

CITY OF CHICAGO
DEPARTMENT OF FLEET AND FACILITY MANAGEMENT
REQUEST FOR PROPOSAL TO OPERATE CONCESSIONS ON
THE CHICAGO RIVERWALK

SPECIFICATION 1293783

The City of Chicago (“City”) Department of Fleet and Facility Management (“2FM” or “Department”) hereby issues this request for proposal (“RFP”), inviting the submission of proposals from food and beverage, retail, recreational, cultural and educational businesses, partnerships or Limited Liability Companies with the qualifications and expertise necessary to operate a concession on the Chicago Riverwalk.

For the purposes of this RFP, “Commissioner” refers to the Commissioner of 2FM. “Respondents” or “Proposers” mean the entities who submit responses to this RFP. The documents submitted will be referred to as “Proposals.”

The City intends to award agreements (“License Agreement(s)”) to successful Respondents (“Licensee” or “Operator”) for available spaces (“Locations”) this year. The term for the agreement is for three (3) years with one possible two (2) year extension. The City currently intends to award one License Agreement for each available Location. Respondents may submit proposals for single or multiple Locations. Riverwalk maps and site descriptions of the Locations are shown in Attachment H to this RFP.

Proposals shall be submitted as a PDF and formatted on 8½” x 11” letter size paper in order to be considered for the award of a License Agreement. A table of contents identifying the requirements with the same sections and numbering scheme as listed below should be utilized to organize the response. Proposals not containing the information as requested may be deemed incomplete. A redacted PDF must be provided and must be labeled “Redacted Proposal.” Proposals should be emailed to chicagoriverwalk@cityofchicago.org

PROPOSALS SUBMITTED IN RESPONSE TO THIS RFP WILL BE ACCEPTED UNTIL:
APRIL 15, 2024
LATE PROPOSALS MAY NOT BE CONSIDERED FOR SELECTION.

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NOTE: All dimensions and configurations shown in Attachment A are approximate and subject to change.

A. THE CHICAGO RIVERWALK

1. Overview

The Riverwalk is a 1.25-mile-long path adjacent to the south bank of the Main Branch of the Chicago River which enhances residents' and visitors' enjoyment of Chicago. The Department envisions a mix of recreational, entertainment, food and beverage and retail facilities on the Riverwalk, creating a vibrant area to be enjoyed by residents, tourists, and visitors alike. It runs parallel to Wacker Drive from Lake Street to Lake Shore Drive. Attachment A shows Locations that will be available for the operations of concessions pursuant to this RFP. The Riverwalk has distinct "districts" that describe and define the character of the space.

The Esplanade District This district of the Riverwalk extends from Lake Shore Drive to Michigan Avenue. It includes the connection to the Lake Front Trail at Lake Shore Drive. It is a pedestrian path surrounded by landscaping with a few concessionaires including Urban Kayaks, Island Party Hut and Boat, the Northman Beer & Cider Garden and Chicago's First Lady Cruises. It neighbors the Lake Shore East community which has many residents. This district is not included in this RFP.

The Civic District

This district is the heart of the Riverwalk and connects the Esplanade District at Michigan Avenue to State Street. Within this District is the Michigan Avenue bridge. The McCormack Bridge House and Chicago River Museum operated by the Friends of the River is within the southwest tower of the Michigan Avenue bridge house. This district also includes the Vietnam Veterans Memorial Plaza between Wabash and State Streets. Current vendors include The Beat Kitchen, O'Brien's Riverwalk Café, Chicago Brewhouse and The Community Marketplace vendors; ChiBoys, ChiBoys Café, Neighborly, Feed Your Head, Chiya Chia and Colores Mexicanos. The locations currently occupied by The Beat Kitchen and Neighborly are included in this RFP as their License Agreements have expired.

The Arcade District

The section of Riverwalk from State Street to Franklin is referred to as the Arcade District. This section was constructed by the Chicago Department of Transportation between 2014 through 2016. Each block was designed to reflect various river typographies named; the Marina, the Cove, the River Theater, the Water Plaza, the Jetty. The stretch is more modern and urban than the Esplanade or Civic Districts. This new addition has energized the Civic and Esplanade Districts and brought a great deal of positive attention to the Chicago Riverwalk as a whole. Current vendors include City Winery, Tiny Tapp & Café, Chicago Water Taxi, Sweet Home Gelato, Downtown Docks, Chicago Electric Boat Company and Chicago Cycleboats. This district is not included in this RFP

The Confluence District

The area between Lake Street and Franklin is known as the confluence where the Main, North and South and Branches of the Chicago River meet. This district is not included in this RFP.

The Concession Program on the Chicago Riverwalk has been very successful. Attachment G shows yearend revenues generated from Concession Program vendors since 2019. Note, there were social distancing and other Covid 19 operating restrictions in 2020. 2021 had the largest revenues since 2FM took responsibility for the Chicago Riverwalk Concession Program in 2015.

The goal of this RFP is to receive proposals from qualified teams who can operate food and beverage, retail, recreational, entertainment, cultural and educational facilities along the Chicago Riverwalk. Examples of possible concessions include but are not limited to: sporting and recreational amenities; food and beverage; retail, particularly of a cultural or environmental nature; entertainment venues showcasing local talent; or any other type of family-friendly concessions. The Department encourages Respondents to propose other ideas to enhance the use and enjoyment of the Riverwalk and Chicago River that are family friendly, aligned with the Riverwalk Guidelines and establish the Riverwalk as a downtown destination. Operation of boat docking will be allowed in specified locations.

2. Concession Opportunity Locations

Opportunities for the operations of concessions are available at two Locations:

Location 1: 65 East Riverwalk South in the Chicago Riverwalk Community Marketplace

Location 2: 91-95 East Riverwalk South, immediately west of the DuSable Bridge on Michigan Ave

A storage area is adjacent to 35 East Riverwalk, in 31 East Riverwalk. Lower Wabash and Lower Wacker is designated as loading area for the Civic and Arcade Districts of the Chicago Riverwalk. (See, Attachment A for greater detail).

Civic District Opportunities:

65 East Riverwalk South - (West of Michigan Avenue)

This section of the Riverwalk has been available since 2019. In order to expand the concessions program and showcase local Chicago owned businesses which highlight the City's rich culture, the Department completed significant infrastructure improvements to expand the pedestrian walkway and allow local businesses to showcase their craft, in pop-up venues. Seven kiosks have been activated since 2019 establishing this corridor as a Riverwalk destination. Each kiosk will be considered a "Location."

91-95 East Riverwalk South - (West of Michigan Avenue)

This area is immediately west of the McCormack Bridge House and Chicago River Museum. Coordination with operations of the McCormack Bridge House and Chicago River Museum is expected from Respondents for this Site.

3. Responsibilities

Location 1: 65 E. Riverwalk South Kiosk A2

Licensee/Operator

The selected Licensee(s) will assume complete responsibility for the development and operations of their Location(s) on the Riverwalk. This location is included in the Chicago Riverwalk Community Marketplace. Kiosk A2 was design for retail operations. These responsibilities may include, but are not limited to the:

- A. Operation of a retail, cultural programming concession

Procure and keep current all required local, state, and federal permits, licenses and certifications for operating a business

B. Furniture, Fixtures and Equipment (FF&E)

- i. Purchase, storage, maintain, repair and replacement
- ii. All FF&E will remain property of the Operator
- iii. Includes, but is not limited to all FF&E used for:
 1. Holding, presenting, receiving, selling, storing and transporting merchandise
 2. All inventory and point of sale equipment
 3. PCs and other office equipment

Cabinets, chairs, (dining and office) display cases, filing cabinets, host/hostess stands and tables

B. Keeping Location in a clean, safe, and attractive condition at all times

C. Audits and Records

- a. Audits: On an annual basis, prepare and provide to the City a year-end balance sheet, statement of profit or loss, and statement of cash flows for the preceding fiscal year. This audit will also include a certification of operating revenues and expenses, and net operating income for that fiscal year. This information will be delivered to the City no later than March 1 of the following year and will be prepared in accordance with GAAP. This information must be accompanied by an independent auditor's report prepared by an independent certified public accountant licensed by the State of Illinois. In addition, provide to the City internal auditor all books, records, procedure manuals, etc. when requested.
- b. Records: The Operator, its vendors, subcontractors and affiliates shall keep records relating to their operation of the Location. All records will be made available to the City upon request.

D. Accounting

- a. Maintain full, accurate, and complete financial and accounting books, records and reports regarding the design, build-out, and operation of the Location. Maintain all records and accounting in accordance with GAAP.
- b. Financial calendar is (January 1- December 31)
- c. All financial and accounting books, records, and reports will be made available to the City within 15 days of request

E. Reporting

- a. Keep current and accurate reports regarding the design and build-out of the restaurant and concession kiosk
- b. Keep current and accurate reports regarding the operation of the concession
- c. All reports will be made available to the City within 15 days of request
- d. Monthly revenues reports are required during the season.

F. Personnel

- a. Select, hire, train, furnish, deploy, discipline, discharge, and supervise all employees, agents, subcontractors, and independent contractors deemed necessary or advisable by the Operator in order for the Operator to perform the services. Also, the Operator will assume full responsibility for the actions of all personnel and shall be solely responsible for their supervision, daily direction and control, remuneration, severance pay and claims, withholding taxes, insurance, social security licenses, and all other actions related to the Operator's services. Further, all personnel provided by the Operator will be deemed to be employees of the Operator and will not for any purpose considered employees of the City.

- b. Comply with all applicable laws concerned with the hiring and employment of personnel, including the Federal and State of Illinois Equal Employment Opportunity Regulations, and the prevailing wage rate statutes.
- c. Perform background checks on all employees including criminal background checks, a check against the national sex offender database, fingerprinting, and such other checks as may be required by applicable law.
- d. All personnel records, reports and background checks will be made available to the City within 15 days of request

Location 2: 91-95 E. Riverwalk South

Licensee/Operator

The selected Licensee(s) will assume complete responsibility for the development and operations of their Location(s) on the Riverwalk. These responsibilities may include, but are not limited to the:

G. Operation of restaurant or facility

- a. Procure and keep current all required local, state, and federal permits, licenses and certifications for the cooking, dispensing, handling, preparation, presentation, sale, services, and storage of food, beverages, (alcoholic and non-alcoholic), and merchandise
- b. Cook, dispense, handle, prepare, present, purchase, receive, sell, store, and transport all food, beverages (alcoholic and non-alcoholics), and merchandise
- c. Procure and keep current insurance required to handle, sell, serve, and store beer, wine and liquor.
- d. Maintenance-cleaning, repairing, maintaining and replacing all:
 - i. Doors (exterior and interior)
 - ii. Floors
 - iii. Furniture, fixtures and equipment
 - iv. Electrical systems
 - v. Exteriors walls, finishes and attached elements (e.g. awnings, canopies, lighting etc)
 - vi. Fire and life safety systems
 - vii. Interior walls, partitions and finishes
 - viii. Lighting
 - ix. Mechanical systems
 - x. Plumbing infrastructure and fixtures in all areas within Location
 - xi. Security systems
 - xii. Telecommunications
 - xiii. Utilities
 - xiv. Windows and glass (exterior and interior)
 - xv. Other interior elements and infrastructure
- e. Custodial service
 - i. Keeping Location in a clean, safe, and attractive condition at all times
 - ii. Cleaning all areas within the Location, including washrooms
 - iii. Cleaning all signage
 - iv. Replacing all light bulbs within Location
 - v. Debris, dirt, garbage, litter, trash, and waste removal, including debris, dirt and waster that migrates from the location to the public path
 - vi. Proper collection, storage, disposal, and recycling of waste

