



Lake County Forest Preserves

General Offices
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DATE: June 5, 2023

MEMO TO: Jessica Vealitzek, Chair
Operations Committee

Gina Roberts, Chair
Finance Committee

FROM: Daniel Stearns
Chief Business Development Officer

Agenda Item # 10.6

RECOMMENDATION: Recommend approval of an Ordinance authorizing a License Agreement for Special Event Management and Food Services at Independence Grove with Catering with Relish, Inc.

STRATEGIC DIRECTION SUPPORTED: Organizational Sustainability

FINANCIAL DATA: Staff estimates \$300,000.00 in annual gross revenues and continued savings of \$44,500.00 on utility expenses.

BACKGROUND: Catering By Michael's is the current food and beverage provider at Independence Grove Forest Preserve. Their present License Agreement will expire December 31, 2023. The District advertised a Request For Proposal (RFP) for Special Event Management and Food Services at Independence Grove. The District received three proposals. Staff formed an eight-person interdepartmental Evaluation Committee and selected two of the three respondents for the interview portion of the evaluation process. Following careful consideration of respondent submissions and interviews, the Evaluation Committee unanimously selected Catering with Relish, Inc. (Licensee) as the preferred provider and has negotiated the attached license agreement under which Licensee would provide food, beverage, catering, and special event services at Independence Grove (the "2024 License Agreement"). Staff recommends that the District approve the 2024 License Agreement with Licensee.

The 2024 License Agreement has been developed with the goal of addressing District priorities and, as well as issues encountered through the terms of the prior (2001) and existing (2011) Independence Grove License Agreements. These prior License Agreements afforded greater rights to the licensee in the use of the Visitor's Center and other portions of Independence Grove. The proposed 2024 License Agreement includes provisions providing greater public access and reserved District use rights of particular portions of Independence Grove.

Key points of the 2024 License Agreement include:

Access and License Administration:

- The District will retain "In-House" operation of the Beer Garden, but the Licensee will have the right to provide food to Beer Garden customers (other than pre-packaged food which the District may sell to customers).
- The District will retain the right to reserve portions of Independence Grove for "non-catered" events.
- The District will retain full use of the Visitor Center classroom on all weekdays until 3:00 p.m., and may permit Licensee to reserve the classroom in its sole discretion on a case by case basis.
- Portions of Independence Grove other than the banquet room will be subject to first come, first served bookings as follows:
 - o The Native Garden and Observation Deck may be reserved on a first-come, first-served basis at any time.

- The North Bay Pavilion may be reserved by the District during the period commencing on the Friday before Memorial Day and ending on Labor Day (“Summer Season”), only if it is not already reserved by Licensee within sixty (60) days prior to the event. Outside of the Summer Season, the North Bay Pavilion may be reserved by either party on a first-come, first-served basis.
- Licensee will be subject to a base minimum of monthly license fee of \$6,000.00.
- Licensee will retain a greater percentage of concession sales in order to incentivize cooperative event planning, site concessions, and providing food service for Beer Garden patrons.
- Licensee will maintain an on-site Management presence.

Term: Five years with Licensee having options for one four-year extension and one three- year extension.

License Fee:

- 9% (8% in 2024) for those Gross Receipts ≤ \$1,500,000
- 10% (9% in 2024) for those Gross Receipts > \$1,500,000 but ≤ \$1,750,000
- 11% (10% in 2024) for those Gross Receipts > \$1,750,000 but ≤ \$2,500,000
- 12% (11% in 2024) for those Gross Receipts > \$2,500,000
- 15% for those Gross Receipts from off-site Catering
- 5% for those Gross Receipts from outdoor sales (during regular operating hours in the Summer Season)
- 0% for those Gross Receipts from outdoor sales that are not within regular operating hours or the Summer Season

Fixed License Fees to District:

VISITOR’S CENTER FIXED LICENSE FEE SCHEDULE

Weekday-Until 5:00 pm-(M-F)	\$125/room	\$375/full building
Weekday-After 5:00 pm-(M-Th)	\$125/room	\$375/full building
Friday-After 5:00 pm	\$300/room	\$900/full building
Saturday 9:00 am -3:00 pm	\$300/room	\$900/full building
Saturday 3:00 pm – 1:00 am	\$600/room	\$1,500/full build.
All Day Sunday	\$300/room	\$900/full building
Classroom	\$75	N/A
Office/Storage/Kitchen exclusive to Licensee	\$6,000.00	Guaranteed Monthly Min.

Equipment and Supplies: Exclusive of major building systems, Licensee will maintain and repair District equipment used for operation of the concession. Replacement of equipment that is in “used” condition at the commencement of this License will be a shared expense between the District and the Licensee. All supplies needed to execute this License will be at the expense of Licensee.

Maintenance: Licensee will maintain the interior of the Visitors Center in a manner reflecting a “first class” operation. Supplies to maintain the interior, exclusive of District Offices, will be at Licensee’s expense.

Utilities: Licensee will pay 70% of utility expenses (gas, water, and electric) and 100% of solid waste disposal (garbage and recycling). District will pay for composting.

Security: Licensee will be responsible for all expenses related to event security, including reimbursement to the District for Ranger Police Officers for all events taking place after 10 pm.

REVIEW BY OTHERS: Executive Director, Chief Operations Officer, Director of Finance, Director of Operations and Infrastructure, Purchasing Manager and Corporate Counsel.

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

**BOARD OF COMMISSIONERS
LAKE COUNTY FOREST PRESERVE DISTRICT
REGULAR JUNE MEETING
JUNE 14, 2023**

MISTER PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:

Your **OPERATIONS COMMITTEE** and **FINANCE COMMITTEE** present herewith “An Ordinance Approving a License Agreement for Special Event Management and Food Services at Independence Grove Forest Preserve” and request its approval.

OPERATIONS COMMITTEE:

Date: 6-5-2023 Roll Call Vote: Ayes: ____ Nays: ____
 Voice Vote Majority Ayes; Nays: 0

FINANCE COMMITTEE:

Date: 6-5-2023 Roll Call Vote: Ayes: ____ Nays: ____
 Voice Vote Majority Ayes; Nays: 0

**LAKE COUNTY FOREST PRESERVE DISTRICT
LAKE COUNTY, ILLINOIS**

**AN ORDINANCE APPROVING A LICENSE AGREEMENT FOR
SPECIAL EVENT MANAGEMENT AND FOOD SERVICES AT
INDEPENDENCE GROVE FOREST PRESERVE**

WHEREAS, the Lake County Forest Preserve District (the "District") desires to enter into a license agreement with Catering with Relish, Inc. (the "Licensee") for Special Event Management and Food Services (the "Services") at Independence Grove Forest Preserve ("Independence Grove"); and

WHEREAS, pursuant to Section 7b of the Downstate Forest Preserve Act, 70 ILCS 805/7b, the District is authorized to issue licenses for any activity reasonably connected with the purposes for which the District was created; and

WHEREAS, the provision of the Services is an activity that is reasonably connected to the purposes for which the District was created, including the operation of public recreational facilities; and

WHEREAS, the Chief Business Development Officer and the Purchasing Department solicited proposals for the Services ; and

WHEREAS, it is in the best interests of the District, to enter into a license agreement with the Licensee to provide the Services in substantially the form attached (the "License Agreement");

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois, **THAT**:

Section 1: Recitals. The recitals set forth above are incorporated as a part of this Ordinance by this reference.

Section 2: Approval of License Agreement. The License Agreement is hereby approved in substantially the form attached hereto or in such other form as is approved by the Executive Director. The Executive Director of the District, or his designee, is hereby authorized and directed to prepare, negotiate, and approve the final exhibits to the License Agreement (the "Final Exhibits"). Thereafter, the President and Secretary of the District are authorized and directed to execute and attest to, on behalf of the District, the License Agreement in substantially the form attached hereto, or in such other form as is approved by the Executive Director, with the Final Exhibits.

