIONAIRE to CITY on demand.

**R. Environmental Sensitivity**

The CONCESSIONAIRE must operate the CONCESSION in an environmentally sensitive manner and all operations must comply with CITY policies regarding protection of the environment. CONCESSIONAIRE shall not use or allow the use on the PREMISES of environmentally unsafe products.

**SECTION 10. IMPROVEMENTS**

CITY undertakes and agrees to deliver to CONCESSIONAIRE the CONCESSION areas specified herein in the PERMIT/AGREEMENT as improved. CONCESSIONAIRE shall make no improvements to the PREMISES except with the prior written authorization of the BOARD or GENERAL MANAGER as required.

CONCESSIONAIRE is responsible to complete all Capital Improvements (Improvements) as proposed in the Proposal submitted in response to the Request for Proposal (RFP) issued for this PERMIT/AGREEMENT. If details of the Improvements stipulated in the awarded PERMIT/AGREEMENT differ in any way from the Improvements in the Proposal, CONCESSIONAIRE shall be responsible for those Improvements as prescribed in the PERMIT/AGREEMENT. However, issuance of the PERMIT/AGREEMENT shall not constitute approval to make the proposed Improvements. Environmental and all other required approvals shall be obtained prior to construction of the Improvements. CONCESSIONAIRE shall be responsible for the cost of the Improvements, as stipulated in the PERMIT/AGREEMENT, and shall begin and complete said Improvements within the time frame specified in the PERMIT/AGREEMENT, or as prescribed by the GENERAL MANAGER. The Improvements must have prior written approval from the General Manager. The Improvements are a condition of the PERMIT/AGREEMENT and must be begun and completed as stipulated therein, once approved by GENERAL MANAGER. CITY reserves the right to recover damages from CONCESSIONAIRE if the Improvements are not begun and completed as stipulated. Such damages may include, but are not limited to, recovering up to the entire cost of the Improvements from the CONCESSIONAIRE's performance bond. The bond must be recompensed as stipulated in Section 10, "Faithful Performance Bond," herein.

All structural or other improvements, equipment and interior design and decor constructed or installed by CONCESSIONAIRE in the facility areas, including the plans and specifications therefore, shall be at its sole cost and expense, and shall in all respects conform to and comply with the applicable statutes (including the California Environmental Quality Act), ordinances,



building codes, rules and regulations of CITY and such other authorities that may have jurisdiction over the facility areas or CONCESSIONAIRE'S operations therein. The approval by GENERAL MANAGER as provided above shall not constitute a representation or warranty as to such conformity or compliance, but responsibility therefore shall at all times remain in CONCESSIONAIRE. CONCESSIONAIRE, at its sole cost and expense, shall also procure all building, fire, safety, aesthetics and other permits necessary for the construction of the structural and other improvements, installation of the equipment and the interior design and decor.

In addition, CONCESSIONAIRE shall require by any contract that it awards in connection with the structural or other improvements, the installation of any and all equipment and the interior designing and decor, that the contractor doing, performing or furnishing the same shall comply with all applicable statutes, ordinances, codes, rules and regulations, and submit to CITY evidence of required insurance coverage.

CITY has the right to monitor all phases of construction. All improvements must be made according to Department standards. All architectural services acquired by CONCESSIONAIRE must be with an agency qualified to do business in the State of California.

All improvements provided by CONCESSIONAIRE during the term of this agreement shall be and become the property of CITY upon termination of the PERMIT/AGREEMENT.

#### **SECTION 11. PROHIBITED ACTS**

CONCESSIONAIRE shall not:

1. Do or allow to be done anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the PREMISES or elsewhere on the FACILITY, nor do or permit to be done anything which may interfere with free access and passage in the PREMISES or the public areas adjacent thereto, or in the streets or sidewalks adjoining the PREMISES, or hinder police, fire fighting or other emergency personnel in the discharge of their duties;
2. Interfere with the public's enjoyment and use of the FACILITY or use the PREMISES for any purpose which is not essential to the CONCESSION operations;
3. Rent, sell, lease or offer any space for storing of any articles whatsoever within or on the PREMISES other than specified herein, without the written consent of the GENERAL MANAGER;
4. Overload any floor in the PREMISES;
5. Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of the PERMIT/AGREEMENT, to surrender to GENERAL MANAGER any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by CONCESSIONAIRE, and in the event of the loss of any keys furnished by GENERAL MANAGER, CONCESSIONAIRE shall pay CITY, on demand, the cost for replacement thereof;

6. Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any insurance policy required under the PERMIT/AGREEMENT, or carried by CITY, covering the PREMISES, or the buildings in which the same are located or which, in the opinion of GENERAL MANAGER, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under the PERMIT/AGREEMENT, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;
7. Use, create, store or allow any hazardous materials as listed in Division 4, Chapter 30, Article 9 of Title 22, California Administrative Code, or those which meet the toxicity, reactivity, corrosivity or flammability criteria of Article 11 of the above Code, as well as any other substance which poses a hazard to health and environment, provided, however, that nothing contained herein shall preclude CONCESSIONAIRE from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary except that all hazardous materials must be stored and used in compliance with all City, State and Federal rules, regulations, ordinances and laws;
8. Allow any sale by auction upon the PREMISES;
9. Permit undue loitering on or about the PREMISES;
10. Use the PREMISES in any manner that will constitute waste;
11. Use or allow the PREMISES to be used for any improper, immoral, or unlawful purposes.

## **SECTION 12. LIABILITY**

### **A. Indemnification:**

Except for the active negligence or willful misconduct of City, CONCESSIONAIRE undertakes and agrees to defend, indemnify and hold harmless City and any and all of City's Officers, Agents, and Employees from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONCESSIONAIRE'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of, or incident to, the performance of this agreement on the part of CONCESSIONAIRE, its officers, agents, employees, or sub-contractor of any tier.