- vii. Pest control
 - viii. Power washing
 - ix. Graffiti removal
 - x. Supplying and replenishing all washrooms and with soap, soap dispensers and paper products and doing the same in any other area where these items may be used (e.g. kitchen, locker room, etc)
- f. Landscaping- purchase, maintain, and replacement within the Location
- g. Furniture, Fixtures and Equipment (FF&E)
- i. Purchase, storage, maintain, repair and replacement
 - ii. All FF&E will remain property of the Operator
 - iii. Includes, but is not limited to all FF&E used for:
 1. Cooking, dispensing, holding, preparing, presenting, receiving, selling, serving, storing, and transporting all food and beverages (alcoholic and non-alcoholic)
 2. Holding, presenting, receiving, selling, storing and transporting merchandise
 3. Washing equipment
 4. All inventory and point of sale equipment
 5. Security and surveillance
 6. PCs and other office equipment
 7. Cabinets, chairs, (dining and office) display cases, filing cabinets, host/hostess stands and tables
 8. Dishware, glassware, service ware and utensils
- h. Utilities- installation, maintenance, monthly service fees and any other fees associated with all utilities including
- i. Cable television
 - ii. Electricity
 - iii. Fire and life safety systems
 - iv. Gas
 - v. Internet
 - vi. Security systems
 - vii. Sewer (including drains and grease traps)
 - viii. Telecommunications
 - ix. Water
 - x. Wi-Fi
- i. Security personnel as necessary to secure location equipment, staff and guests
- j. Installation, purchase, maintenance, repair, replacement, and storage of
- i. Signage (e.g. attached to the exterior walls, not attached to the exterior walls, stickers on glass etc.) All signage must be pre-approved by the Department.
 - ii. Menu boards
 - iii. Exterior decorations, displays, and other accessories (e.g. holiday displays, strings of exterior lighting, etc)
 - iv. All signage, menu boards and exterior decoration, displays and other accessories must be approved by the Commissioner

H. Audits and Records

- a. Audits: On an annual basis, prepare and provide to the City a year-end balance sheet, statement of profit or loss, and statement of cash flows for the preceding fiscal year. This audit will also include a certification of operating revenues and expenses, and net operating income for that fiscal year. This information will be delivered to the City no later than March 1 of the following year and will be prepared in accordance with GAAP. This information must be accompanied by an independent auditor's report prepared by an independent certified public accountant licensed by the State of Illinois. In addition, provide to the City internal auditor all books, records, procedure manuals, etc. when requested.
- b. Records: The Operator, its vendors, subcontractors and affiliates shall keep records relating to their operation of the Location. All records will be made available to the City upon request.

I. Accounting

- a. Maintain full, accurate, and complete financial and accounting books, records and reports regarding the design, build-out, and operation of the Location. Maintain all records and accounting in accordance with GAAP.
- b. Financial calendar is (January 1- December 31)
- c. All financial and accounting books, records, and reports will be made available to the City within 15 days of request

J. Reporting

- a. Keep current and accurate reports regarding the design and build-out of the restaurant and concession kiosk
- b. Keep current and accurate reports regarding the operation of the concession
- c. All reports will be made available to the City within 15 days of request
- d. Monthly revenues reports are required during the season.

K. Personnel

- a. Select, hire, train, furnish, deploy, discipline, discharge, and supervise all employees, agents, subcontractors, and independent contractors deemed necessary or advisable by the Operator in order for the Operator to perform the services. Also, the Operator will assume full responsibility for the actions of all personnel and shall be solely responsible for their supervision, daily direction and control, remuneration, severance pay and claims, withholding taxes, insurance, social security licenses, and all other actions related to the Operator's services. Further, all personnel provided by the Operator will be deemed to be employees of the Operator and will not for any purpose considered employees of the City.
- b. Comply with all applicable laws concerned with the hiring and employment of personnel, including the Federal and State of Illinois Equal Employment Opportunity Regulations, and the prevailing wage rate statutes.
- c. Perform background checks on all employees including criminal background checks, a check against the national sex offender database, fingerprinting, and such other checks as may be required by applicable law.
- d. All personnel records, reports and background checks will be made available to the City within 15 days of request

Role of The City

The City intends to award a License Agreements for each Location. The Department will oversee Riverwalk activities on behalf of the City, and coordinate on behalf of the Licensee(s) with other City departments on

matters from regulatory compliance and permitting to programming events and other activities. Site Improvements criteria and construction Procedures for the Location(s) are explained in Attachment E.

- A. Maintenance and repair of:
 - a. The Riverwalk pathway
 - b. Riverwalk landscaping
 - c. Stairway between the Riverwalk and Upper Wacker Drive
 - d. Public restrooms
 - e. Public seating areas
 - f. Fountains
 - g. Path lighting
 - h. Storage area at Wabash
 - i. Parking at Wabash
- B. Snow removal and de-icing of the path and stairways
- C. Not unreasonably withholding any required approvals
- D. Flood clean-up and restoration
- E. Trash in common areas

B. SUBMISSION, SELECTION AND CONTRACTING PROCEDURES

Respondents who are able to demonstrate experience and expertise in the operations of concessions that provide food and beverage, retail, recreational, cultural or educational services are encouraged to respond to this RFP. Respondents that include significant capital improvements must also demonstrate their experience with the design and construction of concession space. Respondents should explain how they will design and if applicable, build out the Location and how the services being offered will create desire for people to visit the Riverwalk.

1. Schedule

The City has adopted the following schedule for the submittal of Proposals in response to this RFP:

March 8, 2024	Advertise RFP
March 20, 2024	Pre-submittal Meeting
March 22, 2024	Deadline for written questions by 4:00 p.m.
April 15, 2024	Due Date for proposals at 12:00 p.m.

2. Proposal Due Date and Time

Proposals shall be submitted as a PDF and formatted on 8½” x 11” letter size paper in order to be considered for the award of a License Agreement. Respondents must submit their Proposals no later than **12:00 p.m. April 15, 2024**. Late proposals may not be considered for selection.

3. Proposal Submittal Delivery

Proposals shall be submitted as a PDF and formatted on 8½” x 11” letter size paper in order to be considered for participation. A table of contents or tabs with the same sections and numbering scheme as listed below should be utilized to organize the response. Proposals not containing the information as requested in this section may be deemed incomplete. A redacted PDF must be provided and must be labeled “Redacted Proposal.” The original proposal must be clearly marked “Original.” Proposals should be emailed to chicagoriverwalk@cityofchicago.org

4. Transparency

Consistent with the City's practice of making available all information submitted in response to a public procurement, all proposals, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to the City as part of negotiation of a contract or other agreement may be made publicly available through the City's Internet website or upon request.

Respondents may designate those portions of the Proposal which contain trade secrets or other proprietary data ("Data") that Respondents desire remain confidential.

To designate portions of the Proposal as confidential, Respondent must:

1. Mark the cover page as follows: **"This Proposal includes trade secrets or other proprietary data." The cover must indicate that it is a redacted copy, and if entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Respondent must also submit an explanation as to why information is being redacted.**
2. Mark each sheet or Data to be restricted with the following legend: **"Confidential: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Proposal."**
3. Provide a redacted copy of the entire Proposal or submission in PDF format for posting on the City's website, with a separate cover letter identifying the basis for claiming each item of redacted information as exempt from disclosure under the Illinois Freedom of Information Act. Respondent is responsible for properly and adequately redacting any Data which Respondent desires remain confidential. **The cover must indicate that it is a redacted copy, and if entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Respondent must also submit an explanation as to why information is being redacted.** Failure to provide a CD-ROM or flash drive with a redacted copy may result in the posting of an un-redacted copy.

Indiscriminate labeling of material as "Confidential" may be grounds for deeming a Proposal as non-responsive.

All Proposals submitted to the City are subject to the Freedom of Information Act. The City will make the final determination as to whether information, even if marked "Confidential," will be disclosed pursuant to a request under the Freedom of Information Act or valid subpoena. Respondent agrees not to pursue any cause of action against the City with regard to disclosure of information.

4. Pre-Proposal Meeting

The Department will conduct a Pre-Proposal meeting on March 20, 2024 at **2 North LaSalle Street Mezzanine Level**. All interested parties are welcome to attend. City representatives will describe the program and answer questions that were emailed prior to and during the pre-proposal meeting. Respondents are to rely solely upon this RFP and any subsequent addenda in preparing their proposals; statements made at the Pre-Proposal meeting are not binding upon the City. The City also strongly encourages Respondents to visit the Riverwalk prior to attending the Pre-Proposal conference. Register to attend the pre-proposal meeting by emailing your name, name of your business, and telephone number to chicagoriverwalk@cityofchicago.org no later than 4:00 p.m. March 19, 2024. Walk-ups may not be permitted to enter the building. A confirmation email will be sent including the name of the specific conference room.

Interpretation and Questions Regarding the RFP

Attendance at the Pre-Proposal meeting is not mandatory. Should you require an interpretation or clarification of the RFP outside of the pre-proposal meeting, you must submit your question(s) via e-mail to: ChicagoRiverwalk@cityofchicago.org with the Subject: Request for Proposals Spec #1293783.

Only e-mailed questions will be accepted and questions must be submitted prior to March 22, 2024. Written answers to the questions, as well as any clarifications, interpretations or changes to the RFP, will be provided in one or more addenda to the RFP. Addenda will be transmitted directly to Respondents that have registered as holders of this RFP. Register by sending contact information to ChicagoRiverwalk@cityofchicago.org. Please be advised that you are not to rely on any explanation, clarification, interpretation, approval or answer made or given in any manner by any representative of the City other than a written addendum to this RFP. You must register in order to receive answers to written questions and any addenda that may be submitted for the RFP.

6. City's Right to Cancel, Reject or Reissue this RFP

The City reserves the right to reject any or all Proposals, to invite new proposals or take such other course of action as the City deems appropriate at the City's sole and absolute discretion. More specifically, the City reserves the right to:

- Waive any informality in any Proposal or proposing procedure.
- Reject any portion(s) of a Proposal.
- Reissue the RFP with or without modification.
- Modify the offered space.
- Select multiple Proposals.
- Conduct simultaneous, competitive negotiations with two or more Respondents.
- Negotiate all Proposal elements.

Any one or more of the following causes may be considered sufficient for rejection of a Respondent's Proposal regardless of Respondent's qualifications with respect to the other Evaluation Criteria set forth in Section E below:

- Evidence of collusion among Respondents.
- Non-responsiveness as determined by the City in its sole judgment and discretion.
- Default or arrearage on any contract or obligation with the City or other government entity, including debt contract, as surety or otherwise.
- Submission of a Proposal that is incomplete, conditional, ambiguous, obscure, or containing alterations or irregularities of any kind.
- Submission of a concession, attraction or programming concept determined by the City, in its sole discretion and judgment, to be inconsistent with the goals and objectives of the Riverwalk program.
- Evidence of improper lobbying efforts toward members of City Council and/or officers or employees of the City.
- Failure to comply with the terms and conditions of this RFP.

This list of causes is not exhaustive, and the City reserves the right to reject any Proposal in the City's sole and absolute discretion:

7. Consent to Review and Verification

The City's determination of a Respondents' responsibility, responsiveness and qualification will be based on information provided by the Respondent in its Proposal, including its Economic Disclosure Statement and Affidavit ("EDS") (if and as requested by the City), interviews (if any) and other sources that the City deems pertinent to the assessment and verification of the information provided by the Respondent. A contract will not be awarded until the City has completed such assessment and verification. By submitting its Proposal, Respondent agrees to permit and cooperate with any such assessment and verification.

8. Interviews of Respondents

The City may, at its discretion, schedule one or more interviews with any Respondent to discuss specific issues related to a Proposal. The City will determine the dates and times of such interviews and Respondents will be given reasonable notice.