Section 3: Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this _____ day of _____, 2023

AYES:

NAYS:

APPROVED this ____ day of _____, 2023

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District

Exhibit No. _____

**LICENSE AGREEMENT GRANTING A CONCESSION
BETWEEN
LAKE COUNTY FOREST PRESERVE DISTRICT
AND
CATERING WITH RELISH INC.**

This License Agreement (this "Agreement") is made as of the ____ day of _____, 2023 (the "Effective Date") and is by and between the Lake County Forest Preserve District, an Illinois unit of local government and a political subdivision organized and existing under the Downstate Forest Preserve District Act, 70 ILCS 805/001 et seq., (the "District"), and Catering with Relish Inc., an Illinois corporation (the "Licensee"; the District and Licensee are, collectively, the "Parties" and individually a "Party").

In consideration of the recitals and mutual covenants and agreements set forth below, the parties do hereby agree as follows:

SECTION 1. RECITALS.

- A.** The District holds fee simple title to that certain parcel of land commonly known as Independence Grove Forest Preserve and generally depicted on *Exhibit A* (the "Subject Property").
- B.** Licensee wishes to provide Concession Services (as defined in Section 2) within the following portions of the Subject Property, all as specifically depicted on *Exhibit B* attached hereto and made a part hereof (collectively, the "Licensed Premises"):
- (i) the portions of the Independence Grove Visitors Center (the "Visitors Center") depicted on *Exhibit B* as the "Visitors Center Licensed Premises");
 - (ii) the portions of the patio, that is adjacent to the north and west of the Visitors Center depicted on *Exhibit B* as the "Patio Licensed Premises");
 - (iii) the portions of the observation deck located next to the Visitors Center and the beer garden operated by the District (the "Beer Garden", which Beer Garden is not part of the Licensed Premises) depicted on *Exhibit B* as the "Observation Deck Licensed Premises");

- (iv) all of the Millennium Plaza and Native Garden located next to the Visitors Center and depicted on *Exhibit B* as the “Millennium Plaza License Premises” and the “Native Garden Licensed Premises”);
 - (v) the portion of the North Bay Picnic Pavilion (the “North Bay Pavilion”) and surrounding grounds depicted on *Exhibit B*, collectively, as the “North Bay Pavilion Licensed Premises”; and
 - (vi) any other areas designated by the District from time to time within the developed portions of Independence Grove Forest Preserve (the “Future Additional Licensed Premises”).
- C. The Parties desire that the District grant Licensee a License (as defined in Section 2.A) to provide Concession Services within the Licensed Premises in accordance with this Agreement.
- D. The Parties enter into this Agreement pursuant to the Downstate Forest Preserve District Act, 70 ILCS 805/001 et seq., Article VII, Section 10 of the Illinois Constitution, and all other applicable authority.

SECTION 2. LICENSEE RIGHTS, OCCUPANCY AND USE.

A. Grant of License; Exceptions.

The District (i) hereby grants to Licensee an exclusive license (the “License”) to provide indoor and outdoor food and beverage, catering and banquet, and special event services, products, and programs within the Subject Property and in accordance with this Agreement (the “Concession Services”) and (ii) shall not grant any person or entity, other than Licensee, the right to provide Concession Services at the Subject Property, except:

- (i) that any person or entity using the Subject Property may bring their own food and beverages (whether "homemade" or provided by a third party) and tables, chairs or other rental equipment, onto the Licensed Premises (provided that in no event shall third party deliveries or servers provide food and beverages to such persons or entities other than Licensee),
- (ii) if Licensee does not accept the District’s offer to provide Concession Services for a District Special Event (as defined and provided in Section 2.C), the District may engage a different person or entity to provide Concession Services for the District Special Event and may authorize such provider to use any and all portions of the Licensed Premises for the District Special Event,

- (iii) the District may allow a third party to provide Concession Services, if Licensee consents in writing,
- (iv) at the Beer Garden, which is not included within the Licensed Premises, the District has the right to provide beverages and pre-packaged food prepared off-site to Beer Garden patrons, and
- (v) if, in the reasonable judgement of the District's Executive Director, Licensee does not (through the Service Window, Outdoor Operations, or other means) provide food and beverages services to patrons of the Beer Garden or other outdoor areas within the Subject Property at such times, with such frequency, or in such variety or quality as is appropriate in light of the demands or needs of such patrons, then the District (after first providing written notice to Licensee) may engage other food and beverage vendors to provide food and beverage services to such patrons.

The District will require a permit for the use of any outdoor facilities at the Subject Property by groups of 25 or more people that are not Customers (as defined in Section 5.M) pursuant to a Customer Contract (as defined in Section 5.M) for which Licensee has a permit from the District.

B. Use of Licensed Premises; Exceptions.

To perform the Concession Services, Licensee has the right to use the Licensed Premises at any time during Approved Hours of Operation (defined in Section 5.G), except:

- (i) the District shall have the right to reserve certain portions of the Licensed Premises, as hereinafter provided:
 - a. the Native Garden and Observation Deck may be reserved on a first-come, first-served basis by either the District or Licensee at any time;
 - b. the North Bay Pavilion may be reserved by either the District or Licensee subject to the following conditions and limitations:
 - i. during the period commencing on the Friday before Memorial Day and ending on Labor Day (the "Summer Season"), the District may reserve the North Bay Pavilion upon written notice to Licensee, so long as: (1) as of the date the District delivers such notice to Licensee, Licensee has not reserved such portion

at such date and time on behalf of one of its Customers pursuant to a Customer Contract; and (2) such notice shall not be delivered more than sixty (60) days prior to the date on which the District desires to reserve the North Bay Pavilion

- ii. on all days which do not fall within the Summer Season, the North Bay Pavilion may be reserved at any time on a first-come, first-served basis by either the District or Licensee;
 - iii. If the District reserves the North Bay Pavilion as provided in i. or ii. above, then the District or any permittee of the District, as determined by the District, shall have the right to use the North Bay Pavilion at such date and time for any purpose determined by the District; and
 - iv. each year, on Saturdays, Sundays, and the holidays (“Holidays”) (listed on *Exhibit G*) that occur within and including the Summer Season, the North Bay Pavilion will be billed at a 200 person minimum.
- (ii) the District will retain exclusive use of the “Classroom” within the Visitors Center and generally depicted on *Exhibit B* on all weekdays until 3:00 pm; the District may, in its sole discretion, grant Licensee the right to reserve the Classroom on a case by case basis.

C. Provider for District Special Events.

If the District holds a District event within the Subject Property (a “District Special Event”) and desires that Concession Services be provided at the District Special Event, it shall offer Licensee the right of first refusal to provide such Concession Services. If Licensee elects to provide Concession Services, it shall do so “at cost,” meaning that the District (i) will reimburse Licensee for the costs of the Concession Services, including without limitation any set-up, clean up, or on-site management that the District requests Licensee to perform and (ii) will not pay any other fees or costs, including any fees for these use of any facilities or equipment. If (on or before a date set forth in the District’s offer) Licensee does not accept the offer to provide Concession Services for the District Special Event, then the District may engage a different person or entity to provide the Concession Services for the District Special Event and may authorize such provider to use any and all portions of the Licensed Premises for the District Special Event. The District will then be responsible for set-up and clean up and the cost for any Licensee personnel that, at the District’s request, attend or are present during the District Special Event.

SECTION 3. TERM.

A. **General.** This Agreement shall become effective on the Effective Date. The rights and obligations of Licensee to provide the Concession Services shall commence on January 1, 2024, and end on December 31, 2028 ("Term"), unless extended as provided in this Section 3 or terminated as provided in Sections 5.M or 16.B.