### **B. Insurance**

#### General Conditions

1. Without limiting CONCESSIONAIRE'S indemnification of City, CONCESSIONAIRE shall provide and maintain at its own expense during the entire term of the PERMIT/AGREEMENT insurance having the limits customarily carried and actually arranged by CONCESSIONAIRE but not less than the amounts and types listed

in the PERMIT/AGREEMENT covering its operations hereunder subject to the following conditions:

**a. Additional Insured**

CITY, its Officers, Agents and Employees shall be included as additional insureds in all liability insurance policies except: Workers' Compensation/ Employer's Liability, Professional Errors and Omissions and second-party Legal Liability coverages (such as Fire Legal). CITY shall be named Loss Payee As Its Interest May Appear in all required property, fidelity or surety coverages.

**b. Insurance Requirements**

All insurance required hereunder shall conform to CITY requirements established by Charter, ordinance or policy and shall be filed with the Office of the City Attorney for its review in accordance with Los Angeles City Administrative Code Sections 11.47 through 11.56.

**c. Primary Insurance**

Such insurance shall be primary with respect to any insurance maintained by CITY and shall not call on CITY's insurance program for contributions.

**d. Admitted Carrier/Licensed California Broker**

Such insurance shall be obtained from brokers or carriers authorized to transact insurance business in California.

**e. 30-Day Notice**

With respect to the interest of CITY, such insurance shall not be canceled, materially reduced in coverage or limits or non-renewed except after thirty (30) days written notice by receipted delivery (e.g. certified mail-return receipt, courier) has been given to City Attorney Insurance and Bonds.

**f. Prior Approval**

Evidence of insurance shall be submitted to and approved by City Attorney and City Risk Manager prior to commencement of any work or tenancy under this agreement.

**g. Severability of Interest**

Except with respect to the insurance company's limits of liability, each liability insurance policy shall apply separately to each insured against whom claim or suit is brought. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

**h. Acceptable Evidence**

The appropriate City Special Endorsement forms are the preferred form of evidence of insurance. Alternatively, CONCESSIONAIRE may submit a certified copy of the policy or other evidence acceptable to the City Attorney and City Risk Manager containing language which complies with sub-paragraphs a. through g. above. With respect to Professional Liability insurance, either a signed copy of the Policy Declarations Page or a letter from CONCESSIONAIRE'S insurance broker certifying coverage, together with a 30-day cancellation notice endorsement in favor of the CITY as specified in subparagraph e. will satisfy with this requirement.

**i. Renewal**

Once the insurance has been approved by CITY, evidence of renewal of an expiring policy may be submitted on a manually signed renewal endorsement form. If the policy or the carrier has changed, however, new evidence as specified in paragraph a. through h. above must be submitted.

**j. Aggregate Limits/Blanket Coverage**

If any of the required insurance coverages contain aggregate limits, or apply to other operations or tenancy of CONCESSIONAIRE outside this agreement, CONCESSIONAIRE shall give CITY prompt, written notice of any incident, occurrence, claim, settlement or judgment against such insurance which in CONCESSIONAIRE'S best judgment will diminish the protection such insurance affords CITY. Further, CONCESSIONAIRE shall immediately take all reasonable and available steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

**2. Self-Insurance and Self-Insured Retentions**

Self-insurance programs and self-insured retentions in insurance policies are subject to separate approval by CITY upon review of evidence of CONCESSIONAIRE'S financial capacity to respond. Additionally, such programs or retentions must provide CITY with at least the same protections from liability and defense of suits as would be afforded by first-dollar insurance.

**3. Modification of Coverage**

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

**4. Availability/Failure to Procure Insurance**

The required coverages and limits are subject to availability on the open market at reasonable cost as determined by CITY. Nonavailability or nonaffordability must be documented by a letter from CONCESSIONAIRE'S insurance broker or agent indicating a good faith insurance and showing as minimum the names of then insurance carriers and the declinations or quotations received from each.

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

**5. Underlying Insurance**

CONCESSIONAIRE shall be responsible for requiring indemnification and insurance as it deems appropriate from its employees receiving mileage allowance, consultants, agents and subcontractor, if any, to protect CONCESSIONAIRE'S and CITY interest, and for ensuring that such persons comply with applicable insurance statutes.

CONCESSIONAIRE is encouraged to seek professional advice in this regard.

**C. Workers' Compensation**

CONCESSIONAIRE hereby certifies that it is aware of the provisions of Section 3700 et seq., of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work of this contract.

**SECTION 13. FAITHFUL PERFORMANCE BOND**

CONCESSIONAIRE shall provide a Faithful Performance Bond prior to execution of this PERMIT/AGREEMENT by CITY. CITY shall not execute the PERMIT/AGREEMENT and CONCESSIONAIRE may not begin operations on the licensed PREMISES until said bond has been received and approved. The Faithful Performance Bond must meet all the following requirements:

**A. Amount of Bond**

The amount of the bond shall be specified in the PERMIT/AGREEMENT.

**B. Form of Bond**

The term "Faithful Performance Bond" does not mean that only a formal bond from a bonding company is acceptable. Any of the following instruments are acceptable if they meet the requirements spelled out in this Section. CONCESSIONAIRE'S bond shall be in any one of the following forms but may not be a combination of two or more types:

1. A cash deposit made at the Cashier's window of the Department of Recreation and Parks.
2. A cashier's check drawn on any bank that is a member of the Los Angeles Clearing House Association, which cashier's check is payable to the order of the City of Los Angeles.
3. A check drawn on and certified by any bank that is a member of the Los Angeles Clearing House Association, payable to the order of the City of Los Angeles.
4. United States Government negotiable securities (i.e., treasury bills, treasury notes, or treasury bonds).
5. A certificate of time deposit in a bank that is a member of the Los Angeles Clearing House Association, payable to the order of the City of Los Angeles.