9. Costs of Proposals

All costs incurred by Respondents in preparation of its Proposal and participation in the procurement process through the award of a contract, if any, will be borne by the Respondents. The City is not responsible for any Respondent costs associated with this RFP.

10. Ownership of Proposals

All Proposals and any supplementary material that may be provided by Respondents or requested by the City will become and remain the property of the City.

11. Award and Execution of a Contract

The City intends to enter into a License Agreement with a qualified and responsible Respondent who, in the City's sole judgment, provides the best overall Proposal for a particular location. The City is not required to select the Proposal with the highest projected compensation to the City. The City will select a Proposal based on all factors as described in Section E. Evaluation Criteria.

All timely responses to this RFP will be reviewed and evaluated by an evaluation committee appointed by the Commissioner, which will recommend to the Commissioner Respondent(s) for tentative award of a contract. Upon the Commissioner and Budget Director's concurrence, Commissioner has the authority by City Council to execute one or more License Agreements.

12. Disclaimer

The information contained in this RFP, including any attachments, exhibits, appendices and addenda that may be issued, is provided to assist prospective respondents in the preparation of Proposals. Respondents should satisfy themselves by personal investigation or such other means as may be necessary with respect to the conditions affecting this opportunity. The information provided in this RFP has been obtained from sources thought to be reliable, but the City and its elected officials, officers, employees, agents and contractors are not liable for the accuracy of the information or its use by prospective respondents.

13. Title VI Solicitation Notice

The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all Proposers that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be

afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. KEY BUSINESS TERMS AND GENERAL CONDITIONS

1. Term of Concession Operations

A three-year term with one possible two-year extension is available for Locations. Submissions with longer terms proposed will not be considered.

The City intends to award the contracts as quickly as possible to allow site modifications and preparation projects to allow operations to begin in summer 2024.

2. Compensation

In consideration of the rights and privileges to be granted to the selected Respondent by the City, the selected Respondent will pay a fee (“Concession License Fee”) to the City in accordance with the terms and conditions of the License Agreement. The Concession License Fee means all amounts payable by selected Respondent as set forth in the License Agreement, including but not limited to the Minimum Annual Guarantee and the Supplemental Revenue Fee.

Minimum Annual Guarantee (“MAG”)

The MAG is the total annual amount proposed to be paid to the City for the year by the Respondent for use of the necessary space on the Riverwalk for its operations, which will be paid in installments during the term of the License. Respondent is required to propose a MAG based upon a dollar amount per square foot for use of the Location or provide an explanation on how the Minimum Annual Guarantee being proposed was derived. MAG will be due quarterly.

Supplemental Revenue Fee

The Supplemental Revenue Fee is in addition to the MAG and should be expressed as a percentage of gross revenues generated from the Location. The actual compensation and calculations thereof are based on the selected Respondent’s Proposal and are subject to negotiation as further described below.

The percentage will be applied to the actual annual gross revenues for the Location and shall be calculated annually and paid to the City by January 31 of the following year, allowing time to calculate the annual gross revenues. In the Proposal, the Respondent must include an explanation of how the specific gross revenues were estimated for the Location.

License Agreements will require the Licensee to provide a certified financial statement each year to verify the annual gross revenue and the corresponding Supplemental Revenue Fee due. The last installment of the Supplemental Revenue Fee would then be paid upon final invoicing by the City. Proposals that include year-round operations will be required to provide a certified financial statement from a CPA no later than February 15 for each year of the license agreement. These dates can be negotiated for the License Agreement; however, the City prefers to finalize the end of year accounting and receive the Concession License Fees prior to December 31 of each year in order to be compliant with reporting requirements of the federal government.

The MAG and Supplemental Revenue Fee must be proposed, either typed or hand-printed in ink, in the Proposal form, as required in Attachment B. Respondent must indicate the corresponding Location number(s) and provide separate proposal forms if it is submitting a proposal for multiple Locations.

Improvement Plan

Respondent must also provide an estimate of improvement costs being proposed to prepare the site, if applicable, along with an approximate construction schedule. Improvements made by the Respondent that cannot be removed at the end of the term of the License Agreement will become the property of the City of Chicago.

Attachment B Compensation should be completed and submitted with the Proposal. Proposals that have an incomplete Attachment B may be deemed non-responsive.

3. Operations and Maintenance

Operating Hours

Consistent with City public park hours and Section 10-36-145 of the Municipal Code of the City of Chicago, the City expects the Riverwalk to be open to the public from 6 am to 11 pm, 7 days a week, 365 days a year, with seasonally appropriate concession operating hours. Operators will be required to commit to a specific schedule of operating hours. Operators are required to be open no later than Memorial Day and remain open until October 31, unless other dates are approved by the Commissioner. There are dates when the Riverwalk is closed to the public for safety reasons and vendors are not permitted to operate which include New Year's Eve and the annual river dye event. For 2024, the goal is to have both available Locations in operation no later than July 4, 2024.

Operational Requirements

Operational requirements for the facility will include, but not be limited to the following:

The City expects that concessions will be offered seven days a week throughout the Season. Hours of operations are specific to the concession being offered and will be listed individually in each specific License Agreement.

The City will provide landscaping maintenance, janitorial services, cleanup in the event of flooding, and trash collection in the common areas.

The Licensee(s) will maintain their Location on the Riverwalk, all equipment and other personal property neat, clean, in good order and good operating condition. The Licensee will ensure that the facility is always clean attractive and sanitary. The Licensee is expected to secure their site and items contained within the site.

Trash collection and disposal will also be the responsibility of the Licensee. The City has high standards for its public spaces and wants to ensure good working order of the included amenities. For the Riverwalk to be appealing to the public, it must be clean and safe.

Proposals that include entertainment to activate the space will be considered for Location 2. However, programming activations should consider the entrance and operations of the McCormack Bridge House and Chicago River Museum operated by the Friend of the Chicago River. Performances must be completed by 8:30 P.M. in accordance with Chicago Municipal Code section 4-60-074: "No Riverwalk Venue licensee shall

broadcast music, announcements or other disruptive sounds or offer live music or entertainment between 8:30 P.M and 11:00 A.M.”

Storage and Delivery

On-site storage will be limited, although opportunities for the development of storage and back-of-the-house space along the Riverwalk will be discussed during negotiations with selected Respondents. Attachment A shows delivery locations. For Locations within Phase 1 east of Michigan Avenue, Lowest Level Wacker Drive is an area for temporary loading and unloading of materials and supplies. For Locations west of Michigan Avenue, there is space as shown in Attachment A for temporary parking and loading and unloading of materials and equipment between Michigan Avenue and Wabash Avenue.

Parking

Customer and employee parking is not available but there are many paid parking structures in the area.

Public Access

An eight-foot wide, ADA-accessible, continuous walkway must be always maintained for the entire length of the Riverwalk that the Riverwalk is open to the public except as authorized by the Commissioner.

Reporting Requirements

Licensee must comply with City reporting requirements, including but not limited to: estimated customers (both paying and non-paying), sales and revenue reports, and average retail sales. Monthly reports will be required by the City and submitted with monthly MAG payments.

Construction Projects and Build Out

The available areas within the Riverwalk are “as is” condition. Capital Construction Projects and Build Out are not anticipated. Site improvements are expected and can be included in the Proposal.

Minimum Wage

In September 2014, Mayor Rahm Emanuel signed an executive order that requires all holders of City concessions agreements executed after October 1, 2014, to pay their employees performing work on City property (with certain exceptions) a minimum wage of \$13.00 per hour; this hourly wage increases annually every July 1st in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

When an employer takes an allowance for gratuities pursuant to 820 ILCS 105/3(c), the employer shall base the calculation of amount to be paid by the employer to the employee on the minimum wage as set out in 820 ILCS 105/3 and add \$1.00 per hour to that amount. As of July 1, 2015, the amount to be paid with the gratuity allowance is \$5.95 per hour. Every July 1st this hourly wage increases in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor.

All Licensees will be expected to comply with the Executive Order. For more information see: <http://chicityclerk.com/council/exec.php>

4. Utilities

The Respondent may propose to connect into or extend the utilities to any of its Location within Riverwalk. Utilities for Location 2 are intended to be separately metered. The Licensee must comply with all applicable building code requirements and must obtain any required permits. Proposals should clearly indicate if their proposed operations require separate equipment specifically related to their particular operations. Connections will need to be made for all applicable utilities including but not limited to; electric, natural gas, water and telecommunications, and this is the responsibility of the Licensee.

Proposals that include connections to natural gas will be viewed favorably and are preferred over the use of propane. Propane has historically been permitted but is discouraged.

Respondent is responsible to pay for all utilities necessary for the operation of the Riverwalk. The City makes no promise on the availability of utilities at any location within the Riverwalk.

5. Compliance with Public Accommodation Laws

The Licensee must comply in all respects with applicable building codes, laws, and regulations regarding non-discrimination in public accommodations and commercial facilities including, without limitation, the requirements of the Civil Rights Act of 1964 ("Civil Rights Act") and the Americans with Disabilities Act of 1990 ("ADA"), as amended, and all regulations, Executive Orders, and federal guidance issued to implement the Civil Rights Act and the ADA.

An eight-foot wide, ADA-accessible, continuous walkway must be maintained for the entire length of the Riverwalk at all times that the Riverwalk is open to the public except as authorized by the Commissioner. Additionally, the Licensee's area of business must be ADA accessible.

6. Insurance Requirements

The License Agreement will require that the Licensee maintain workers' compensation, commercial liability (including product liability), automobile liability and builder's risk insurance throughout the term of the License Agreement. Coverage must be sufficient and appropriate for intended purposes of Riverwalk; the City, in its sole discretion, will determine the minimum levels of coverage required. All insurance policies will name the City as an additional insured on a primary non-contributory basis.

D. PROPOSAL REQUIREMENTS

Overview

Hard copies of the Proposals must be bound; all versions of the Proposals must include the following items organized and tabulated in the order stated below:

1. Cover Letter and Executive Summary stating the site being proposed
2. Site Specific Concessions Operations Plan
3. Qualifications and Experience Statement- including 3 Professional References
4. Compensation Schedule Including Projected Annual Sales, Net Income and Cash Flows
5. Opinion of Legal Counsel
6. Statement of No Exceptions to License Agreement
7. Executed Proposal Affidavit
8. Business Information Statement
9. EDS Certificate(s) of Filing
10. Financial Statements from the previous 3 years

1. Cover Letter- Executive Summary

- A. Outline the number of years Respondent has been in business and identify Respondent's legal name, its headquarters address, its principal place of business, its legal form (i.e., corporation, joint venture, partnership, etc.), the names of its principals or partners, and whether Respondent is authorized to do business in the State of Illinois. If Respondent is a business entity comprised of more than one (1) legal entity, Respondent must identify all legal entities so comprising Respondent; it must identify each entity's respective ownership percentage of Respondent; and Respondent must summarize the role, degree of involvement and experience of each such separate entity; if the Respondent is a new team being assembled for the purpose of responding to this RFP, describe how the various members of the team will coordinate to achieve the City's goals for the Riverwalk;
- B. Indicate the name, mailing address, email address, and telephone number(s) of the principal contact for oral presentation or negotiations;
- C. Explain its understanding of the City's intent and objectives and its approach to achieving those objectives;
- D. Provide a brief summary of the qualifications, experience and background of the team and its committed Key Personnel;
- E. Respondent must identify any exceptions or objections it has to the City's sample License Agreement ("LA"), a copy of which will be provided in Attachment F to this RFP. The City may from time to time revise the LA; because of the short term of the Season, any changes are not anticipated. The City will not accept or entertain any exceptions or objections to the LA at any time after Proposal submittal except and only to the extent the City subsequently makes a material change to a substantive provision of the LA.