B. **Extensions of Term.** If the District has not declared a Default (as defined in Section 16.B), Licensee may extend the Term for two (2) additional extension periods (provided that Licensee may extend the Term of the second extension period only if it has already properly and timely extended the Term for the first extension period). The first extension period shall be for a term of four (4) years, and the second extension period shall be for a term of three (3) years. If Licensee desires to extend the Term for the first extension period, it may do so only by delivering written notice of such extension to the District between March 31, 2027 and June 30, 2027. If Licensee desires to extend the Term for the second extension period, it may do so only by delivering written notice of such exercise to the District between March 31, 2031 and June 30, 2031.

SECTION 4. LICENSE FEES.

A. **Definitions**

1. **Gross Receipts.**

- a. **General Definition.** Except as otherwise provided herein, "Gross Receipts" includes (i) all money, cash, receipts, assets, gross charges, sales, rentals, fees and commissions received, made, or earned (collectively, "Sales"), and (ii) all gross sums received by Licensee, from any business, use, or occupation, or any combination thereof, originating, transacted, or performed, in whole or in part, on the Subject Property including, but not limited to, the rendition or supplying of Concession Services, which may include the sale of services, goods, wares, or merchandise, and the receipt of money through vending machines or devices of any nature, except only as specifically defined in this Section 3.A.1. Gross Receipts shall include Sales related to or generated by Included Off-Site Events, but shall not include Sales generated by District Special Events at which Licensee provides Concession Services at cost. There shall be no deduction from Gross Receipts of any overhead or expense of operation such as, but without limitation to, salaries, wages, depreciation, cost of goods, advertising, interest, debt amortization, discount, collection, credit card and bad debt charges, and insurance.
- b. **Outdoor Gross Receipts.**

- i. Gross Receipts from the Sales of food at the Beer Garden and sales of food and beverages originating from Sales at or from the Service Window or Outdoor Operations are referred to herein as “Outdoor Gross Receipts”.
 - ii. Outdoor Gross Receipts originating from Sales made outside of the hours of 11:00 a.m. until 4:00 p.m. Monday through Friday and 11:00 a.m. until 6:00 p.m. on Saturdays and Sundays are referred to herein as “After-Hours Outdoor Gross Receipts”.
 - iii. Outdoor Gross Receipts originating from Sales on days that are not within the Summer Season are referred to herein as “Off-Season Outdoor Gross Receipts”.
- b. Exclusions from Gross Receipts. Gross Receipts shall not include (i) state or local sales tax collected from the consumer (regardless of whether the amount thereof is stated to the consumer as a separate charge) and paid periodically by Licensee to a governmental agency, accompanied by a tax return or statement; provided, however, that the amount of such taxes shall be shown on the books, records, and accounts elsewhere herein required to be maintained; (ii) Gratuities; (iii) Sales, the proceeds of which are refunded; (iv) direct fees paid by a Customer to the Licensee for the sole purpose of allowing Licensee to make arrangements for a third party to provide a service or amenity to such Customer, if Licensee is required to pay such fees over to such third party, which services or amenities may include without limitation entertainment; rental of tables, chairs, linens, or outdoor tents; valet service; security personnel; and certificates or policies of insurance for persons other than Licensee; (v) any Fixed License Fees or North Bay/Special Event Fees collected by Licensee, which are to be paid directly to District as identified in section 4.C and 4.D. and any Security Fees, payable in accordance with Section 5.B.
2. Included Off-Site Event. “Included Off-Site Event” is an event that occurs somewhere other than the Subject Property, but for which Licensee provides food or beverages prepared at or from the Subject Property. Sales generated from such an event or any other commercial sales will be subject to License Fees and calculated at a rate of 15% for those Gross Receipts in excess of \$1.
 3. Gratuities. “Gratuities” are (i) voluntary payments made by a person to Licensee or staff to reward staff for services provided; and (ii) payments required to be made to Licensee or staff as a separate line item of an invoice for a special event banquet or party; provided, however, that such payment shall not exceed 20% of the total invoice or bill for such special event banquet or party.
 4. Staff. “Staff” are Licensee’s servers, waiters, waitresses, bartenders, or other employees or independent contractors, but not persons who are retained and paid directly by a Customer.
 5. Marina. The District reserves the right to provide food, beverage, and other services on the marina of the Subject Property (depicted on *Exhibit B* as the “Marina”).
- B. Annual License Fees.** Licensee shall pay the District a license fee (the “Annual License Fee”) for each calendar year. The Annual License Fee for a given calendar year (a “Year”) shall be calculated

by multiplying the Gross Receipts from such Year by the appropriate “Annual Percentages” below. Licensee shall pay the Annual License Fee in monthly installments, in accordance with Section 4.E.

ANNUAL PERCENTAGES

8% in 2024 and 9% in other Years for Gross Receipts (excluding Outdoor Gross Receipts) ≤ \$1,500,000
 9% in 2024 and 10% in other Years for Gross Receipts (excluding Outdoor Gross Receipts) > \$1,500,000 but ≤ \$1,750,000
 10% in 2024 and 11% in other Years for Gross Receipts (excluding Outdoor Gross Receipts) > \$1,750,000 but ≤ \$2,500,000
 11% in 2024 and 12% in other Years for Gross Receipts (excluding Outdoor Gross Receipts) > \$2,500,000

In addition to the above percentages, in every Year:

- 5% of Outdoor Gross Receipts (excluding (i) Off-Season Outdoor Gross Receipts and (ii) After-Hours Outdoor Gross Receipts)
- 0% of Off-Season Outdoor Gross Receipts
- 0% of After-Hours Outdoor Gross Receipts

C. Visitor’s Center Fixed License Fees. Each Customer Contract (as defined in Section 5.J.) for the reservation of any portion of the Visitors Center License Premises shall require the Customer to pay to the Licensee a fixed license fee (which Licensee shall remit to the District and which shall not be included in Gross Receipts of Licensee) (a "Fixed License Fee"). The Fixed License Fee shall initially comply with the table in this Section 4.C, and may be later amended by the District pursuant to its annual fee ordinance, which is currently entitled “an Ordinance Establishing Fees and Charges for District Programs, Services and Facilities (Annual Fee Ordinance)” (the “Annual Fee Ordinance”).

FIXED LICENSE FEE SCHEDULE

	Each Room	Full Building (i.e., entire Visitors Center Licensed Premises)
Weekday-Until 5:00pm-(M-F)	\$125	\$375
Weekday-After 5:00 pm-(M-Th)	\$125	\$375
Friday-After 5:00 pm	\$300	\$900
Saturday-9:00 am-3:00 pm All Day Sunday	\$300	\$900
Saturday- 4:00 pm-1:00 am	\$600	\$1500
Classroom Monthly Minimum for Exclusive Licensee Areas	\$75	Included \$6,000 until exceeded by monthly fixed fees

The District shall provide notice of any changes to the Fixed License Fees to Licensee. No changes shall affect any Customer Contract executed by a Customer prior to the date upon which Licensee receives any such notice.

- D. North Bay/Special Event Fees.** All Concession Services provided by Licensee at (i) the North Bay Pavilion and (ii) any other special event requiring a tent or other structure providing cover for guests in any open space on the Subject Property, shall be assessed a fee (which Licensee shall remit to the District and which shall not be included in Gross Receipts of Licensee) (a "North Bay/Special Event Fee"). The North Bay/Special Event Fee shall initially comply with the table in this Section 4.D, and may be later amended by the District pursuant to its Annual Fee Ordinance.