**C. Agreement of Deposit and Indemnity**

The above instruments must be accompanied by an agreement of deposit and indemnity, approved as to form and legality by the City Attorney, wherein CONCESSIONAIRE unconditionally agrees that in the event of any default, CITY shall have full power and authority to use the deposit in whole or in part to indemnify CITY. Every deposit of securities or certificates of time deposit must be accompanied by express authority for the GENERAL MANAGER to convert same into cash and to deposit said cash in the City Treasury in the manner governing deposit of cash in the City Treasury by the Charter of the City of Los Angeles. All deposits of cash or checks must be immediately so deposited by the Department.

The BOARD shall authorize and request the Treasurer of the City of Los Angeles to receive said United States Government negotiable securities, together with the properly executed agreement of indemnity and deposit, for safekeeping. In the event said securities are to be converted to cash because of default, the BOARD may authorize and request the Treasurer to sell said securities on its behalf.

**D. Maintenance of Deposit**

Said bond shall be held by CITY during the entire term of the PERMIT/AGREEMENT. If the surety, in the opinion of the GENERAL MANAGER, becomes irresponsible, he shall have the right to require additional and sufficient sureties suitable to him, which CONCESSIONAIRE shall furnish within ten days after written notice thereof has been mailed by the Department to CONCESSIONAIRE. United States Government negotiable securities shall at all times have both a par value and a market value of not less than the amount specified in this PERMIT/AGREEMENT and, in the event the market value of said securities declines, CONCESSIONAIRE shall, upon written demand of the GENERAL MANAGER, within ten days of the mailing by the Department of such demand, pledge and furnish such additional United States Government negotiable securities with appropriate agreement of indemnity and deposit approved as to form and legality by the City Attorney, as may be necessary to maintain both a par and market value of securities on deposit of not less than the amount specified in this PERMIT/AGREEMENT. If such additional securities are not received by the Department within ten days after the mailing of written notice as stated above, all default provisions may be exercised at the discretion of CITY.

In the event of maturity of the securities prior to termination of the PERMIT/AGREEMENT for which they are deposited, the BOARD shall authorize and request the Treasurer to redeem the securities. The BOARD shall then use the proceeds of the redeemed securities to purchase a sufficient amount of United States Government negotiable securities to be at least equal as to both par and market value to the original amount of the deposit, and place them with Treasurer on receipt.

If the redemption proceeds are not sufficient, CONCESSIONAIRE shall deposit cash with the DEPARTMENT in an amount sufficient to make up the difference within ten days of mailing of notice of deficiency by the DEPARTMENT.

The surety on said Bond shall, by appropriate notation thereon, stipulate and agree that no change, extension of time, alteration or addition to the terms of the PERMIT/AGREEMENT or to the work to be performed hereunder, shall in any way affect its obligation under said Bond, and shall consent to waive notice of any such matters.

**SECTION 14. ASSIGNMENT, SUBLEASE, BANKRUPTCY**

CONCESSIONAIRE shall not under-let or sub-let the subject PREMISES or any part thereof or allow the same to be used or occupied by any other person or for other use than that herein specified, nor assign this PERMIT/AGREEMENT nor transfer, assign or in any manner convey

any of the rights or privileges herein granted without the prior written consent of CITY. Neither the PERMIT/AGREEMENT nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceeding in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. Any attempted assignment, mortgaging, hypothecation, or encumbering of the CONCESSION rights or other violation of the provisions of this Section shall be void and shall confer no right, title or interest in or to this PERMIT/AGREEMENT or right of use of the whole or any portion of the PREMISES upon any such purported assignee, mortgagee, encumbrancer, pledgee or other lienholder, successor or purchaser.

The CONCESSIONAIRE may not, without prior written permission of the City:

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

#### **SECTION 15. BUSINESS RECORDS FOR CONCESSIONAIRES WHOSE RENTAL IS BASED ON GROSS RECEIPTS**

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

##### **A. Employee Fidelity Bonds**

At the GENERAL MANAGER'S discretion, adequate employee fidelity bonds may be required to be maintained by CONCESSIONAIRE covering all its employees who handle money.

##### **B. Cash And Record Handling Requirements**

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

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

1. Regular books of accounting such as general ledgers.
2. Journals including supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.

3. State and Federal income tax returns and sales tax returns and checks and other documents proving payment of sums shown.
4. Cash register tapes shall be retained so that day to day sales can be identified. A cash register must be used in public view which prints a dated double tape, indicating each sale and the daily total.
5. Any other accounting records that CITY, in its sole discretion, deems necessary for proper reporting of receipts.

CONCESSIONAIRE shall obtain and install a cash register(s) on which it shall record all gross sales. The cash register shall be non-resettable and sufficient to supply an accurate recording of all sales on tape. CONCESSIONAIRE shall not purchase or install the cash register before obtaining the GENERAL MANAGER'S written approval of the specific register to be purchased. All cash registers shall have a price display which is and shall remain at all times visible to the public.

CONCESSIONAIRE shall transmit a Statement of Gross Receipts and Expenses for the CONCESSION operations as specified in the PERMIT/AGREEMENT in a form acceptable to the GENERAL MANAGER, on or before sixty (60) days after the close of each calendar year during the term of the PERMIT/AGREEMENT.