Respondents, including any individuals or entities that are partners or members in a joint venture, LLC or other business organization submitting a Proposal must complete the EDS on-line and include their certificate of filing with the Proposal, or filed online, or complete the EDS if files in paper format. If Respondent is a limited liability company, a copy of the operating agreement signed by an authorized member or manager of the limited liability company must be attached. Each member of the limited liability company must execute a separate EDS. In addition, the City may require additional EDS documentation from any entities involved in the operation.

Note that the EDS forms are to be included in the Proposal.

2. Site-Specific Concession Operations Plan

For each Location that the Respondent proposes to operate, it must provide; a site design plan with total square footage indicating the footprint to be occupied, a list of operational requirements, including utilities, and also a location/area specific operations plan which includes documentation that describes Respondent's plans for providing food & beverage, recreational, cultural and/or educational concessions.

This section should include, but is not limited to, the following:

- A. Concession
 - Detailed description and explanation of the service of concession being proposed for the Location, including sample menu and description of proposed entertainment schedule and anticipated prices.
 - Explanation of how the Proposal provides a unique Chicago experience on the Chicago River.
 - Explanation of how the programming described in the proposal will draw people to the Riverwalk and assist the City in creating the Riverwalk as a desired downtown destination.

- B. Concession Look -Design and Construction
 - Site plan, including square footage, elevations, and concept renderings of the build-out of the restaurant and show concession layout.
 - Cost estimate for all site improvements being proposed, if applicable.
 - Design plan of site with proposed concession, including detailed description of look and feel especially in context with Riverwalk District and the Guiding Principles in Attachment B. Include a detailed description of any capital improvements.
 - Description of furniture and any amenities being brought to the site that will complement the daily operations of the concession being proposed.

- C. Implementation Plan
 - Improvements Respondent will make to prepare the location for operations, include estimated cost
 - Construction schedule for each of the improvements
 - Anticipated date to begin operations
 - Local hiring plan for staff
 - Proposed schedule for set-up prior to beginning operations explanation of anticipated schedule of seasonal operations.

- D. Operations Plan
 - Explanation of year-round or seasonal operations
 - Hours of Operation
 - How the concession being proposed will activate the space, including entertainment.
 - Anticipated schedule of deliveries
 - List of daily, weekly and monthly needs from City.
 - Explanation of how the concession complies with Guiding Principles in Attachment B.
 - Explanation of how the concession enhances Riverwalk experience and is consistent with the aesthetic and historic nature of the site and Riverwalk District.

- E. Green-Sustainability Plan

- Development and implementation of an environmentally friendly plan of daily operations, including but not limited to recycling program.
- Maintenance of the Location in an orderly, clean and safe fashion and a plan that makes use of environmentally friendly methods of operations, cleaning and activities in order to protect the Chicago River and its wildlife.
- Landscaping where possible that provides a strong feeling of nature and greenery in an urban context to supplement existing landscape of the Riverwalk.
- Explanation of other sustainable opportunities for, operations, programming etc.

4. Qualifications and Experience Statement

Respondents must clearly demonstrate relevant experience in the operation and management of concessions in similar facilities to the Chicago Riverwalk, waterfronts, parks, publicly accessible open spaces and other recreational, cultural, educational designations etc. (“Services”). If applicable, reference should be made to meeting challenges and conditions at the Riverwalk or similar to those at the Riverwalk, e.g. seasonal operations, limited access routes, temporary facilities, etc. Respondents must describe their qualifications and specialized experience necessary to provide the Services. This description should also include the proposed organizational structure, lists of key personnel and description of all personnel who will provide the Services. Specific experience and resumes of the individuals who will be directly involved in the daily operations of concessions on the Riverwalk are also requested.

Please provide at least three (3) references that are familiar with Respondent's current operations. The City prefers that Respondents provide individuals that are the Respondent’s primary contact for day-to-day issues in their operations. The format for references is provided in Attachment X.

5. Compensation Schedule

Please complete the forms provided as Attachment B- Compensation Schedule.

6. Projected Sales, Projected Expenses, Net Income and Cash Flow Statements

The historical information of revenues generated since 2019 is provided in attachment G

Respondents are to provide a good faith estimate of the expected annual gross sales, cost of sales, operating expenses, net income and cash flow for the relevant Season.

Respondents are encouraged to include any data available or projections on how their proposal can provide an indirect financial benefit to the City.

7. Opinion of Counsel

The opinion of Respondent's legal counsel must state whether any litigation is pending or contemplated that could affect the Respondent's ability to implement its Proposal.

9. Conflicts

If applicable, Respondent must provide a statement and information regarding conflicts of interest as described in the Evaluation Criteria. This information will not be counted against the page limit of the proposal.

10. Exceptions

If you take exception to any requirements of this RFP, including its attachments, please provide them at the tab indicated. Please provide the requirement, nature of the exception and explanation. Exceptions will

be considered in the evaluation of the Proposals. Acceptance of a Proposal does not connote agreement to any exceptions stated by a Respondent but does indicate the City's desire to reach mutually agreeable terms through negotiation. **The City will not accept any exceptions to any requirements set out in this RFP during contract negotiations that were not raised in the Proposal.**

11. Proposal Affidavit

The form of the affidavit is provided in Attachment D. Respondent must include an executed Proposal Affidavit with its Proposal acknowledging that: a) Respondent has received all sections and materials comprising the RFP, including any addenda; b) the Proposal is based on all of the terms and conditions stated in the RFP; and c) the Respondent agrees to develop and operate concessions on the Riverwalk in the manner stated in its Proposal. Alterations, additions or any other modification to the form of the Proposal Affidavit will not be accepted and may result in rejection of the Proposal.

12. Economic Disclosure Statement and Affidavit ("EDS")

The Business Information Statement does not supplant, supersede or otherwise replace the EDS required by the Chicago Municipal Code and Illinois statute. Respondents, including any individuals or entities that are partners or members in a joint venture, LLC, or other business organization submitting a Proposal must complete the EDS on-line and include their certificate of filing with the Proposal, if filed online, or complete EDS if filed in paper format.

The on-line EDS is found at:

http://www.cityofchicago.org/city/en/depts/dps/provdrs/comp/svcs/economic_disclosurestatementseds.html

For the purposes of completing an EDS for this RFP, the "Requesting Department" should be 2FM.

Proposers have an ongoing obligation to update the EDS throughout the evaluation period until award, and if awarded a concession License, throughout the term of the License.

13. Financial Statements

Respondents must submit the following financial statements to the City; Complete financial statements including a balance sheet, income statement and statement of cash flows, prepared in accordance with generally accepted accounting principles, for the most recent three (3) complete financial statements. Footnote disclosures must accompany the year-to-date financial statements. If available, financial statements audited or certified by an independent certified public accountant should be provided; otherwise, a notarized statement certifying the accuracy of the financial information and signed by an officer of the proposing entity must accompany the financial information.

If the proposing entity is a subsidiary of another entity, then the financial information described in the preceding paragraph must be provided for the parent entity.

For Respondents who organize or intend to organize as a corporation, partnership, LLP, LLC or joint venture specifically to respond to this RFP, complete financial information as described above must be submitted for each majority-in-interest partner, LLC/LLP member, joint-venture partner or shareholder.

The City reserves the right to obtain, at its own expense, a Dun and Bradstreet report or other credit report on Respondent, its partners, affiliates and team members, to facilitate financial evaluation of the Proposal.

14. Insurance

Selected Respondent will be required to submit evidence of insurance in the amounts specified in the attached Attachment C. Additional insurance may be required based upon the nature of the proposal.

E. EVALUATION CRITERIA

All Proposals will be reviewed and evaluated by an Evaluation Committee appointed by the Commissioner. The Evaluation Committee will make a recommendation to the Commissioner regarding award of the Agreement to a qualified Respondent that offers the most favorable Proposal to the City for any Location or Locations. However, this RFP does not obligate the City to fill all Locations and the City may issue a new RFP for some or all Locations if it determines that doing so is in the best interest of the City. Upon concurrence by the Commissioner and the Budget Director, the City will enter into contract negotiations with that Respondent. In the event that the City and the selected Respondent are unable to conclude negotiations on the terms and conditions of the License Agreement, the City may initiate negotiations with another Respondent offering the next most favorable Proposal for such Location (s) as determined by the City.

The City reserves the right to seek additional information from any or all Respondents responding to the RFP including, without limitation, meeting with one or more Respondents. The City also reserves the right to identify finalists and conduct interviews of those finalists prior to recommendation by the Evaluation Committee. The specific evaluation criteria are listed below.

Site Specific Concession Operations Plan

10 points

The Committee will consider the Respondent’s proposed plan of operations and amenities proposed for the Location, including:

- The ability of the types of services offered to enhance residents’ and visitors’ enjoyment of the Riverwalk by creating a vibrant area.
- Food and beverage, recreational, cultural and education services or retail being proposed that provide an experience that are unique and along with the Guiding Principles of the Riverwalk.
- Schedule of entertainment included as an additional amenity to regular operations.
- Hours of operation being proposed to activate the space.
- The fees it proposes to charge the public, if any.
- Promotion of tourism resulting from operations.
- The aesthetics of the proposed amenities to develop the Location.
- The quality and creativity of the Respondent’s plan for the development of the Location.
- The quality, creativity and thoughtfulness of the proposed site improvements, including capital improvement which will further activate the space and draw visitors and make the Riverwalk more enjoyable.
- Ideas to beautify the Location with landscaping, seating areas, lighting, and other decorative elements.
- The durability of the proposed materials and layout and the ability to withstand an outdoor park in an urban environment.

Implementation Plan

10 points

The Committee will consider the Respondent’s proposed plan to build the facility and amenities proposed for the Location, including:

- Description of the steps required to execute the proposed design
- The schedule of work for site improvements being proposed in order to open as soon as possible
- Strategy behind the hiring plan to ensure that staff is reflective of the City's population

Respondent Experience and Qualifications

10 points

The Committee will consider the Respondent's experience and qualifications based on an assessment of:

- Number of years of operation of such service.
- Number of customers and experience in previous years.
- Experience level and number of Respondent's employees.
- Local hiring plan for seasonal staff.
- Actual Riverwalk experience or experience at similar locations.

Green Sustainable Plan

10 points

The committee will evaluate the proposal to maintain the Location using environmentally friendly methods and to protect the Chicago River and its wildlife, including but not limited to

- Use of energy efficient amenities.
- Development and implementation of an environmentally friendly plan of daily operations, including recycling program for the Location.
- Maintenance of the Location in an orderly, clean and safe fashion and a plan that makes use of environmentally friendly methods of operations, cleaning and activities in order to protect the Chicago River and its wildlife.
- Collection and disposal of all trash and recycling, including providing receptacles for recycling and picking up all loose or blowing trash.
- Landscaping where possible/applicable that provides a strong feeling of nature and greenery in an urban context.

Compensation to the City

10 points

Evaluation of this criterion is based on the MAG and the Supplemental Revenue Fee proposed and the explanation of how the estimate of annual gross revenues generated from the location was determined. Site improvements being proposed for the Location and how these improvements benefit the City of Chicago will all be considered as compensation. The Evaluation Committee will consider the compensation proposed as part of the MAG and Supplemental Fees, as well as the site improvements, including the cost of the improvements and their added value.

Projected Annual Sales, Net Income and Cash Flows

10 points

Evaluation of this criterion is based on the Respondent's projected annual sales and estimated net income and cash flows for the term of the license. If the Respondent is a certified not-for-profit or educational institution, please respond with a proposal on compensation that fits your appropriate business model and explain how your proposal will draw people to the Riverwalk.