**NORTH BAY/SPECIAL EVENT
FEE TABLE**

	<u>Resident</u>	<u>Non-Resident</u>
<u>Weekdays (Monday through Friday)</u>		
Up to 99 guests	\$ 280	\$ 360
100 to 199 guests	480	560
200 to 299 guests	680	760
300 or more guests	880	960
<u>Weekends (Saturday or Sunday)</u>		
Up to 99 guests	\$ 290	\$ 435
100 to 199 guests	490	735
200 to 299 guests	790	1,135
300 or more guests	1,090	1,535
400 or more guests	1,390	1,935
<u>Special Use Area</u>		
	Per Hour	Permit Fee
Up to 199 guests	\$25.00	\$100
200-399 guests	\$40.00	\$100
400-599 guests	\$55.00	\$100
600 or more guests	\$75.00	\$100
*Native Garden	With VC \$150/hour	W/O VC \$200/hour
* Three Hour Minimum		

- E. **Visitor Center Use.** Licensee's access and use of the Visitor Center is in consideration of this License Agreement and to the advantage of Licensee and the District. In the event that Fixed License Fees for a given month result in an amount less than \$6,000.00, a rate for use of the exclusive Licensee areas of the Visitor Center will be due to the District equal to \$6,000.00. This rate will be considered a "monthly minimum" and will be waived when exceeded by the Fixed License Fees due to the District.
- F. **Monthly Payments.** For each month during the term of this Agreement (a "Month"), Licensee shall pay to the District an amount (a "Monthly Payment") equal to: (the Gross Receipts for the Year multiplied by the Annual Percentage or Annual Percentages, based on the Year's Gross Receipts to date) minus all previous Monthly Payments made for the Year plus any North Bay/Special Event Fees and Fixed Fees collected during that Month. The Monthly Payment for a Month shall be made by the fifteenth day following the end of the Month (a "Payment Date"). All payments are to be sent to the District offices as listed in Section 18.
- G. **Monthly Reports and Quarterly Accounting.** Licensee shall deliver to the District with its Monthly Payment a true and correct sworn statement of all Gross Receipts for the Month for which the Monthly Payment is being made, showing separately the Gross Receipts from each part of the Concession Services operated under this Agreement (a "Monthly Report").
- H. **Late Payment Penalties.** If any Monthly Payment is not paid on a Payment Date, Licensee shall pay to the District an additional fee equal to one percent (1%) of the Monthly Payment due for each two-week period or portion thereof that such Monthly Payment is late as an administrative processing charge. The Parties agree that this late charge represents a fair and reasonable estimate of the costs the District will incur by reason of late payment by Licensee. Acceptance of any late charge shall not constitute a waiver by the District of any of its rights relating to a Default for a late payment.

SECTION 5. MANAGEMENT REQUIREMENTS

- A. **General.** Licensee shall operate and manage the Concession Services (i) in accordance with this Agreement, (ii) in accordance with all applicable laws, (iii) in a first-class, professional, businesslike manner, and (iv) in accordance with the Management Plan attached hereto as *Exhibit C*. The Parties may amend the Management Plan from time to time by the mutual written consent of Licensee and the Executive Director. Licensee shall operate the Concession Services and use and occupy the Licensed Premises and the Subject Property according to this Agreement and for no other purpose.

- B. Security.** The District shall provide customary security, similar to the security it provides in its other District preserves, for the Subject Property but shall have no obligation to provide or pay for security for Licensee's operation of the Concession Services. Licensee shall provide and pay for security for the operation of the Concession Services. Licensee shall also pay for District security for any event that extends beyond 10:00 p.m. at an hourly rate, subject to the Annual Fee Ordinance and at the then-current hourly rate (which as of the date of this Agreement is \$85 per hour) (which Licensee shall remit to the District and which shall not be included in Gross Receipts of Licensee) (a "Security Fee"). Licensee shall provide to the District one complete set of keys to allow the District access to any property secured by Licensee within the Licensed Premises. The District shall use such keys only in emergencies and notify Licensee of such use (i) if practical to do so, in advance of any such use or (ii) if such advance notice is not practical, within 12 hours after such use. Licensee shall provide to the District an emergency contact number for use in such circumstances. The District may provide keys to specific employees of Licensee (designated by Licensee in writing) to allow such Licensee employees to access property secured by the District within the Subject Property. Licensee shall cause such designated employees not to copy, distribute, reprogram, or share such keys. Upon any such employee's separation from Licensee's employ, Licensee shall return the keys in such employee's possession to the District and notify the District in writing of such separation. Licensee shall not re-key or re-program any secured District property without the District's prior, express, written approval. Any such re-key or re-programming shall be performed by the District at Licensee's expense.
- C. District Access.** District employees, contractors, agents, and invitees will have full access to the Licensed Premises at all times during the term of this Agreement, for all purposes desired by the District, so long as such access does not unreasonably interfere with a Customer's event or Licensee's provision of Concession Services for a Customer's event. If the District elects to perform any maintenance or construction or install any improvements to the Licensed Premises, the District shall provide reasonable advance notice to Licensee, to the extent practical under the circumstances (it being acknowledged that no notice shall be provided in the event of an emergency.) No portion of the Subject Property designed for public access shall be closed to the public by Licensee unless the area is a portion of the Licensed Premises that has been reserved by a Customer pursuant to a Customer Contract. If Licensee enters into a Customer Contract that reserves the entire Visitors Center Licensed Premises for the Customer's event, then Licensee may close the Visitors Center to the public within two (2) hours in advance of the start time for such event, except that, in all cases, the District will have full access to the Classroom on all weekdays until 3:00 pm.
- D. Concession Services Employees.** Licensee shall require its employees at all times to (i) conduct themselves in a professional manner, (ii) comply with the Management Plan and the other

requirements of this Agreement, and (iii) comply with all applicable laws, including all applicable current and future District ordinances, policies, rules, regulations, and requirements. The District shall provide Licensee with copies of all applicable current and future District ordinances, policies, rules, regulations and requirements and amendments or modifications to same as they become available from time to time. The District reserves the right to conduct background verification on Licensee's management and supervisory staff. At all times each employee of Licensee shall wear an easily identifiable uniform. Licensee shall maintain a staff adequate to operate and administer the Concession Services in a safe, efficient, and orderly manner. The adequacy of Licensee's staff shall be determined with reference to the dates, times and anticipated usage of the Licensed Premises. All personnel employed by Licensee shall at all times and for all purposes be solely in the employment of Licensee and Licensee shall be responsible for directing such personnel and shall control the operative details of their work.

- E. **Parking.** Concession Services employees, contractors, clients and guests must park in designated areas only except while off-loading in the loading dock or service entrance. There shall be no use of the public or front building entrance for deliveries or off-loading. Licensee shall not use public parking areas for long-term or derelict vehicle parking. Parking fees will be waived for Licensee's contracted events or for client meetings when proper notice is given to District staff. If Licensee enters into a Customer Contract pursuant to which the Customer has reserved all of the Visitors Center Licensed Premises for an event that occurs on a day during the Summer Season, other than a Holiday, Licensee may request, in advance of such event, that the District allocate reserved parking spaces within the Subject Property for Licensee's and the Customer's use during such event. The District shall provide such parking if it determines (in its sole discretion) that it is practical to do so in light of other parking demands. The District has no obligation to provide parking attendants, valets, or any other employees related to parking for any event.

- F. **Vehicle Use.** Licensee may provide on-site transportation only as requested and approved by the District, provided that only trained licensed operators are utilized and the transportation does not violate the District Use Ordinance.

- G. **Hours of Operation.** Licensee may operate the Concession Services only during hours approved by the District's Executive Director ("Approved Hours of Operation"). In advance of each Year, Licensee shall submit a proposed schedule of Approved Hours of Operation to the Executive Director annually for his or her review and approval, considering efficiency of operation and other factors. The schedule shall include (i) year-round operation of the Concession Services, including party, banquet, and special event services and (ii) operation of food service at the window on the North end of the Visitors Center

(the "Service Window") and outdoor operations (including stationary and mobile carts) ("Outdoor Operations") (a) during the Summer Season, on Monday through Thursday between no later than 10:30 a.m. and no earlier than 4:00 p.m. and Friday through Sunday between no later than 10:30 a.m. and no earlier than 6:00 p.m. and (b) after the Summer Season, during such times that Licensee determines, in its reasonable discretion, that, based on weather conditions and other considerations, such operation is fiscally viable.