## **SECTION 16. REGULATIONS, INSPECTION, AND DIRECTIVES**

### **A. Subject To**

The operations conducted by CONCESSIONAIRE pursuant to the PERMIT/AGREEMENT shall be subject to:

1. Any and all applicable rules, regulations, orders and restrictions which are now in force or which may be hereafter adopted by CITY with respect to the operation of the Department of Recreation and Parks;
2. Any and all orders, directions or conditions issued, given or imposed by GENERAL MANAGER with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas or public areas adjacent to the PREMISES;
3. Any and all applicable laws, ordinances, statutes, rules, regulations or orders, including the Los Angeles Municipal Code, Los Angeles Administrative Code, the Charter of the City of Los Angeles, and of any governmental authority, federal, state or municipal, lawfully exercising authority over the CONCESSIONAIRE'S operations; and
4. Any and all applicable local, state and federal laws and regulations relative to the design and installation of facilities to accommodate disabled persons.

### **B. Permissions**

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



**C. Right of Inspection**

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

1. To determine if the terms and conditions of the PERMIT/AGREEMENT are being complied with.
2. To observe transactions between the CONCESSIONAIRE and patrons in order to evaluate the quality and quantities of services provided or items sold or dispensed.

**D. Control of Premises**

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

**E. Americans with Disabilities Act**

The CONCESSIONAIRE shall comply with the Americans with Disabilities Act 42 U.S.C. Section 12101 et seq., and with the provisions of the Certification Regarding Compliance with the Americans with Disabilities Act which is attached to PERMIT/AGREEMENT and incorporated herein by this reference.

**F. Child Support Ordinance**

This PERMIT/AGREEMENT is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the LAAC, Child Support Assignment Orders Ordinance. CONCESSIONAIRE is required to complete a Certification of Compliance with Child Support obligations which is attached to the PERMIT/AGREEMENT and incorporated herein by this reference. Pursuant to this ordinance, CONCESSIONAIRE shall (1) fully comply with all State and Federal employment reporting requirements applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of CONCESSIONAIRE are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230 et seq.; and (4) maintain such compliance throughout the term of this PERMIT/AGREEMENT.

**G. Minority, Women, and Other Business Enterprise Outreach Program**

CONCESSIONAIRE agrees and obligates itself to utilize the services of Minority, Women, and Other Business Enterprise firms on a level so designated in its proposal, if

any. CONCESSIONAIRE certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Contracts greater than \$100,000, if applicable. CONCESSIONAIRE shall not change any of these designated subconsultants and subcontractors, nor shall CONCESSIONAIRE reduce their level of effort, without prior written approval of the CITY, provided that such approval shall not be unreasonably withheld.

**H. Living Wage Ordinance/Service Contract Worker Retention Ordinance**

The CONCESSIONAIRE, if subject to, must comply with City Ordinance 172336 (Living Wage Ordinance), which requires in part that nothing less than a prescribed minimum level of compensation (a “living wage”) be paid to employees of service contractors of the CITY and its financial assistance recipients and to employees of such recipients. Under Section 10.37.2 of the Ordinance, CONCESSIONAIRE shall pay service employees who spend any of their time on CITY contracts a wage of no less than the hourly rates set under the authority of the Living Wage Ordinance (LWO). Such rates shall be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the City Employees’ Retirement System.

CONCESSIONAIRE must also comply with and sign the Service Contract Worker Retention Ordinance (SCWRO), adopted through Ordinance 171004. This Ordinance requires CONCESSIONAIRE to retain all employees from the previous contractor/concessionaire for a period of 90 days, and must continue to retain those satisfactory performing employees.

**I. Contractor Responsibility Ordinance**

Every Request for Proposal, Request for Bid, Request for Qualifications or other procurement process is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq. of Article 14, Chapter 1 of Division 10 of the LAAC, unless exempt pursuant to the provisions of the Ordinance.

**J. Equal Benefits Ordinance**

Section 10.8.2.1 (c) of the LAAC (Equal Benefits Ordinance) requires that every contract with or on behalf of the City of Los Angeles for which the consideration is in excess of the \$5,000.00 must incorporate the Equal Benefits Provisions.

**K. Contractor Evaluation Ordinance**

At the end of this contract, the City will conduct an evaluation of the Contractor's performance. The City may also conduct evaluations of the Contractor's performance during the term of the contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed the timeliness of performance, financial issues, and the expertise of personnel that the Contractor assigns to the contract. A Contractor who receives a “Marginal” or “Unsatisfactory” rating will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. The City will use the final City evaluation, and any response from the Contractor, to evaluate proposals and to conduct reference checks when awarding other service contracts.

**L. SLAVERY DISCLOSURE ORDINANCE**

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

**SECTION 17. TERMINATION**

**A. By CITY**

CITY shall have the right to immediately terminate the PERMIT/AGREEMENT in its entirety and all rights ensuing therefrom as provided by applicable law if any one or more of the following events occur:

1. CONCESSIONAIRE fails to keep, perform and observe any promise, covenant and condition set forth in the PERMIT/AGREEMENT on its part to be kept, performed or observed after receipt of written notice of default from GENERAL MANAGER, except where fulfillment of CONCESSIONAIRE'S obligation requires activity over a period of time and CONCESSIONAIRE has commenced to perform whatever may be required within ten (10) days after receipt of such notice and continues such performance diligently and without interruption except for causes beyond its control;
2. The interest of CONCESSIONAIRE under the PERMIT/AGREEMENT is assigned, transferred, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation without the written consent of GENERAL MANAGER;
3. CONCESSIONAIRE becomes, without the prior, written approval of GENERAL MANAGER a successor or merged corporation in a merger, a constituent corporation in a consolidation or a corporation in dissolution;
4. The levy of any attachment or execution, or the appointment of any receiver, or the execution of any other process of any court of competent jurisdiction which is not vacated, dismissed or set aside within a period of ten (10) days and which does, or as a direct consequence of such process will, interfere with CONCESSIONAIRE'S use of the PREMISES or with its operations under the PERMIT/AGREEMENT;
5. CONCESSIONAIRE becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or of any state law, or consents to the appointment of a receiver, trustee or liquidator of all or substantially all of its property or its property located within the CONCESSION areas;
6. By order or decree of court, CONCESSIONAIRE is adjudged bankrupt, or an order is made approving a petition filed by any of the creditors or stockholders of CONCESSIONAIRE seeking its reorganization or the readjustment of its