Financial Capacity & Legal

Respondent Organization & Financial Statements

10 points

The Evaluation Committee will assess the company organization and financial condition of the Respondent and if applicable, equity owners, and entity in the chain of ownership. The evaluation Committee will

consider the completeness and accuracy of each Respondent's Proposal.

Legal Actions

Pass or Fail

The Evaluation Committee will consider any and all material legal actions, losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses suffered or incurred and arising from or in connection with Respondent's operations, and if applicable, equity owners and any entity in the chain of ownership. Respondents must not be in default or arrearage under any previous or existing contract(s) with the City, the State of Illinois or any political subdivision of the State of Illinois. The City reserves the right to disqualify any Respondent or any constituent entity of a Respondent that has pending litigation or claims with the City. If a Proposal includes a subcontractor, sublessee or supplier that has pending litigation claims with the City, the City, in its sole authority and discretion, may determine that such litigation or claims may adversely affect the ability of the parties to work together effectively under the contract contemplated by the RFP and reject the Proposal on that basis.

Conflict of Interest

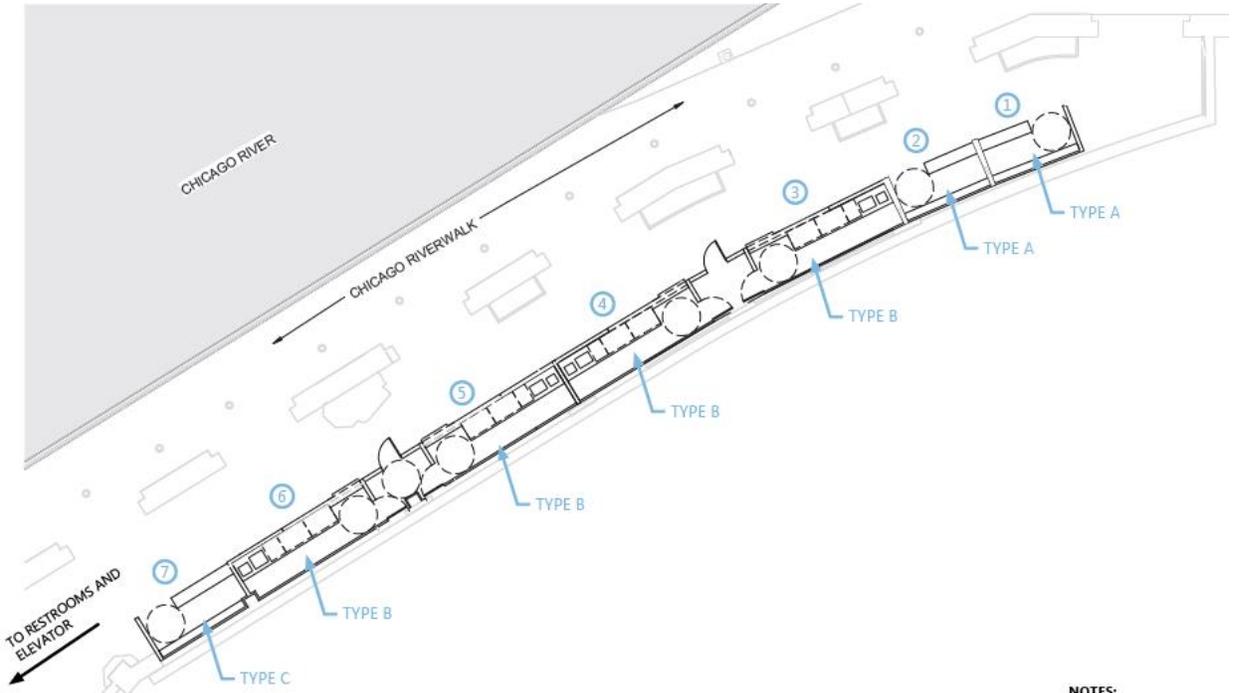
Pass or Fail

The Evaluation Committee will consider any information regarding a Respondent, including information contained in a Respondent's proposal, that may indicate any conflicts (or potential conflicts) of interest which might compromise the Respondent's ability to successfully perform the proposed services or undermine the integrity of the competitive procurement process. If any Respondent has done any work for the City in researching, consulting, advising, drafting, or reviewing this RFP or any work related to this RFP, such Respondent may be disqualified from further consideration

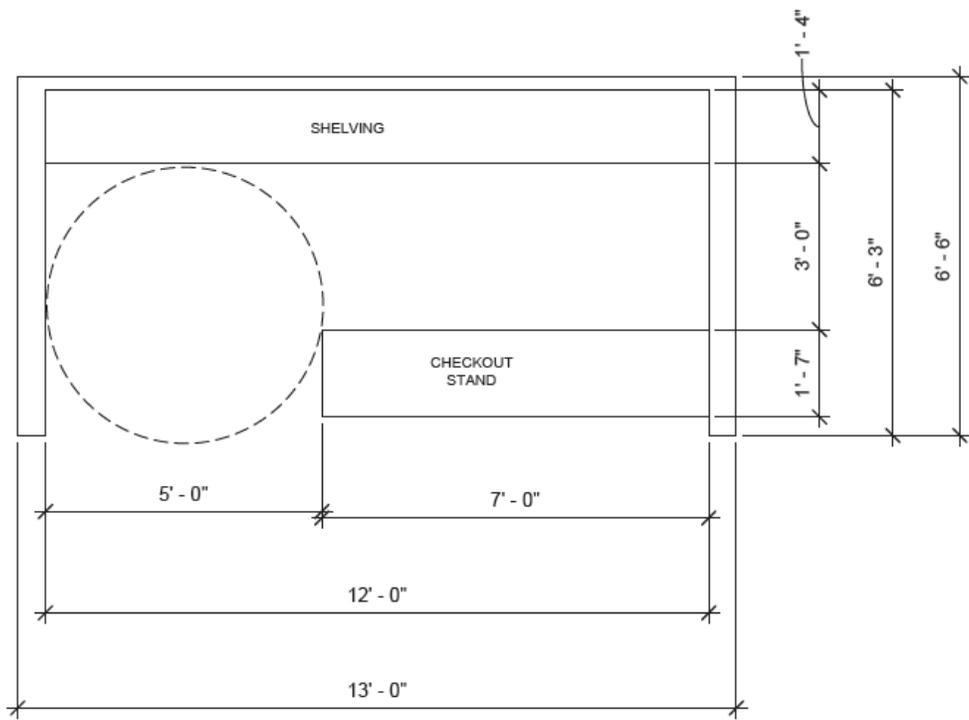
ATTACHMENT A:

- 65 East Riverwalk South Kiosk A #2



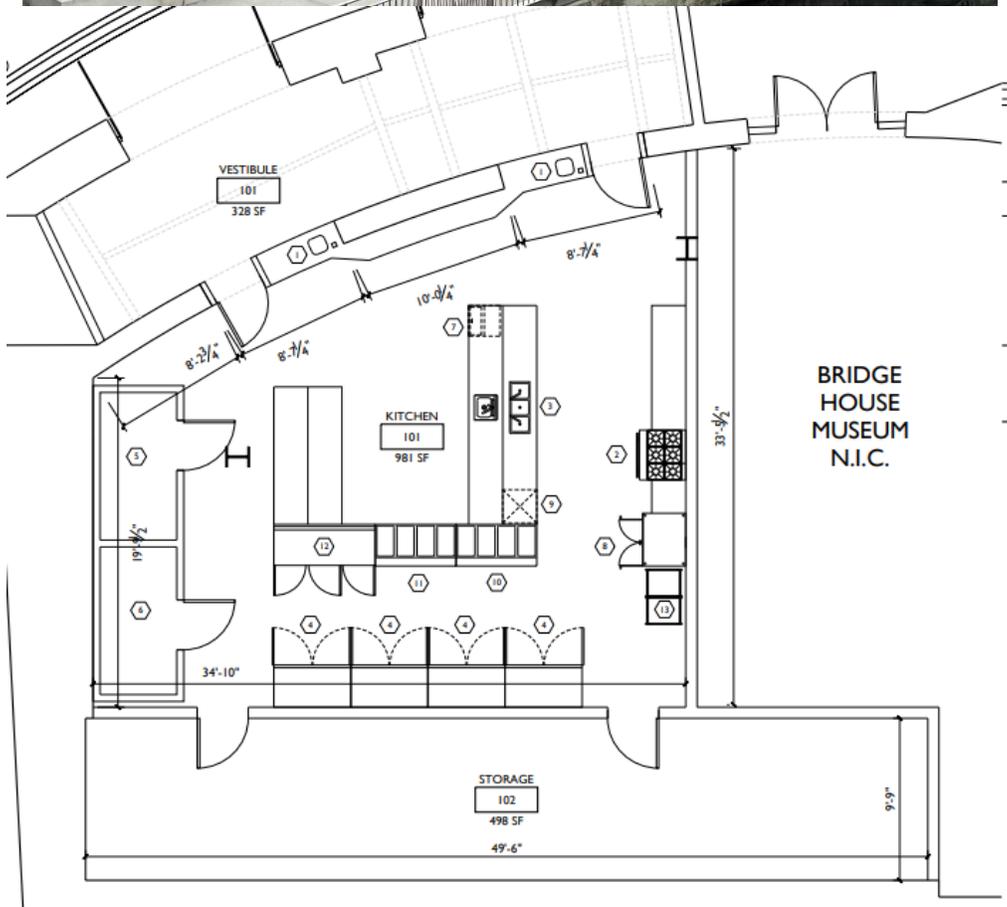


NOTES:



NOTES:

- 91-95 East Riverwalk South



- Loading Zone



WEST ON LOWER WACKER, APPROACHING WEST ACCESS POINT



WEST ON LOWER WACKER, WEST ACCESS POINT



WEST ACCESS POINT



EAST ACCESS POINT

ATTACHMENT B:

Compensation for LOCATION 1: 65 East Riverwalk South Kiosk A2 is \$500 per month May through October.

COMPENSATION CHART LOCATION 2: 91-95 East Riverwalk South

Three Year Term	License Fee- MAG	% Additional Fee	Estimated Gross Revenues	Estimated Additional Fee	Estimated Operating Costs	Total Fee
Year One:						
Year Two:						
Year Three:						
Extension Year 1:						
Extension Year 2:						

ATTACHMENT C:

Insurance Requirements

**Concessions on the Chicago Riverwalk
Food Vendors**

A. INSURANCE REQUIRED

Vendor must provide and maintain at Vendor's own expense, during the term of the Agreement and during the time period following expiration if Vendor is required to return and perform any work, services, or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the Agreement.

1) Workers Compensation and Employers Liability (Primary and Umbrella)

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident; \$500,000 disease-policy limit and \$500,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Vendor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City must be provided additional insured status with respect to liability arising out of Vendor's work, services or operations performed on behalf of the City. The City's additional insured status must apply to liability and defense of suits arising out of Vendor's acts or omissions, whether such liability is attributable to the Vendor or to the City on an additional insured endorsement form acceptable to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Vendor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Vendor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work, services, or operations to be performed, Automobile Liability Insurance must be maintained

by the Vendor with limits of not less than \$500,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage and covering the ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or services. The City is to be added as an additional insureds on a primary, non-contributory basis.

Vendor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Vendor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Liquor Liability

When applicable, Liquor Liability ("Dram Shop") Insurance must be obtained with limits of not less than \$1,000,000 per occurrence. Coverage must include but not be limited to the following: off-site coverage, assault and battery coverage, and common law. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the services.

6) Property

Vendor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies) owned, rented, or used by Vendor and for loss or damage to property in the Vendor's care, custody and control.