H. **Use of Proprietary Naming.** In any of its advertising or promotional material, Licensee (i) may use the phrases "Independence Grove," "Lake County Forest Preserves," "Lake County Forest Preserve District," or any other identification of the District (including any logo or mark of the District) or the Subject Property only with the prior, express, written permission of the Executive Director and (ii) when using such phrases or identification, shall identify itself as "a Licensee of the Lake County Forest Preserve District."

I. **Intentionally Omitted.**

J. **Utility and Service Charges.** For each Month, the District shall deliver to Licensee a statement setting forth all expenses for water, sewer, gas and electricity for the Visitors Center (the "Utility Expenses"), and all expenses for solid waste and recycling disposal for the Visitors Center (the "Solid Waste Expenses"). Licensee shall pay 70% of the Utility Expenses, and 100% of the Solid Waste Expenses within fifteen (15) days after its receipt of the statement from the District. Licensee shall provide and pay for its own telephone facilities, faxes, copying, Wi-Fi, internet access, and for all other expenses related to the Concession Services, including any contractual services related to the first class operation of a food service entity, including but not limited to range hood maintenance, refrigeration and mechanical maintenance, grease trap disposal, contractual custodial services, contractual sanitary services) ("Miscellaneous Services"). Licensee shall ensure that Licensee's Miscellaneous Services do not interfere with systems relating to the District's operations in the building. Subject to public bidding laws, the District, at Licensee's request, shall consult with Licensee concerning contracts for services relating to the Miscellaneous Expenses within a reasonable time prior to contracting for such services.

K. **Equipment and Supplies.** For the operation of the Concession, the District has provided tables and chairs for the "Banquet Room" (identified on *Exhibit B*) and the Patio, and fixed kitchen equipment identified on *Exhibit B.1* (collectively, the "District Equipment"). All other equipment and supplies necessary or desirable to successfully operate the Concession Services, including, but not limited to: uniforms, tableware, glassware, flatware, kitchen supplies, paper goods, disposables, linen, laundry, kitchen equipment, computers and computer-related hardware and software, telephone

hardware/system, and point-of-sale system (collectively, the "Licensee Equipment") shall be provided, installed, stored, owned, maintained, and replaced by the Licensee. Licensee shall maintain, repair, and (if necessary) replace all District Equipment and Licensee Equipment. Upon replacement of District Equipment, District will pay to Licensee a prorated amount of the replacement cost corresponding to the "useful life" rating given to the replaced District Equipment at the commencement of this License Agreement as set forth on *Exhibit B.2*. Licensee Equipment that does not become attached to or a part of the facilities or Licensed Property shall remain the property of Licensee.

- L. **Recyclable Containers.** Licensee shall serve all carry-out food and beverages in recyclable, and/or compostable paper, plastic, or other returnable containers and shall not offer carry-out sales for any product in or with a glass or Styrofoam container. Licensee shall limit its use of single use plastics to the greatest extent possible.

- M. **Licensing.** Licensee, at its expense, shall obtain and maintain all licenses necessary for the operation of the Concession Services, including but not limited to liquor and health and sanitation licenses (the "Operations Licenses"). Licensee shall apply for all Operations Licenses required to operate the Concession Services not later than March 31, 2024, and shall use diligent efforts to obtain same. The District shall reasonably cooperate with Licensee in its efforts to obtain the Operations Licenses, upon request from Licensee. Either party may terminate this Agreement if (i) Licensee fails to obtain the Operations Licenses by June 30, 2024; or (ii) after it obtains the Operations Licenses, one or more of the Operations Licenses are revoked or are not renewed and Licensee, fails to obtain a replacement Operations License within ninety (90) days thereafter.

- N. **Music Services.** If Licensee utilizes music streaming services or similar services in conjunction with the Concession Services provided within the Licensed Premises, it shall do so at its own expense and in accordance with Applicable Laws, including intellectual property laws that may require Licensee to pay royalties for such use, and without unreasonably disturbing the public at the Subject Property. If the District determines that the content of any music played by Licensee is inappropriate, objectionable, or inconsistent with District values, as determined by the District in its sole and absolute discretion, it may notify Licensee of such determination and, upon receipt of such notice, Licensee shall immediately cease playing such music.

- O. **Contracts with Customers.** Licensee may provide Concession Services to a customer of Licensee (a "Customer") only pursuant to a contract between Licensee and such Customer, which contract shall be in a form that has been approved by the District's Executive Director (a "Customer Contract"). Each

Customer Contract shall include a provision binding the Customer to the requirements of Sections 4.C, 4.D, and 17.C of this Agreement. Upon request by the District, Licensee shall provide a copy of the Customer Contract to the District.

- P. Advertising.** Licensee shall actively market, promote, and advertise the Concession Services at no cost to the District, with descriptions that are consistent with this Agreement. When utilizing any written advertising, promotions, material, displays, notices, or similar matter related to the operation of the Concession Services on the Licensed Premises (collectively, "Advertising Material"), Licensee shall (i) when identifying Licensee, describe Licensee as "a Licensee of Lake County Forest Preserve District" (or use similar language approved by the District Executive Director), and (ii) display the District logo and other identifying information provided to Licensee by the District. Licensee shall discontinue the use of any Advertising Material determined by the District, in its reasonable discretion, to be inappropriate, objectionable, or inconsistent with the District's promotion or operation of the Subject Property for first-class public recreational uses. Showcases/Expos for the purpose of promoting services relating to this License Agreement may be held with advanced notice to District and will not be subject to Fixed License Fees.
- Q. Signs.** The Licensee shall not place signs on the Licensed Premises without prior written approval by the District, which approval may be withheld, if any such signs, in the District's reasonable discretion, are inappropriate, objectionable, or inconsistent with the District's promotion or operation of the Subject Property for first class public recreational uses.

SECTION 6. RECORDS AND ACCOUNTS

- A. Records and Accounts.** Licensee shall create, and keep at its principal place of business, true and complete books, accounts, and other records of all financial transactions relating to the Gross Receipts of the Concession Services for at least three years after their creation and after the last entry therein. The records must be supported by documents from which the original entry of the transaction was made, including sales slips, cash receipt machine records, and purchase invoices. Licensee's principal place of business is 19 W. Wise Rd., Schaumburg, Illinois, 60193. Licensee shall notify the District of any change thereof.
- B. Recording of Sales.** All sales and charges shall be recorded by means of sales invoices, sales tickets, or cash receipt machines which display to the Customer the amounts of the transactions.

- C. **Inspection of Records.** All books, records, and accounts of every kind or nature kept by Licensee relating to the Gross Receipts for the Concession Services and all Fixed License Fees and North Bay/Special Event Fees, shall at all reasonable times be open and made available for inspection or audit by the District, its agents or employees, upon request.
- D. **Audit.** The District shall have the right to audit, at no cost to Licensee except as hereinafter provided, any or all such books, records, and accounts for the purpose of verifying the accuracy of Annual License Fees or Monthly Payments required to be paid to the District. The cost, based on hourly rates, of an audit shall be borne by Licensee if such audit confirms that a greater payment is due to the District than was paid or reported by Licensee for the period covered by the audit; provided however, that Licensee's share of such cost shall not exceed the amount of such underpayment. Within ten (10) days after the audit report is furnished to Licensee or ten (10) days after the parties have completed any conference concerning the audit, Licensee shall pay to the District the full amount of any underpayment demonstrated by such audit, together with interest on the amount of such underpayment at the rate of ten percent (10%) per annum. If any audit conducted by the District shows that Licensee has paid more than the amounts due to the District, the District shall reimburse Licensee for such overpayment, without interest. The District shall reimburse the Licensee within the same time periods listed for Licensee. If Licensee conducts an audit showing that it has underpaid the District, it shall pay to the District the full amount of any underpayment together with interest in the amount of such underpayment at the rate of ten percent (10%) per annum. The District reserves the right to install any ordinary and customary accounting devices or machines on the Licensed Premises, with or without personnel, for the purpose of accounting or audit. For purposes of this Section 6, copies of the District's inspection and/or audit results shall be provided to Licensee within a reasonable time following the inspection or audit.