- indebtedness under the federal bankruptcy laws, or under any law or statute of the United States, or any state thereof;
7. A petition under any part of the federal bankruptcy laws, or an action under any present or future solvency law or statute is filed against CONCESSIONAIRE and is not dismissed within one hundred twenty (120) days;
  8. By or pursuant to, or under authority of, any legislative act, resolution or rule, order or decree of any court, governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of CONCESSIONAIRE;
  9. Cessation or deterioration of service for any period which, in the opinion of GENERAL MANAGER, materially and adversely affects the operation or service required to be performed by CONCESSIONAIRE under the PERMIT/AGREEMENT;
  10. Any lien is filed against the PREMISES because of any act or omission of CONCESSIONAIRE and such lien is not removed, enjoined or a bond for satisfaction of such lien is not posted within ten (10) days; or
  11. CONCESSIONAIRE voluntarily abandons, deserts, vacates or discontinues its operation of the business herein authorized.

No acceptance by CITY of the rental payment or other payments specified herein, in whole or in part, and for any period, after a default of any of the terms, covenants and conditions to be performed, kept or observed by CONCESSIONAIRE, other than the default in the payment thereof, shall be deemed a waiver of any right on the part of CITY including the right to terminate the PERMIT/AGREEMENT on account of such default.

**B. CITY'S Right of Reentry**

CITY shall, as an additional remedy, upon the giving of written notice of termination as above provided, have the right to reenter the PREMISES and every part thereof on the effective date of termination without further notice of any kind, remove any and all persons therefrom and may regain and resume possession either with or without the institution of summary or legal proceedings or otherwise. Such reentry, however, shall not in any manner affect, alter or diminish any of the obligations of CONCESSIONAIRE under the PERMIT/AGREEMENT.

**C. Additional Rights of CITY**

CITY, upon termination of the PERMIT/AGREEMENT, or upon reentry, regaining or resumption of possession of the PREMISES, may occupy said PREMISES and shall have the right to permit any person, firm or corporation to enter upon the PREMISES and use the same. Such occupation by others may be of only a part of the PREMISES, or the whole thereof or a part thereof together with other space, and for a period of time the same as or different from the balance of the term remaining hereunder, and on terms and conditions the same as or different from those set forth in the PERMIT/AGREEMENT.

**D. Survival of CONCESSIONAIRE'S Obligations**

In the event the PERMIT/AGREEMENT is terminated by CITY, or in the event CITY reenters, regains or resumes possession of the PREMISES, all of the obligations of

CONCESSIONAIRE hereunder shall survive and shall remain in full force and effect for the full term of the PERMIT/AGREEMENT. Subject to CITY'S obligation to mitigate damages, the amount of the rental payment shall become due and payable to CITY to the same extent, at the same time and in the same manner as if no termination, reentry, regaining or resumption of possession had taken place. CITY may maintain separate actions to recover any monies then due, or at its option and at any time, may sue to recover the full deficiency.

The amount of damages for the period of time subsequent to termination, reentry, regaining or resumption of possession, subject to an offset for any rental payment received by CITY from a succeeding CONCESSIONAIRE, shall be the amount of rental otherwise due until the end of the term of the Permit/Agreement.

The damages specified above shall not affect or be construed to affect CITY'S right to such damages in the event of termination, reentry, regaining or resumption of possession where CONCESSIONAIRE has not received any actual gross receipts under the PERMIT/AGREEMENT.

**E. Waiver of Redemption and Damages**

CONCESSIONAIRE hereby waives any and all rights of redemption granted by or under any present or future law or statute in the event it is dispossessed for any cause, or in the event CITY obtains or retains possession of the PREMISES in any lawful manner. CONCESSIONAIRE further agrees that in the event the manner or method employed by CITY in reentering or regaining possession of the PREMISES gives rise to a cause of action in CONCESSIONAIRE in forcible entry and detailed under the laws of the State of California, the total amount of damages to which CONCESSIONAIRE shall be entitled in any such action shall be the sum of One Dollar (\$1), and CONCESSIONAIRE agrees that this provision may be filed in any such action as its stipulation fixing the amount of damages to which it is entitled.

**F. By CONCESSIONAIRE**

The PERMIT/AGREEMENT may be terminated by CONCESSIONAIRE upon the happening of one or more of the following events:

1. The permanent abandonment of the Department of Recreation and Parks of the FACILITY or the permanent removal of all Department services from the FACILITY;
2. The lawful assumption by the United States government, or any authorized agency thereof, of the operation, control or use of the FACILITY or any substantial part thereof, in such manner as to materially restrict CONCESSIONAIRE from operating thereon;
3. The complete destruction of all or a substantial portion of the PREMISES from a cause other than the negligence or omission to act of CONCESSIONAIRE, its agents, officers, or employees, and the failure of CITY to repair or reconstruct said PREMISES;
4. Any exercise of authority under this PERMIT/AGREEMENT which so interferes with CONCESSIONAIRE'S use and enjoyment of the PREMISES as to constitute

- a termination, in whole or in part, of the PERMIT/AGREEMENT by operation of law in accordance with the laws of the State of California; or
5. The default by CITY in the performance of any covenant or agreement herein required to be performed by CITY and the failure of CITY to remedy such default for a period of thirty (30) days after receipt from CONCESSIONAIRE of written notice to do so.