B. Additional Requirements

Evidence of Insurance. Vendor must furnish the City of Chicago, Department of Fleet and Facility Management, Attn: Bureau of Asset Management, 30 North LaSalle Street, Suite 300, Chicago, IL. 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Agreement, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Vendor must submit evidence of insurance prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Agreement. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Licensee, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Vendor must advise all insurers of the Agreement provisions regarding insurance. The City in no way

warrants that the insurance required herein is sufficient to protect Vendor for liabilities which may arise from or relate to the Agreement. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of the Vendor to comply with required coverage and terms and conditions outlined herein will not limit Vendor's liability or responsibility nor does it relieve Vendor of the obligation to provide insurance as specified in this Agreement.

Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

Notice of Material Change, Cancellation or Non-Renewal.

Vendor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Vendor.

Waiver of Subrogation. Vendor hereby waives its rights and its insurer(s)' rights of and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Agreement. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City received a waiver of subrogation endorsement for Vendor's insurer(s).

Vendor's Insurance Primary. All insurance required of Vendor under this Agreement shall be endorsed to state that Vendor's insurance policy is primary and not contributory with any insurance carrier by the City.

No Limitation as to Vendor's Liabilities. The coverages and limits furnished by Vendor in no way limit the Vendor's liabilities and responsibilities specified within the Agreement or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Vendor under this Agreement.

Insurance not Limited by Indemnification. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

Insurance and Limits Maintained. If Vendor maintains higher limits and/or broader coverage than the minimums shown herein, the City requires and shall be entitled the higher limits and/or broader coverage maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Joint Venture or Limited Liability Company.

If Vendor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Other Insurance obtained by Vendor. If Vendor desires additional coverages, the Vendor will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Vendor shall name the Subcontractor(s) as a named insured(s) under Vendor's insurance or Vendor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Vendor. Vendor shall determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Vendor is responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City on an additional insured endorsement form acceptable to the City. Vendor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. When requested by the City, Vendor must provide to the City certificates of insurance and additional insured endorsements or other evidence of insurance. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractor(s) to comply with required coverage and terms and conditions outlined herein will not limit Vendor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Agreement to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

**Concessions on the Chicago Riverwalk
Construction Insurance Requirements for Work on the Chicago Riverwalk**

A. INSURANCE REQUIRED

Contractor must provide and maintain at Contractor's own expense until Contract completion and during the time period following completion if Contractor is required to return and perform any work, services, or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the Contract.

- 1) Workers Compensation and Employers Liability (Primary and Umbrella)
Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident; \$500,000 disease-policy limit; and \$500,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

- 2) Commercial General Liability (Primary and Umbrella)
Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City and the Vendor/Licensee must be provided additional insured status with respect to liability arising out of Contractor's work, services or operations and completed operations performed on behalf of the City. Such additional insured coverage must be provided on ISO form CG 2010 or on an endorsement form at least as broad for ongoing operations and completed operations. The City's additional insured status must apply to liability and defense of suits arising out of Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

- 3) Automobile Liability (Primary and Umbrella)
When any motor vehicles (owned, non-owned and hired) are used in connection with work, services, or operations to be performed, Automobile Liability Insurance must be maintained by the Contractor or cause to be maintained, with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is

greater, for bodily injury and property damage and covering the ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or services. The City and the Vendor/Licensee are to be added as additional insureds on a primary, non-contributory basis.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Contractors Pollution Liability – (If Applicable)

When any work performed involves a potential pollution risk that may arise from the operations of Contractor's scope of services Contractors Pollution Liability must be provided or caused to be provided, covering bodily injury, property damage and other losses caused by pollution conditions with limits of not less than \$2,000,000 per occurrence. Coverage must include but not be limited to completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal and if applicable, include transportation and non-owned disposal coverage. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City and the Vendor/Licensee are to be named as additional insureds.

6) Builders Risk/Installation – If Applicable)

When any construction, or major installation projects is undertaken on the property including improvements, betterments, and/or repairs, the Contractor must provide or cause to be provided, All Risk Builders Risk/Installation Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility or project. The City of Chicago and the Vendor/Licensee are to be named as additional insureds and loss payees.

The Contractor is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Contractor.

B. Additional Requirements

Evidence of Insurance. Contractor must furnish the Vendor/Licensee and the City of Chicago, Department of Fleet and Facility Management Room 806, 121 North LaSalle Street, Chicago, IL 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Contract, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. Contractor must submit evidence of insurance prior to execution of Contract. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Contract. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Contractor must advise all insurers of the Contract provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Contractor for liabilities which may arise from or relate to the Contract

Failure to Maintain Insurance. Failure of the Contractor to comply with required coverage and terms and conditions outlined herein will not limit Contractor's liability or responsibility nor does it relieve Contractor of the obligation to provide insurance as specified in this Contract. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to suspend this Contract until proper evidence of insurance is provided, or the Contract may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Contractor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Contractor.

Waiver of Subrogation. Contractor hereby waives its rights and its insurer(s)' rights of and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Contract. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City received a waiver of subrogation endorsement for Contractor's insurer(s).

Contractors Insurance Primary. All insurance required of Contractor under this Contract shall be endorsed to state that Contractor's insurance policy is primary and not contributory with any insurance carrier by the Vendor/Licensee and the City.

No Limitation as to Contractor's Liabilities. The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Contractor under this Contract.

Insurance not Limited by Indemnification. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed

on the indemnity in this Contract given as a matter of law.

Insurance and Limits Maintained. If Contractor maintains higher limits and/or broader coverage than the minimums shown herein, the City requires and shall be entitled the higher limits and/or broader coverage maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Vendor/Licensee and the City.

Joint Venture or Limited Liability Company. If Contractor is a joint venture or limited liability

company, the insurance policies must name the joint venture or limited liability company as a named insured.

Other Insurance obtained by Contractor. If Contractor desires additional coverages, the Contractor will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Contractor shall name the Subcontractor(s) as a named insured(s) under Contractor's insurance or Contractor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Contractor. Contractor shall determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Contractor is responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City as an additional insured on an endorsement form acceptable to the City. Contractor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. When requested by the City, Contractor must provide to the City certificates of insurance and additional insured endorsements or other evidence of insurance. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractor(s) to comply with required coverage and terms and conditions outlined herein will not limit Contractor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Contract to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

ATTACHMENT D- AFFIDAVIT

AFFIDAVIT

The undersigned Respondent hereby submits to the City of Chicago (“City”) Department of Fleet and Facility Management (“Department”) the Proposal enclosed, to develop and operate concessions on the Chicago Riverwalk (“Riverwalk”) based upon all terms and conditions set forth in the City’s Request for Proposal February 23, 2024 (“RFP”), as it may have been amended in one or more addenda thereto. Respondent further specifically agrees hereby to provide goods and services in the manner set forth in the Proposal.

1. Respondent intends that the City rely on the Respondent’s submitted information and the representation that Respondent has the capability to successfully undertake and complete the responsibilities and obligations described in the Proposal and the License Agreement, (“Agreement”) to be executed by the City and Respondent, if Respondent is awarded this concession, and Respondent understands the City will so rely.

2. Respondent acknowledges that the City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by the Respondent.

3. Respondent acknowledges that Respondent has read and fully understands all the provisions and conditions set forth in the RFP and considers the project feasible.

4. Respondent has the capability to successfully undertake and complete the responsibilities and obligations contained in the Proposal.

5. Respondent acknowledges that this Proposal may be withdrawn by requesting such withdrawal in writing at any time prior to the date and time responses to this RFP are due to be submitted to the City, as set forth in the RFP documents.

6. The City reserves the right to reject any and all proposals, to withdraw the RFP, to reissue the RFP, to enter into negotiations with any and all respondents, and to accept that proposal which in its judgment will provide the best concept for utilization of the Riverwalk.

7. Respondent agrees that this Proposal constitutes an offer valid for a period of 90 days following the Due Date set forth in the RFP and any addenda thereto.

8. Respondent solely will bear all costs incurred by Respondent in connection with the preparation and submission of this Proposal and with Respondent’s costs associated with any

negotiations with the City. Under no circumstances shall the City be responsible for any costs associated with Respondent's submittal or negotiations of any agreement with the City.

10. Respondent acknowledges that the City will not recognize brokers with regard to the licenses offered by the RFP and will not be responsible for any fees, expenses or commissions purported to arise from the execution of any license related to this RFP. Respondent agrees to hold harmless the City from any claims, demands, actions or judgments in connection with any broker fees, expenses or commissions.

11. Respondent acknowledges that the City may conduct various investigations of the Respondent's business experience, financial responsibility, and character. Respondent agrees to permit and cooperate with any such investigations.

Respondent warrants that: 1) Respondent, and any entities under its control or entities that control it, have had no part in the preparation of the documents that comprise this RFP; 2) Respondent has not in any manner directly or indirectly, conspired with any person or party to compete unfairly or compromise the competitive nature of the RFP process; 3) the contents of this Proposal as to rent, terms or conditions have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business, prior to the official opening of this Proposal; and 4) Respondent has not engaged in any activities in restraint of trade in connection with this RFP.

Name of Respondent (Legal Name):

Signature of Authorized Person: _____

Title: _____

Business Address of Respondent: _

Business Phone Number:

Date:

County of _____

State of _____

Signed and sworn before me this ____ day of _____, 20__.

Notary Signature: _____

My Commission Expires: _____

Affix Seal

ATTACHMENT E:

Business Information Statement

Instruction: Provide the following information for the entity or individual completing this Statement (the "Reporting Entity"). If more than one entity must complete this Statement, include an organization chart indicating the relationship between the entities.

A. Basic Information:

1. Name of Reporting Entity completing this form:
2. Relationship of Reporting Entity to Respondent:

B. Reporting Entity Information

1. Principal Office Address:
2. Telephone and Facsimile Numbers:
3. E-Mail Address:
4. Contact Person's Name/Title:
5. Is Reporting Entity an MBE, WBE, DBE, ACDBE, BEPD and/or owned by a Chicago Resident? (If applicable, attach copy of certification letter and/or identify Chicago resident owner.):
6. Form of Reporting Entity:

C. If Reporting Entity is a corporation, please answer the following:

1. When incorporated?
2. Is the corporation incorporated in the State of Illinois?
3. Is the corporation registered to do business in Illinois?
4. Name, address and phone number of registered Illinois agent:
5. Attach Certificate of Authority to transact business in Illinois.
6. The corporation is:
7. Provide the name, title, and address of each director, officer, and principal shareholder owning 7.5% or more of the corporation's issued stock (use additional pages as necessary).

Director's Name:

Address:

Principal Business Affiliation (Other than Respondent's Directorship):

Percent Owned:

For Each Officer

Officer Name	Position	Address	Percent of Ownership

For Each Principal Shareholder

Shareholder Name	Address	Percent of Ownership

Additional Instruction: if any principal shareholder is not an individual, that business entity must also submit a Business Information Statement

ATTACHMENT F:

**CHICAGO RIVERWALK
CONCESSION LICENSE AGREEMENT**

BETWEEN

**CITY OF CHICAGO
(CHICAGO DEPARTMENT OF FLEET & FACILITY MANAGEMENT)**

AND

[NAME OF LICENSEE]



BRANDON JOHNSON MAYOR

**SANDRA BLAKEMORE
COMMISSIONER**

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CHICAGO RIVERWALK MASTER CONCESSION LICENSE AGREEMENT

This Chicago Riverwalk Master Concession License Agreement (“**Agreement**”) is entered into as of _____, 20__ by and between _____ [insert legal name of entity] a(n) _____ [insert type of entity and state of organization; e.g., Illinois limited liability company] (“**Licensee**”), located at _____, Chicago, IL 606__, Attn: _____, which will operate a concession on the Chicago Riverwalk known as _____ [insert Licensee’s trade name; i.e., the name of the concession that will appear on Licensee’s signage at the Concession Space], and the City of Chicago, a municipal corporation and home rule unit of local government under the Constitution of the State of Illinois (“**City**”), acting through its Chicago Department of Fleet & Facility Management, or any successor department thereto (“**2FM**” or “**Department**”).