SECTION 7. IMPROVEMENTS, ALTERATIONS, REPAIRS, AND MAINTENANCE

- A. **Structural Work.** Licensee shall make no structural improvements, alterations, additions, or repairs to the Licensed Premises including, but not limited to, structural carpentry, electrical, or masonry work ("Structural Improvements") without, in each case, obtaining the prior written consent of the Executive Director of the District, except in the case of emergency alterations or repairs. If Licensee desires to make any Structural Improvements, Licensee shall submit plans and specifications to the Executive Director for his or her review. If the Executive Director approves such plans, (i) Licensee shall cause the Structural Improvements to be completed pursuant to a contract with a contractor or vendor, in a form approved by the Executive Director, and in accordance with such approved plans, (ii) Licensee

shall pay for the cost of any such Structural Improvements, and (iii) the Structural Improvements shall become the property of the District.

- B. Maintenance and Repairs.** Subject to Section 7.A, Licensee shall perform day to day maintenance as necessary to keep the (i) Licensed Premises, (ii) Licensee Equipment, and (iii) District Equipment in a good, clean, orderly, operable and first class condition at all times, which maintenance shall include, without limitation, maintenance of the Visitors Center Licensed Premises and the Patio Licensed Premises. Regarding any event at which Concession Services were provided at the North Bay Pavilion or any other outdoor area of the Subject Property, following the event, Licensee shall (i) clean the area and bag garbage and other refuse for District removal, (ii) returned the condition of the area to its condition prior to the event, and (iii) repair, according to District specifications, any damage to the area, including any turf, vegetation, or District property. Regarding any event at which Concession Services are provided, Licensee shall repair or replace any Licensee Equipment or District Equipment damaged during the event. The District will provide mowing and landscaping services, snow removal services, and general maintenance services for the natural and outdoor areas within the Licensed Premises, and maintain the exterior portions of structures within the Licensed Premises, all in a manner that is consistent with its maintenance of other District facilities and areas.

SECTION 8. COMPLIANCE WITH LAWS

- A. General Obligation; Building and Health Laws.** Licensee and the District shall conform to and abide by all applicable laws, statutes, ordinances, requirements, resolutions, rules, and regulations of the District, County of Lake, including the Lake County Health Department, State of Illinois, the United States of America, and all other governmental agencies with jurisdiction (“Applicable Laws”). If a permit is required for any operation, it must be obtained from the regulating body having jurisdiction thereof before such operation is undertaken. Without limiting the foregoing, (i) any and all repairs and improvements on the Licensed Premises shall comply with all applicable laws, codes, rules, and regulations, including all building code requirements of the County of Lake and (ii) Licensee shall obtain and maintain any and all necessary permits or certificates from the Lake County Health Department for food preparation on the Licensed Premises. The District shall not pass any law, ordinance, rule or regulation intended to conflict with this Agreement.
- B. Discrimination Laws.** Licensee shall not discriminate in its recruiting, hiring, promotion, demotion, or termination practices or in the use, operation, management or occupancy of the Licensed Premises on the basis of race, religion, color, national origin, ancestry, sex (including gender identity, sexual orientation and pregnancy), age, mental or physical disability, or marital status with respect to the

Concession Services granted herein or the occupancy, use, or enjoyment of the Licensed Premises. Licensee shall also comply with the applicable provisions of the Illinois Human Rights Act, Titles I and III of the Americans with Disabilities Act of 1990 (“ADA”) (provided, however, that Licensee shall not be required to make any physical alterations to the Licensed Premises that are necessary to comply with the ADA) and all other acts and laws of whatever kind and all administrative rules and regulations issued pursuant to said Acts.

- C. **Laws Regarding Hazardous Materials.** Licensee District (i) shall comply with all federal, state, and local laws, ordinances, rules, and regulations that prohibit, restrict, or regulate any material defined therein as a hazardous, radioactive, toxic or carcinogenic material, substance, pollutant, or contaminant (“Hazardous Materials”) in the use of the Licensed Premises; and (ii) shall not permit any person to handle, bury, store, retain, refine, produce, spill, allow to seep, leak, escape or leach, pump, pour, emit, empty, discharge, inject, dump, transfer or otherwise dispose of or deal with hazardous Materials in, on, under, or about the Licensed Premises or Subject Property.

SECTION 9. INSPECTION AND EVALUATION.

Upon reasonable notice, the District may make an inspection and evaluation of the Licensed Premises to ensure compliance with this Agreement by the Licensee.

SECTION 10. INDEMNITY AND INSURANCE.

- A. **No Liability of District.** The District shall not be liable at any time for loss, damages, or injury to the person or property of Licensee, its owners, agents, contractors or employees at any time.

B. **Hold Harmless Agreement.** Notwithstanding anything to the contrary in this Agreement, and irrespective of any insurance carried by Licensee for the benefit of the District, Licensee, to the full extent permitted by law, shall protect, indemnify, and hold harmless, and defend the District and its commissioners, officers, agents, attorneys, volunteers, and employees from any and all losses, expenses, claims, costs, causes, and damages including, without limitation, litigation costs and attorneys’ fees and items relating to Subsection 8.C of this Agreement, that may arise or relate to, or be alleged to have arisen or relate to (i) Licensee’s performance of, or failure to perform, its obligations under any of the terms or conditions of this Agreement; (ii) Licensee’s maintenance, operation, or use of the Licensed Premises or Subject Property; or (iii) the Concession Services granted herein, and including any personal injuries or death or damages to property directly arising from, relating to, occurring, growing out of, incident to, or resulting from the use and occupancy of the Licensed Premises or Subject Property by Licensee (“Claims”).

Licensee shall not be obligated to protect, indemnify, or hold harmless the District from any Claim arising directly from or proximately caused by the District's or any of the District Indemnified Parties' sole negligence or willful misconduct.

C. Insurance.

1. Coverages and Limits. Licensee shall provide certificates and keep in force policies of insurance evidencing the minimum insurance coverages and limits set forth below. Such policies shall be in a form, and from companies, acceptable to the District. Such insurance shall provide that no change, modification in, or cancellation of any insurance shall become effective until the expiration of thirty (30) days after written notice thereof shall have been given by the insurance company to the District.

a. Worker's Compensation and Employer's Liability. This insurance shall be kept in force during any time that Licensee has any employees and shall have limits not less than:

- 1. Worker's Compensation: Statutory
- 2. Employer's Liability:
 - \$1,000,000 injury - per occurrence
 - \$1,000,000 disease - per employee
 - \$1,000,000 disease - policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

b. Comprehensive Motor Vehicle Liability. This insurance shall be kept in force at any time that Licensee enters or occupies the Licensed Premises, shall cover vehicles owned, non-owned, or rented, and shall have limits not less than:

- 1. Bodily Injury: \$1,000,000 per person; \$1,000,000 per occurrence
- 2. Property Damage: \$1,000,000 per occurrence; \$1,000,000 aggregate

All employees shall be included as insured.

c. Comprehensive General Liability. This insurance shall be kept in force at any time that Licensee enters or occupies the Licensed Premises, shall have coverage written on an "occurrence" basis and shall have limits not less than:

- 1. General Aggregate: \$2,000,000
- 2. Bodily Injury: \$1,000,000 per person; \$1,000,000 per occurrence
- 3. Property Damage: \$1,000,000 per occurrence; \$2,000,000 per aggregate

Coverages include:

- a) Premises/Operations
- b) Products/Completed Operations
- c) Independent Contractors
- d) Personal Injury (with Employment Exclusion deleted)
- e) Broad Form Property Damage Endorsement
- f) Blanket Contractual Liability (must expressly cover the indemnity provisions of this Contract)
- g) Bodily Injury and Property Damage

“X”, “C”, and “U” exclusions shall be deleted.