**SECTION 18. SURRENDER OF POSSESSION**

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

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

**SECTION 19. WAIVER**

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

**SECTION 20. CONDITIONS AND COVENANTS**

Each covenant herein is a condition, and each condition herein is as well a covenant by the parties bound thereby, unless waived in writing by the parties hereto.

**SECTION 21. FORCE MAJEURE**

Neither party hereto shall be liable to the other for any failure, delay or interruption in the performance of any of the terms, covenants or conditions of the PERMIT/AGREEMENT due to causes beyond the control of that party including, without limitation, strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, landslides, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage or any other circumstance for which such party is not responsible and which is not in its power to control.

**SECTION 22. REMEDIES ARE NON-EXCLUSIVE**

No right, power, remedy or privilege of CITY shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu or exclusive of each other or of any other remedy available to CITY at law or in equity.

**SECTION 23. CONCESSION PERMIT/AGREEMENT BINDING UPON SUCCESSORS**

The PERMIT/AGREEMENT shall be binding upon and shall inure to the benefit of the successors, heirs, executors, administrators and assigns of the parties hereto. The term "CONCESSIONAIRE" shall include any assignee of CONCESSIONAIRE under any assignment permitted and approved by GENERAL MANAGER.

**SECTION 24. LAW OF CALIFORNIA APPLIES**

The PERMIT/AGREEMENT shall be enforced and interpreted under the laws of the State of California.

**SECTION 25. AGENT FOR SERVICE OF PROCESS**

It is expressly agreed and understood that if CONCESSIONAIRE is not a resident of the State of California, or is a partnership or joint venture without a partner or member resident in said State, or is a foreign corporation, then in any such event CONCESSIONAIRE does designate the Secretary of State, State of California, its agent for the purpose of service of process in any court action between it and CITY arising out of or based upon the PERMIT/AGREEMENT, and the service shall be made as provided by the laws of the State of California for service upon a non-resident. It is further expressly agreed, covenanted and stipulated that if, for any reason, service of such process is not possible, as an alternative method of service of process, CONCESSIONAIRE may be personally served with such process out of this State by mailing, by registered or certified mail, the complaint and process to CONCESSIONAIRE at the address set out hereafter in the PERMIT/AGREEMENT, and that such service shall constitute valid service upon CONCESSIONAIRE as of the date of mailing, and CONCESSIONAIRE shall have thirty (30) days from the date of mailing to respond thereto. It is further expressly agreed that CONCESSIONAIRE is amenable, and hereby agrees, to the process so served, submits to the jurisdiction and waives any and all objection and protest thereto, any laws to the contrary notwithstanding.

**SECTION 26. VENUE**

Venue of any action brought under the PERMIT/AGREEMENT shall lie in Los Angeles County.

**SECTION 27. ATTORNEY'S FEES**

If CITY shall, without any fault, be made a party to any litigation commenced by or against CONCESSIONAIRE arising out of or related to CONCESSIONAIRE'S use or enjoyment of the PREMISES and as a result of which CONCESSIONAIRE is finally adjudicated to be liable, then CONCESSIONAIRE shall pay all costs and reasonable attorney's fees incurred by or imposed upon CITY in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**SECTION 28. WAIVER OF CLAIMS**

CONCESSIONAIRE hereby waives any claim against CITY, its officers, agents or employees, for loss of anticipated profits caused by any suit or proceeding directly or indirectly attacking the validity of the PERMIT/AGREEMENT or any part hereof, or by any judgment or award in any suit or proceeding declaring the PERMIT/AGREEMENT null, void or voidable, or delaying the same, or any part hereof, from being carried out.

**SECTION 29. NOTICES**

**A. To CITY**

Unless otherwise stated in the PERMIT/AGREEMENT, written notices to CITY hereunder shall, until CONCESSIONAIRE'S receipt of written notice otherwise from these parties, be addressed to said parties at Department of Recreation and Parks, 3900 West Chevy Chase Drive, Mail Stop 656-3, Los Angeles, California, 90039.

All such notices may either be delivered personally to GENERAL MANAGER, Department of Recreation and Parks, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

**B. To CONCESSIONAIRE**

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

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

**SECTION 30. INTERPRETATION**

The language of the PERMIT/AGREEMENT shall be construed according to its fair meaning and not strictly for or against either CITY or CONCESSIONAIRE.

The section headings appearing herein are for the convenience of CITY and CONCESSIONAIRE, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of the PERMIT/AGREEMENT.

If any provision of the PERMIT/AGREEMENT is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of the PERMIT/AGREEMENT, and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of the PERMIT/AGREEMENT is capable of two constructions, one of which render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

The use of any gender herein shall include all genders and the use of any number shall be construed as the singular or the plural, all as the context may require.

**SECTION 31. PERMIT/AGREEMENT CONTAINS ENTIRE AGREEMENT**

The provisions of the PERMIT/AGREEMENT contain the entire agreement between the parties hereto and said PERMIT/AGREEMENT may not be changed or modified in any manner except



by formal, written amendment fully executed by both CITY and CONCESSIONAIRE. In the event of a conflict between provisions of the PERMIT/AGREEMENT and these Standard Conditions, the language of the PERMIT/AGREEMENT is controlling.

**SECTION 32. TIME OF THE ESSENCE**

Time is of the essence for all provisions of the PERMIT/AGREEMENT.