BACKGROUND

The City owns the area immediately adjacent and parallel to the south bank of the Chicago River to Wacker Drive and from Lake Street to Lake Shore Drive (the “**Chicago Riverwalk**” or “**Riverwalk**”), and the Commissioner of 2FM has the authority to operate, manage and maintain the Chicago Riverwalk, including the authority (subject to the approval of the Budget Director, and the approval of the Corporation Counsel as to form and legality) to enter into concession agreements for a term up to 36 months, with the right to extend such agreement for up to one (1) additional terms of up to 24 months (total of 60 months). The City has determined that it is in the best interest of the City to enter into concession agreements for food, beverages, goods and services within the Chicago Riverwalk to expand the existing concession program. Concessions are expected to provide first-class food, beverage, retail and service facilities on the Chicago Riverwalk. Activities on the Chicago River are also subject to the provisions of the Municipal Code of Chicago (the “**Municipal Code**”), including authority granted to the Chicago Department of Transportation in Chapter 10-40 of the Municipal Code.

The City issued a Request for Proposals # _____ (“**RFP**”) for concessions to operate on the Chicago Riverwalk.

The City has selected the proposal that Licensee submitted in response to the RFP to perform concession operations, as further described in **Exhibit 1** attached hereto (“**Services**”), in accordance with the terms and conditions of this Agreement. Licensee shall be responsible for all costs and expenses associated with the Services without City reimbursement. Licensee will operate its concession at the “**Location**,” as defined below, and as depicted in **Exhibit 2** attached hereto. The Services shall be limited to the Location and no other access or activity shall be permitted without prior written City consent. The City has agreed to grant such access upon the terms and conditions set forth herein.

The City and Licensee agree as follows:

ARTICLE 1 CITY APPROVAL

As provided in Section 11.12, where the approval or consent of the City is required under this Agreement, unless expressly provided otherwise in this Agreement, it means approval or consent of the Commissioner or the Commissioner's authorized representative. As provided in Section 11.3, unless expressly provided otherwise in this Agreement, any amendment of this Agreement will require execution by the Commissioner or his proxy, subject to the approval of the Budget Director and the approval of the Corporation Counsel as to form and legality.

ARTICLE 2 INCORPORATION OF BACKGROUND AND EXHIBITS

2.1 INCORPORATION OF BACKGROUND. The Background set forth above is incorporated by reference as if fully set forth here.

2.2 INCORPORATION OF EXHIBITS. The following exhibits are incorporated into and made a part of this Agreement:

Exhibit 1	Services, Including Products and Price List
Exhibit 2	Location
Exhibit 3	Deleted
Exhibit 4A	Insurance Requirements Applicable to All Licensees
Exhibit 4B	Insurance Requirements Applicable to Construction on the Chicago Riverwalk
Exhibit 5	Economic Disclosure Statement
Exhibit 6	Chicago Riverwalk Community Marketplace Concession Program Handbook
Exhibit 7	Capital Improvement Design and Construction Requirements
Exhibit 8	Term Sheet

ARTICLE 3 DEFINITIONS

3.1 INTERPRETATION AND CONVENTIONS.

A. The term "**include**," in all of its forms, means "include, without limitation," unless the context clearly states otherwise.

B. The term "**person**" includes firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

C. Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies of this Agreement are solely for convenience of reference and do not constitute a part of this Agreement, nor do they affect its

meaning, construction or effect.

D. Words in the singular include the plural and vice versa. Words of the masculine, feminine or neuter gender include correlative words of the other genders. Wherever an article, section, subsection, paragraph, sentence, exhibit, appendix, or attachment is referred to, the reference is to this Agreement, unless the context clearly indicates otherwise.

E. Where the approval or consent of Licensee is required under this Agreement, it means the approval or consent of the Licensee's authorized representative. To be binding on the City, all approvals or consents must be in writing and signed by the appropriate City representative.

F. Whenever time for completion or performance is listed as "days", if the number of days is 30 or more, it means calendar days, and if the number of days is less than 30, it means business days per the City of Chicago calendar.

3.2 DEFINITIONS.

In addition to terms defined elsewhere in this Agreement, the following words and phrases, when capitalized, have the following meanings:

"Additional Space" means Concession Space or Storage Space that is added to Licensed Space after the Effective Date pursuant to Section 5.1. Additional Space, if any, that is offered to Licensee is solely at the discretion of the Commissioner. Licensee has absolutely no right or entitlement to be offered any Additional Space, and the concept of Additional Space is solely for the benefit of the City to address vacancies in the Riverwalk Concession program.

"Affiliate", except where otherwise defined, means any individual, corporation, partnership, trustee, administrator, executor or other legal entity that directly or indirectly owns or controls, or is directly or indirectly owned or controlled by, or is under common ownership or control with Licensee.

"Back of the House Area(s)" means an area or areas designated by the Commissioner that are not accessible to the public to be used in common by licensees for deliveries or temporary storage of goods or refuse.

"Budget Director" means the chief executive of the City's Office of Budget and Management.

"Chicago Riverwalk Community Marketplace Concession Program Handbook" or **"Handbook"** means the handbooks developed by 2FM to govern the uniform and consistent design and operation of the concession programs at the Chicago Riverwalk and Community Marketplace. The Chicago Riverwalk Marketplace Concession Program Handbook is available on the Chicago Riverwalk website set forth in Exhibit 6 attached hereto. Any amendment of the Chicago Riverwalk Marketplace Concession Program Handbook by the Department during the Term of this Agreement will be binding on Licensee without need for amendment of this Agreement, to the extent that the amendment of Chicago Riverwalk Concession Program

Handbook does not conflict with the other terms and conditions of this Agreement.

"Commissioner" means the head of the Department and any City officer or employee authorized to act on his behalf. City contractors and consultants, including the Concession Management Representative, have no authority to grant approvals or consents required to be granted by the Commissioner under this Agreement, except where the Concession Management Representative is expressly authorized in writing to do so.

"Common Area Maintenance or Operations License Fee" means the amount payable by Licensee for use of the Licensed Space as set forth in the Term Sheet.

"Common Areas" means those areas of the Riverwalk that are not licensed, or otherwise designated or made available by the Department for use by specific party or parties.

"Comptroller" means the head of the Department of Finance of the City and any City officer or employee authorized to act on her/his behalf.

"Concession" means Licensee's business of offering the Products identified in Exhibit 1 for sale at retail to the public at the Riverwalk pursuant to this Agreement.

"Concession Management Representative" or **"CMR"** means the entity retained by the City to assist in overseeing Concessions, including the construction of Improvements, at the Riverwalk.

"Concession Space" means such portion of the Licensed Space used by Licensee for the sale at retail of Products, including any Additional Space used for that purpose.

"Corporation Counsel" means the head of the City's Department of Law.

"Default Rate" means 10% per annum.

"Delivery Date" means the date upon which the City gives Licensee access to the Concession Space or Storage Space in question.

"Effective Date" means the date on which the Commissioner executes this Agreement and notifies Licensee of award of the Agreement.

"Environmental Laws" means collectively, all applicable federal, state and local environmental, safety or health laws and ordinances and rules or applicable common law, including the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. §651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §5101 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Clean Water Act (33 U.S.C. §1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §300(f) et seq.) as any of the foregoing may later be amended from

time to time; any rule or regulation pursuant to them, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision of it, or any agency, court or body of the federal government, or any state or other political subdivision of it, exercising executive, legislative, judicial, regulatory or administrative functions.

“Event of Default” has the meaning set forth in Article 9.

"Fees" means all amounts payable by Licensee in connection with this Agreement, including but not limited to Common Area Maintenance Fee or Operations Fee, any liquidated damages specified in the Agreement for non-compliance with the City’s requirements for Concession operations.

“Imposition” means permit fees, license fees, and any other fee or charge not specified in this Agreement but otherwise payable by Licensee pursuant to a statute, ordinance, or regulation in order for Licensee to operate the Concession on the Chicago Riverwalk.

"Improvements" means the improvements to be made to the Licensed Space by Licensee, including fixtures and trade fixtures (but excluding trademarked or proprietary trade fixtures) and any other enhancements of a permanent or temporary nature made to the Licensed Space, so that the Licensed Space can be used for Concession operations. The Improvements must be described, along with a budget of Improvement Costs, and depicted conceptually in the Development Plan and must conform to Licensee’s response to the RFP.

"Improvement Costs" means the total amount paid by Licensee for categories of labor, services, materials and supplies used in the design, development, installation and construction of the Improvements.

“License” means the privilege granted to Licensee pursuant to this Agreement to operate the Concession at the Chicago Riverwalk during the term of the Agreement.

“Location” means the site described and depicted in Exhibit 2 and designated for the operation of concession as defined in Concession Space as well as any additional space used for storage of supplies and materials to facilitate the operation of concessions.

"Products" means the food and beverage menu items and related merchandise that Licensee is permitted to sell in its Concession Space and maintain in inventory in its Storage Space under the terms of this Agreement, as set forth by category or item in Exhibit 1.

“Services” means the activities involved in providing the successful operation of concessions on the Chicago Riverwalk.

"Storage Space" means such portion of the Licensed Space used by Licensee for storage of Products inventory to support a Concession Space. No Products may be sold to the public from Storage Space.

"Subcontractor" means all entities providing services and materials to Licensee necessary for its Concession operations or for the construction, repair, and maintenance of the Licensed Space and Improvements. The term "Subcontractor" also includes subconsultants of any tier, subcontractors of any tier, suppliers and materialmen, whether or not in privity with Licensee, and, where applicable, the Licensee's general contractor.

"Subcontracts" means all oral or written agreements with Subcontractors.

"Term" means the period of time beginning on the Effective Date and ending at 11:59 p.m. on that date that is thirty-six (36) months following the Effective Date. The Term may be extended up to one (1) additional twenty-four (24) month period by mutual agreement of the Commissioner, subject to the approval of the Budget Director and the approval of the Corporation Counsel as to form and legality, and Licensee in writing.

"Term Sheet" means the description of business terms set forth in Exhibit 8.

"Work" means everything necessary for the design, engineering, construction and installation of the Improvements; when referring to restoration of Improvements after Major Damage, it means everything necessary for the replacement, repair, rebuilding, or restoration of the Improvements.

ARTICLE 4. TERMS FOR CONCESSIONS CONTRACTS

4.1. ACCESS TO CHICAGO RIVERWALK.

The Licensee must not access the Location for the operation of a concession without receipt of a fully-executed original or copy of this Agreement issued by the Department.

4.2 LICENSE.

A. This Agreement grants Licensee a temporary, non-exclusive privilege to operate a Concession at the Location. Licensee acknowledges that it is not a tenant. The License is subject to all easements, encroachments, covenants, restrictions of record and not shown of record, and any other title encumbrances or defects affecting the Location.

B. Licensee acknowledges and agrees that Licensee shall not hold or claim at any time an interest or estate of any kind whatsoever in the Location by virtue of this Agreement or by virtue of Licensee's use of any Location. In addition, the City reserves the right to provide programming events in the Common Areas under existing City programs, including but not limited to programming or events managed by the Department of Cultural Affairs and Special Events. The execution of this Agreement does not give the Licensee any other right with respect to any Location. Any rights not expressly granted to the Licensee through this Agreement are reserved exclusively to City. Unless otherwise specified in this Agreement, execution of this Agreement

does not obligate the City to undertake any additional duties or services.