- d. Dram Shop Insurance. This insurance shall be kept in force at any time that Licensee serves liquor or allows liquor to be served or consumed on the Licensed Premises and shall have the limits required by statute.
2. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss. The limit of any umbrella policy shall be an additional \$1,000,000.
 3. Policy Requirements. Each policy shall have a deductible or self-insured retention of not more than \$10,000.00. All policies shall be produced from insurance companies holding at least an “A7” Best’s rating. Licensee’s insurance shall be identified as primary coverage on all policies.
 4. District as Additional Insured. The District shall be named as an Additional Insured on the following policies: Comprehensive General Liability; Comprehensive Motor Vehicle Liability; Umbrella. The Additional Insured endorsement shall identify the District as follows: “Lake County Forest Preserve District”.
 5. Evidence of Insurance: Licensee shall furnish District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. Failure of District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of District to identify a deficiency from evidence that is provided shall not be construed as a waiver of Licensees’ obligation to maintain such insurance. District shall have

the right, but not the obligation, of prohibiting Licensee from entering the premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by District. Failure to maintain the required insurance may result in termination of this Agreement at District's option. Licensee shall provide certified copies of all insurance policies required above within 10 days of District's written request for said copies.

SECTION 11. EMINENT DOMAIN.

If all or any part of the Licensed Premises shall be taken by or conveyed to any public authority under the power or threat of eminent domain, then the term of this Agreement shall cease to the extent that it relates to the part so taken from the date on which possession of that part shall be taken by such public authority. Any fees or other amounts payable to the District under this Agreement shall be paid up to the date of such possession. If all or a substantial part of the Licensed Premises or Subject Property is taken or sold, such that Licensee, in its reasonable discretion, determines that operation of the Concession Services in accordance with the Management Plan is impractical, then upon such possession, Licensee shall have the right to terminate this Agreement by providing written notice to the District within thirty (30) days after such possession. Licensee shall not be entitled to any portion of any amount paid to the District for any such taking or conveyance.

SECTION 12. ASSIGNMENTS AND ENCUMBRANCES.

- A. **Assignments.** Licensee shall not assign, in whole or in part, its rights, obligations, or interests in this Agreement, or grant any person or entity other than Licensee permission to occupy or use all or any part of the Licensed Premises or Subject Property, without the District's prior written consent. Without limitation, the following shall be deemed to be assignments:
- (i) If Licensee or its successor is a partnership, a withdrawal or change, voluntary, involuntary, or by operation of law, of any general partner, or the dissolution of the partnership, shall be deemed an assignment.
 - (ii) If Licensee or its successor consists of one or more persons or entities, a purported assignment, voluntary, involuntary, or by operation of law, from Licensee or its successor to any other person or entity shall be deemed an assignment.
 - (iii) If Licensee or its successor is a corporation, any dissolution, merger, consolidation, or other reorganization of Licensee, or the sale or other transfer of a controlling percentage of the capital

stock of Licensee, or the sale of more than fifty percent (50%) of the value of the assets of Licensee, shall be deemed an assignment. The phrase “controlling percentage” means the ownership of, and the right to vote, stock possessing more than fifty percent (50%) of the total combined voting power of all classes of Licensee’s capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to (a) corporations the stock of which is traded through an exchange or over the counter; or (b) transfers of stock among the persons, or the siblings, spouses, or children of persons, listed on *Exhibit E*, which persons are the current Owners of stock of Licensee’s parent company.

- (iv) Any assignment that includes the withdrawal, retirement, termination, or transfer of any of the persons listed on *Exhibit F* from Licensee or from Licensee’s operation of the Concession, which persons are considered by the District to be key management personnel.

The District shall withhold its consent to an assignment only if, in its reasonable judgment, it determines that an assignee or replacement proposed by Licensee has not demonstrated adequate and substantial experience successfully providing first-class food, beverage, catering, banquet, party, and event services similar to the Concession Services.

The following shall not be deemed to be assignments:

- (i) Contracts with third parties to provide Concession Services on the Licensed Premises, as Licensee's subcontractors, including food and beverage services and banquet and special event services, provided that such contracts are approved in advance by the District’s Executive Director,
- (ii) Customer Contracts, and
- (iii) Licensee’s pledge of a security interest in Licensee Equipment or in any other asset of Licensee’s business, so long as Licensee does not otherwise encumber, in whole or in part, (a) its rights, obligations, or interests, in this Agreement; (b) the Subject Property; (iii) the Licensed Premises; or (iv) the District Equipment, which encumbrances are prohibited and will be deemed assignments.

C. Unauthorized Assignments, or Encumbrances. Any assignment or encumbrance in violation of this Section shall be void and, at the District’s election, shall constitute a “Default” under Section 16. No consent by the District to any assignment or encumbrance shall constitute a waiver of any provision of this Agreement.

SECTION 13. ENTIRE AGREEMENT.

This Agreement contains all of the agreements of the Parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

SECTION 14. AMENDMENTS.

No provision of this License Agreement may be amended or added to except by an amendment in writing properly approved and signed by the Parties expressing by its terms an intention to modify this Agreement.

SECTION 15. NEGATIVE COVENANTS.

A. Covenants of Licensee. Licensee shall not:

- (i) manage, operate or maintain the Licensed Premises in any manner or for any purpose other than as set forth herein;
- (ii) perform any act or fail to perform any act if an ordinarily prudent person in the position of the Licensee would determine that such act or failure is reasonably foreseeable to cause or result in damage to any person or property, including the Subject Property;
- (iii) abandon the Licensed Premises during the Term of this Agreement; or
- (iv) knowingly use or occupy, or knowingly permit the Subject Property or any part thereof to be used or occupied, for any unlawful, disreputable or ultra-hazardous use, or operate or conduct the Concession Services in any manner that constitutes a nuisance of any kind.

SECTION 16. VIOLATION OF AGREEMENT

A. Default Notice. If Licensee violates any of term or condition of this Agreement, the District may give Licensee a written notice identifying such violation and demanding correction or abatement thereof (a "Default Notice").

B. Termination for Default. The Parties acknowledge and agree that (i) the Concession Services and the terms of this Agreement, including the Management Plan, are intended to be incidental to, and promote, the District's operation of the Licensed Premises and the Subject Property for first class public recreational uses; and (ii) if Licensee fails to comply with this Agreement, including the Management Plan, the Concession Services shall not adequately promote such public recreational uses and, therefore, in the event of such a failure, the District may terminate this Agreement or cure such

failure itself, in accordance with the terms of this Section 16. If, within fifteen (15) days after a Default Notice is served, Licensee has not (i) corrected or abated such violation; (ii) both (a) demonstrated, to the District's reasonable satisfaction, that such violation cannot reasonably be cured during such 15-day period and (b) commenced and diligently pursued a cure of such violation; or (iii) demonstrated, to the District's reasonable satisfaction, that no violation exists, the District has the right to immediately declare a Default (a "Default") of this Agreement and undertake one or more of the following: (i) terminate this Agreement; (ii) cure such Default itself and receive reimbursement from Licensee for any costs incurred thereby; (iii) pursue any and all available remedies; and (iv) take immediate possession of the Licensed Premises, in which case and the Parties shall comply with the provisions of Section 17 regarding surrender of the Licensed Premises.

- C. **Liability for Breach.** Termination for Default or any other reason shall not excuse either Party from any liability for any breach of this Agreement.