**D**PARTMENT OF RECREATION AND PAR  
**ADMINISTRATIVE RESOURCES DIVISION - CONCESSIONS**  
 P. O. BOX 5385  
 GLENDALE, CA 91221-5385  
 (213) 485-5520  
 FAX (818) 243-0041

Exhibit

*E*

C O N C E S S I O N R E M I T T A N C E

NAME: \_\_\_\_\_ PERIOD COVERED FROM \_\_\_\_\_

CONCESSION NAME: \_\_\_\_\_

LOCATION: \_\_\_\_\_

**DRAFT**

CATEGORY OF SALE	LOCATION/ REGISTER NUMBER	READING BEGINNING OF PERIOD	READING END OF PERIOD	GROSS SALES	MINUS SALES TAX	NET SALES
1)						
2)						
3)						
4)						
5)						

TOTAL NET SALES	RENT PERCENTAGE	RENT DUE ON SALES
1)	%	\$
2)	%	\$
3)	%	\$
4)	%	\$
	%	\$
<b>TOTAL SALES</b>		

ADDITIONS (SPECIFY):  
UTILITIES

\$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

ADJUSTMENTS (SPECIFY):

\$ \_\_\_\_\_  
 \$ \_\_\_\_\_

**TOTAL DUE THIS REPORT:**

\$ \_\_\_\_\_

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE RECEIPTS FOR THE PERIOD ABOVE STATED.

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

## Train Ride Equipment and Related Capitol Improvement Ownership Transfer List

### A. Locomotives, passenger coaches, track, switches, signals, tools, equipment, parts

No.	Description	Photo Reference
1	1990 Courage Locomotive – TT	1A, 1B, 1C, 1D
2	1990 Stanley Diamond Locomotive	2A, 2B, 2C, 2D
3	Circa 1950's Yard Goat Locomotive – TT	3A, 3B, 3C
4	Circa 1950's Freedom Locomotive	4A, 4B, 4C, 4D, 4E
5	1984 Colonel Griffith Locomotive	5A, 5B, 5C
6	1986 Melody Locomotive – TT	6A, 6B, 6C, 6D
7	6 passenger coaches by Geo. Reddington - TT	7A, 7B, 7C, 7D
8	9 passenger coaches by All Amer. Streamliner (5 in Freedom Train paint scheme and 4 in Colonel Griffith trim)	8A, 8B, 8C
9	3 Wood Gondolas by Skeets Simpson	9A, 9B
10	Approx 5,200 feet of track w/ switches and signals at Los Feliz	10A, 10B, 10C, 10D, 10E
11	Miscellaneous Shop Tools/Equipment including 4 ton hoist, air compressor, cabinets, benches, 36" metal lathe, drill press, cut off saw, hydraulic press, grinder, mig welder, arc welder, acetylene gas welder, welding table, compressor, assorted pneumatic and electric hand tools/impact wrenches, numerous hand tools, battery tester/chargers, electronic testers/multi-meter, track maintenance tools, and grounds maintenance tools.	11A, 11B, 11C, 11D, 11E, 11F, 11G, 11H, 11J
12	* Spare Parts including new Wisconsin VH4D engine, new Spencer hydraulic pump, 2 new Spencer hydraulic motors, 2 complete Bettendorf style trucks/brakes, 50 replacement brake shoe castings, 10 replacement wheel castings, 1 assembled wheel/axle set, 31 machined replacement flanges for TT coach wheels.	12A

\* Allowance for depletion of some/all of the spare parts during term of the agreement

B. Buildings, structures, decorations, fencing:

13	Station / Ticket Office	13A, 13B, 13C, 13D, 13E
14	Loading Platform and Cover	14A
15	Workshop / Car Barn	15A, 15B, 15C, 15D, 15E
16	Employee Break Room / Rest Room	16A, 16B, 16C, 16D
17	Storage Building	17A, 17B
18	Tunnel	18A, 18B
19	Bridge	19A, 19B, 19C
20	Water Tower / Tower	20A
21	Ticket Booth at TT	21A, 21B
22	Old Town Facade	
23	Simulator Building	23A, 23B
24	Weekend Gift Booth	24A
25	Trailer / Care Taker's Residence	
26	** Approx 7/8 mile perimeter Chain Link Fence, Approx 100 feet Wrought Iron Fence w/ brick.	26A, 26B
27	Attached safes and attached surveillance/security system equipment	27A, 27B, 27C

\*\* Approximately 3/8 mile of perimeter fence belongs to Cal Trans

## Insurance Requirements

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Agreement/Reference: Agreement for Concession Operation of Miniature Train Ride in Griffith Park

Evidence of coverages checked below which have as a minimum the limits shown must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSL"). Split limits may be substituted if the total per occurrence equals or exceeds the CSL amount.

	Limits
<input checked="" type="checkbox"/> <b>Workers' Compensation</b> (Statutory Limit)/Employer's Liability	<u>250,000</u>

- |   |   |
|---|---|
| <input type="checkbox"/> Waiver of Subrogation in favor of City | <input type="checkbox"/> Longshore & Harbor Workers |
|   | <input type="checkbox"/> Jones Act                  |

<input checked="" type="checkbox"/> <b>General Liability</b>	<u>1,000,000</u>
--	------------------

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Premises and Operations | <input type="checkbox"/> Collapse and Underground                 |
| <input checked="" type="checkbox"/> Contractual Liability   | <input checked="" type="checkbox"/> Products/Completed Operations |
| <input checked="" type="checkbox"/> Independent Contractors | <input type="checkbox"/> Fire Legal Liability _____               |
| <input type="checkbox"/> _____                              |   |