- D. **Self-Cure Without Notice.** If Licensee violates any of term or condition of this Agreement, the District may cure such violation without first providing a Default Notice to Licensee, will not have the remedies set forth in Section 16.B.

SECTION 17. CONDITIONS AND SURRENDER OF PROPERTY AND TERMINATION OR EXPIRATION OF AGREEMENT

- A. **Surrender; Removal of Licensee Equipment.** Upon expiration or termination of this Agreement for any reason, Licensee shall (i) surrender the Licensed Premises to the District in good condition, subject to ordinary wear and tear, (ii) remove all Licensee Equipment and supplies belonging to Licensee from the Licensed Premises, (iii) following the removal of Licensee Equipment and supplies, repair any damage or injury to the Licensed Premises occasioned by installation or removal of Licensee Equipment and supplies. If Licensee does not remove Licensee Equipment and supplies within thirty (30) days after the expiration or termination of this Agreement, Licensee shall be deemed to have abandoned to the District the Licensee Equipment and supplies and waived any and all claim for possession of or damages to such. The District may remove such Licensee Equipment and supplies and dispose of it and Licensee shall pay to the District the cost of such removal and disposal.

- C. **Effect on Contracted Events.** If (i) this Agreement expires or is terminated; (ii) Licensee has entered into a Customer Contract to provide Concession Services at an event that occurs after such expiration or termination; and (iii) notwithstanding such expiration or termination, the Customer that is a party to such Customer Contract elects to hold its event at the Subject Property, then the event and the Customer shall be subject to and shall comply with (i) all District policies and procedures; and (ii) any contract between the District and the supplier of any banquet, special event, or other services for the event, that are in effect at the time the event occurs.

SECTION 18. NOTICE.

If a Party is required or allowed to give notice under this Agreement, the Party shall give such notice to the other Party in writing, by (i) registered or certified mail, postage prepaid; (ii) hand delivery; or (iii) by reputable overnight carrier as follows:

- a. If to District: Lake County Forest Preserve District
1899 Winchester Road
Libertyville, IL 60048
ATTN: Executive Director
- b. With a copy to: Burke, Warren, MacKay & Serritella
330 N. Wabash Ave.
Chicago, Illinois 60611
ATTN: Matthew E. Norton
- c. If to Licensee: Relish Catering Kitchen
19 W. Wise Rd. Schaumburg IL 60193
ATTN: John Eggert, Executive Chef/Owner
- d. With a copy to: Porter Law, LLC
389 York Drive
Grayslake, IL 60030
ATTN.: Marc Porter

or at such other address or persons as the receiving Party may from time to time designate by written notice given as provided in this Section. Such a notice shall be deemed to be served (i) if mailed, within three business days after mailing; or (ii) if hand-delivered or sent by overnight carrier, upon receipt by a person at the appropriate address listed above. Nothing in this Agreement will be deemed to invalidate a notice that is actually received.

SECTION 19. ENCUMBRANCES, INVALIDITY, RISK.

- A. **Existing Encumbrances.** This Agreement and all rights granted by it are subject to all easements, rights-of-way, grants, reservations, conditions, leases, restrictions, trusts, and other rights now existing and of record or known to Licensee in, to, under, or over the Licensed Premises for any purposes whatsoever (collectively, "Encumbrances"). Notwithstanding any provision in this Agreement to the contrary, Licensee shall not use or permit the Licensed Premises for any purpose inconsistent with any Encumbrance.

- B. Invalidity.** If this Agreement or any of its provisions are determined to be invalid, unenforceable, or null and void by a court of competent jurisdiction, neither the Licensee nor the District, nor any District commissioner, officer, agent, employee, or attorney, will be liable to any Party or other person or entity for any loss or damage of any nature whatsoever suffered or alleged to be suffered by such Party, person, or entity by reason of such determination. Neither Licensee nor the District shall challenge this Agreement, or any portion of it, on the grounds that the Parties lack statutory or other authority to enter into this Agreement or to exercise any of the rights herein and both Parties hereby waive their rights to make any such challenge.
- C. Assumption of Risk.** Licensee assumes all risks incident to the use or occupation of the Licensed Premises in its present condition or in any condition during the Term, except a condition caused solely by an act or omission of the District.

SECTION 20. ONLY LICENSE RIGHTS GRANTED.

The Parties acknowledge that: (i) this Agreement grants a license to use the Licensed Premises, as set forth in this Agreement; (ii) this Agreement grants only contractual rights and does not grant to the Licensee a leasehold or any real property interest in the Licensed Premises or the Subject Property; (iii) the District shall retain legal possession and control over the Licensed Premises and the Subject Property; and (iv) the Concession Services are intended to be incidental to, and promote, the District's operation of the Licensed Premises and the Subject Property for public recreational uses. Notwithstanding the preceding provisions of this Section 20, if the County Assessor or any other government official or agency determines that the rights under this Agreement create a leasehold interest during the Term of this Agreement and, as a result, an *ad valorem* or any other tax is imposed upon such leasehold, then Licensee shall pay all such taxes. Licensee shall have the right to contest such determination.

SECTION 21. MISCELLANEOUS

- A. No Partnership.** The Parties are not partners or joint venturers with each other and neither Party is the principal or agent of the other Party.

- B. Binding Effect.** Each and all of the covenants, conditions, and agreement herein contained shall inure to the benefit of the District and Licensee and apply to and bind the District and Licensee and their respective assignees, if any. All provisions, whether covenants or conditions, on the part of either party, shall be deemed to be both covenants and conditions.
- C. Captions.** The captions of sections and subsections of this Agreement are for convenience only and do not in any way limit or amplify terms and provisions hereof.
- D. No Waiver.** No waiver by the District at any time of any of the terms and conditions of this Agreement shall be deemed to operate as a waiver of any other terms or conditions contained herein or of the strict and timely performance of such terms and conditions.
- E. Invalidity and Severability.** The invalidity or unenforceability of any provision in this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity or enforceability of any other provision hereof.
- F. Time of Essence.** Except as otherwise specifically provided, time is of the essence in each provision of this Agreement, which specifies a time within which performance is to occur. In the absence of any specified time for performance, performance must be made within a reasonable time.
- G. Force Majeure.** Except as otherwise provided herein, neither party shall be obligated to perform hereunder and neither party shall be deemed to be in Default if performance is prevented by (a) fire not caused by the negligence of either party, tornado, flood, act of God, major mechanical or structural failure, pandemics, epidemics or civil commotion adversely affecting the reasonable management or operation of the Subject Property, or (b) any law, rule, regulation or order of any public or military authority stemming from the existence of economic or emergency controls, epidemics, pandemics, hostilities, war, or a governmental law, shutdowns, or regulation enacted after the Effective Date, but only if such occurrence or the adverse effects of such occurrence are not reasonably foreseeable or avoidable by, and are beyond the reasonable control of, the party claiming force majeure. Notwithstanding anything set forth herein to the contrary, in no event shall this paragraph apply to the payment of any License Fees or other amounts due under this License Agreement.

H. Exhibits. All exhibits referred to are attached to this License Agreement and incorporated by reference.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused their respective names to be hereunto subscribed by their respective proper officers thereunto duly authorized.

WITNESS:

David Stearns David Stearns

CATERING WITH RELISH INC.

By: John Eggert John Eggert

Its: President/Owner

ATTEST:

LAKE COUNTY FOREST PRESERVE DISTRICT

By: _____

Its: Executive Director

EXHIBIT A

The “Subject Property”

EXHIBIT B

The “Licensed Premises”

EXHIBIT B.1

“District Equipment”

EXHIBIT C

“Management Plan”

EXHIBIT D

EXHIBIT E

**“Current Stockholders
of Licensee’s Parent Company”**

EXHIBIT F
“Key Personnel”