\_\_\_\_\_  
**Automobile Liability** (if vehicle is used for this contract, other than commuting to/from work)

- |  |  |
|--|--|
| <input type="checkbox"/> Hired Automobiles     | <input type="checkbox"/> Owned Automobiles |
| <input type="checkbox"/> Non-owned Automobiles | <input type="checkbox"/> _____             |

\_\_\_\_\_  
**Professional Liability** (Errors and Omissions)

12 months after completion of work or  
 Discovery Period from date of termination of the agreement/contract

\_\_\_\_\_  
**Property Insurance** to cover value of building (as determined by City or insurance company)

- |  |   |
|--|---|
| <input type="checkbox"/> All Risk Coverage | <input type="checkbox"/> Boiler and Machinery |
| <input type="checkbox"/> Extended Coverage | <input type="checkbox"/> Debris Removal       |
| <input type="checkbox"/> Flood _____       | <input type="checkbox"/> _____                |
| <input type="checkbox"/> Earthquake _____  | <input type="checkbox"/> _____                |

\_\_\_\_\_  
**Pollution Liability**

- \_\_\_\_\_

\_\_\_\_\_  
**Fidelity Bond**                      **Surety Bond**                      **Crime Insurance**

**Other** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**BOARD OF RECREATION AND  
PARK COMMISSIONERS**

**BARRY A. SANDERS**  
PRESIDENT

**LYNN ALVAREZ**  
VICE PRESIDENT

**W. JEROME STANLEY**  
**JILL T. WERNER**  
**JOHNATHAN WILLIAMS**

**MARY E. ALVAREZ**  
EXECUTIVE ASSISTANT II

**CITY OF LOS ANGELES**  
CALIFORNIA



**ANTONIO R. VILLARAIGOSA**  
MAYOR

**DEPARTMENT OF  
RECREATION AND PARKS**

221 N. FIGUEROA STREET  
SUITE 1510  
LOS ANGELES, CA 90012

(213) 202-2640  
FAX: (213) 202-2810  
RAP.Commissioners@LACity.org

**JON KIRK MUKRI**  
GENERAL MANAGER

September 12, 2011

GP Rah Enterprises, LLC  
17216 Saticoy Street, #387  
Van Nuys, CA 91406

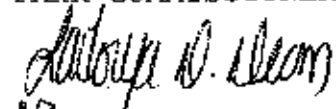
Attention: Donald Gustavson,  
Concessionaire

Dear Mr. Gustavson:

Enclosed is Contract No. Amendment to Concession Contract No. 247, executed on September 7, 2011, between the City of Los Angeles, by and through its Board of Recreation and Park Commissioners, and your firm for the operation and maintenance of the Griffith Park Train Ride Concession.

Very truly yours,

BOARD OF RECREATION AND  
PARK COMMISSIONERS

  
MARY E. ALVAREZ  
Commission Executive  
Assistant

Enclosure

cc: City Controller (w/enclosure)  
City Attorney  
Robert Morales (w/enclosure)  
Departmental Chief Accountant (w/ enclosure)

**AMENDMENT TO  
CONCESSION AGREEMENT NO. 247  
FOR CONCESSION OPERATION OF  
MINIATURE TRAIN RIDES IN GRIFFITH PARK**

THIS AMENDMENT TO CONCESSION AGREEMENT NO. 247 is made and entered into this 7<sup>th</sup> day of September, 2011, by and between the City of Los Angeles, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners (hereinafter "CITY"), and GP RAH ENTERPRISES, LLC (hereinafter "CONCESSIONAIRE").

WITNESSETH

WHEREAS, CITY has chosen to serve the public by providing train rides at Griffith Park through a concession operator; and

WHEREAS, on April 5, 2005, the CITY selected CONCESSIONAIRE to operate the Griffith Park Train Rides (Board Report No. 05-88) (hereinafter "CONCESSION") in accordance with the terms and conditions of a 15-year Operating Concession Agreement No. 247 (hereinafter "AGREEMENT"); and

WHEREAS, the AGREEMENT was executed on March 1, 2006, and encompassed all rights and duties of the parties; and

WHEREAS, the prolonged construction for the Los Angeles Department of Water and Power's (DWP) River Supply Conduit Improvement project, which began in Winter 2009 and is scheduled to be completed in Summer of 2014, has adversely affected attendance and revenues at the CONCESSION; and

WHEREAS, the AGREEMENT was structured in order to allow the CONCESSIONAIRE time to recoup costs associated with the locomotives used for and other related capital improvements to the CONCESSION, which will be owned by the CITY at the conclusion of the term of the AGREEMENT; and

WHEREAS, the decline in attendance and revenues due to the DWP River Supply Conduit Improvement project, has adversely affected the CONCESSIONAIRE's ability to recoup costs associated with the locomotives and the capital improvements; and

THEREFORE, the parties to Concession Agreement No. 247 hereby mutually agree to amend the AGREEMENT as follows:

1. SECTION 3, TERM OF AGREEMENT

Section 3 of Agreement No. 247 is hereby amended in its entirety and shall now read:

"The term of this AGREEMENT is extended from fifteen (15) years to eighteen (18) years, terminating on February 28, 2024."

All other terms and conditions of the AGREEMENT shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Conccssion Agreement No. 247, to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners.

BY: [Signature] DATE: \_\_\_\_\_  
President

BY: [Signature] DATE: 9/7/11  
Secretary

GP RAH ENTERPRISES, LLC

BY: [Signature] DATE: 8-30-2011  
President

BY: [Signature] DATE: 8-30-2011  
Secretary

APPROVED AS TO FORM:  
CARMEN TRUTANICH, City Attorney

BY: [Signature] DATE: 9/1/2011  
Deputy City Attorney