C. The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of the Location or the suitability of the Location for any purpose whatsoever including, but not limited to, the Services. Licensee, on behalf of itself and its Agents, agrees to enter upon the Location in the Location's "as is," "where is" and "with all faults" condition and at the Licensee's own risk. Licensee, on behalf of itself and its Agents, acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or any of the City Parties with respect thereto. Licensee, on behalf of itself and its Agents, hereby releases, relinquishes and forever discharges the City and all City Parties from and against any and all Claims that Licensee or any of its Agents now have or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, based upon, arising out of or in any way connected with, directly or indirectly, (a) the structural or physical condition of the Location, (b) any easements, encroachments, covenants, restrictions of record and not shown of record, and any other title defects; and (c) any entry upon or use of the Location by or on behalf of Licensee or its Agents.

D. This Agreement does not give Licensee any other right with respect to the Location, including, but not limited to, closure of the Riverwalk, streets, use of equipment, sidewalks or other public thoroughfares. Any rights not specifically granted to Licensee by and through this Agreement are reserved exclusively to the City.

E. Licensee agrees to carefully inspect, or cause its Agents to carefully inspect, the Location prior to commencing any activities on the Location to ensure that such activities will not damage the Location or any surrounding Location, structures, utility lines or subsurface lines or cables. Licensee and its Agents shall take all reasonable safety precautions to ensure that the Services will not pose a danger to the public or have a negative impact on the neighboring community, including, without limitation, adequately securing the Location throughout the Term. Licensee and its Agents shall perform the Services in a good and workmanlike manner with due care and diligence, and in accordance with all applicable Laws. Licensee and its Agents shall keep the Location and any adjoining sidewalks and streets free of debris and materials and generally in a clean and safe condition throughout the Term. Licensee and its Agents shall limit their activities to those reasonably necessary to perform the Services. The City reserves the right to inspect the Services throughout the Term. Neither Licensee nor its Agents shall conduct any activity on the Location that may in any manner injure the health, safety and welfare of the public, diminish the value of the Location or the Riverwalk, interfere with City operations, or violate any Laws, including, without limitation, any Environmental Laws (as hereinafter defined).

F. Licensee must not conduct its Concession operations in a manner that, in the judgment of the Commissioner:

- (i) interferes or might interfere with the reasonable use by others of Common Areas or Licensed Space of other licensees;

- (ii) hinders or might hinder Chicago Riverwalk security, police, fire-fighting or other emergency personnel in the discharge of their duties;
- (iii) would, or would be likely to, constitute a hazardous condition on the Chicago Riverwalk;
- (iv) would, or would be likely to, increase the premiums for insurance policies maintained by the City; or
- (v) would involve any illegal purposes.

4.3 NO SUBLICENSES, ASSIGNMENTS OR OTHER USES. Licensee understands and agrees that the Licensed Spaces were determined by the City so that the Concession operated by Licensee is an element of an overall concession program. Accordingly, Licensee acknowledges that this Agreement is solely to provide Licensee a License to operate its Concession, without right of sublicense or assignment, from the Licensed Space and that any attempted sublicense, assignment or other use of the Licensed Space without the written consent of the City in accordance with the terms of this Agreement is absolutely prohibited and is an Event of Default. Any reference to “sublicensee” in this Agreement must not be interpreted to allow sublicensing of any rights under this Agreement without the written consent of the Commissioner.

4.4 GENERAL REQUIREMENTS FOR OPERATION OF CONCESSIONS. The City retains the right to take such actions with respect to this Agreement as are necessary to ensure that the Chicago Riverwalk operates in the most effective and efficient way possible. Licensee covenants to take all commercially reasonable measures to maintain, develop, facilitate and increase the business of the Concession so as to maximize Gross Revenues. Licensee further covenants that neither it nor any Affiliate of Licensee will divert or cause or allow to be diverted any business from the Licensed Space to other locations not at the Chicago Riverwalk that are operated by Licensee or any Affiliate of Licensee. A material condition of this Agreement is that Licensee must operate the Concession operations in accordance with the Handbook, and the following general requirements:

A. Unless otherwise approved by the Commissioner in writing, Licensee must conduct business in its Licensed Space only in the Licensee’s trade name identified in its response to the RFP.

B. Unless authorized in writing by the Commissioner, Licensee must not install or operate any coin, card, token or otherwise activated vending machines or devices of any kind or type.

C. Licensee must conduct its Concession operations in a first-class, businesslike, efficient, courteous, and accommodating manner consistent with the "Standard of Service" that appear in the Handbook. The Commissioner or the CMR has the right to make reasonable objections to the appearance and condition of the Licensed Space if they do not comply with the Standard of Service. Licensee must discontinue or remedy any non-compliant practice, appearance or condition within five days following receipt of a written notice by the Commissioner

or CMR (or immediately upon receipt of such a notice if the Commissioner or CMR deems non-compliance hazardous or illegal). Licensee's failure to timely cure the non-compliance as required by the Commissioner or CMR would cause the City damages including, among other things, loss of goodwill that would be difficult or impossible to prove or quantify. Accordingly, if Licensee fails to timely cure non-compliance, then, in addition to all other remedies the City may have at law, in equity or under this Agreement, and beginning on the first day after expiry of the five-day cure period, Licensee must pay the City, as liquidated damages in connection with the loss of good will among visitors to the Chicago Riverwalk, and not as a penalty, the amount of \$100 per day for each non-compliant practice, appearance or condition specified in the notice that remains uncured after the cure period.

D. Licensee must neither commit nor allow any nuisance, noise or waste in the Licensed Space or annoy, disturb or be offensive to others in the Chicago Riverwalk. Licensee must employ all reasonable means to prevent or eliminate unusual, nauseating or objectionable smoke, gases, vapors or odors from emanating from the Licensed Space. Licensee must employ all reasonable means to eliminate vibrations and to maintain the lowest possible sound level in the operation of the Concession.

E. Licensee must at all times accept as suitable payment for any sale of Products any of at least three nationally recognized credit cards, such as but not limited to American Express, Visa, MasterCard and Discover.

F. Licensee must not place or install any racks, stands, or trade fixtures directly on or over the boundaries of its Location. Licensee must not use any space outside the Location for sale, storage or any other undertaking, other than in connection with deliveries made in a prompt, timely and efficient manner.

G. In its capacity as Licensee under this Agreement, and not as an agent of the City, Licensee must manage the Concession operations and the Location in accordance with this Agreement, in furtherance of which Licensee must, among other things:

- (i) use reasonable efforts to remedy problems and issues raised by Chicago Riverwalk patrons with respect to the operation of the Location or Common Areas;
- (ii) answer in writing all written customer complaints within 72 hours after receipt, furnishing a copy of the complaint and the answer to the Commissioner within that period; and
- (iii) furnish the Commissioner within 72 hours after their receipt copies of all written notices received by Licensee from any governmental authority or any Subcontractor with respect to any part of the Location or any Subcontract.

If Licensee fails to timely respond to customer correspondence or governmental notices and furnish the requisite copies to the Commissioner, Licensee acknowledges that the City may suffer loss of goodwill and other harm the value of which is difficult to determine, and thus, in addition to any remedies for the Event of Default, the Commissioner will assess as liquidated damages

against Licensee, and not as a penalty: (A) an amount of \$100 per day for each day after the initial 72 hours until Licensee responds to the customer complaint or governmental notice and (B) if Licensee fails to provide the requisite copies to the Commissioner, \$100 per day until the Licensee provides the Commissioner with the copies. Licensee's failure to perform either (A) or (B) for a period of 30 days or more will be grounds for the City declaring an Event of Default pursuant to Article IX, in which event Licensee will have no longer than 10 days to cure the Event of Default.

H. Licensee is not permitted to sell any items or types of items not identified in Exhibit 1, or to adjust the price list in Exhibit 1, or conduct any other business from the Licensed Space, unless otherwise agreed in writing by the Commissioner.

4.5 HOURS OF OPERATION.

A. Licensee must begin conducting its Concession operations in the Licensed Space(s) as outlined in the Term Sheet.

B. Except as otherwise permitted under this Agreement, if Licensee fails to operate its Concession from the Location during all times that Licensee is required to do so under this Agreement and the failure continues for more than three days after the City gives Licensee notice, it is an Event of Default. In addition, Licensee acknowledges that failure to provide Concession services to the public would cause the City substantial damages, a portion of which may be ascertainable but another portion of which, related to loss of goodwill due to the public's inability to obtain the Products, the provision of which is one of the key purposes of this Agreement, might be difficult or impossible to prove or quantify. Accordingly, in addition to other remedies available to the City for an Event of Default, Licensee must pay the City as liquidated damages (and not as a penalty) in connection with such loss of goodwill the amount of \$500 per day, beginning as of the time that the City first notifies Licensee that it is not operating the Concession in accordance with the time requirements of this Agreement. The obligation to make payments of liquidated damages will continue until the earliest of: (i) the time that the Concession Space re-opens for business; (ii) the date that this Agreement expires or is terminated; and (iii) the date that the Commissioner orders Licensee to vacate the Location.

4.6 PERSONNEL.

A. Staff.

(i) Licensee must maintain a full time, fully trained staff during the Term of this Agreement having sufficient size, expertise and experience to operate the Concession. Licensee must maintain an adequate sales force so as to maximize Gross Revenues and use the utmost skill and diligence in the conduct of its Concession operations. See Handbook, which may be modified at the Department's sole discretion.

(ii) All employees of Licensee at the Riverwalk must at all times be clean, courteous, neat in appearance and helpful to the public, whether or not on duty. Licensee's employees are required to wear uniforms in good taste, the color and style of which

Licensee selects. Licensee may make the arrangements with its own employees as it considers appropriate regarding the purchase and maintenance of standard uniforms. The City is entitled at any time to direct Licensee to require any of its employees not properly attired to immediately conform to the requirements of this section or leave the Location.

- (iii) Licensee and its personnel must at all times participate and cooperate fully in all quality assurance programs that may be instituted by the Commissioner or CMR from time to time. Licensee must cause its personnel to attend all customer service training meetings and participate in such other programs as may be required by the Commissioner or CMR. An appropriate officer or management representative of Licensee must meet with the Commissioner or CMR as requested by the Commissioner or CMR to discuss matters relating to this Agreement, including merchandising and marketing plans. In addition, at the request of the Commissioner or CMR, an appropriate officer or management representative of Licensee must attend other meetings with the City or any other parties designated by the Commissioner or CMR.

B. General Manager. Licensee must designate a General Manager experienced in management and supervision who has sufficient authority and responsibility to administer and manage the Concession. The General Manager (or authorized representative) must be immediately available to the Department whenever the Location(s) is/are open. The General Manager must spend substantially all of his or her working hours at the Riverwalk, unless the Commissioner approves in writing another arrangement. Licensee shall not allow an individual to act as the General Manager if the Commissioner in his/her sole discretion has determined that such individual's work performance is not consistent with the fulfillment of Licensee's obligations under this Agreement.

C. Salaries. Salaries of all employees of Licensee and its Subcontractors performing services or Work under this Agreement must be paid unconditionally and not less often than once a month without deduction or rebate on any account, except only for those payroll deductions that are mandated by law or permitted by the applicable regulations issued by the United States Secretary of Labor under the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874, and 40 U.S.C. § 276c). Licensee must comply with all applicable "Anti-Kickback" regulations and must insert appropriate provisions in all Subcontracts covering Work under this Agreement to insure compliance of all Subcontractors with those regulations and with the other requirements of this subsection, and is responsible for the submission of affidavits required under them, except as the United States Secretary of Labor may specifically provide for variations of, or exemptions from, the requirements of them.

4.7 OPERATION AND MAINTENANCE.

A. Role of City

The City, at its sole cost and expense, will keep in good repair the Common Areas of the Chicago Riverwalk. The Commissioner reserves the right to interrupt temporarily the heating, air

cooling, ventilation, plumbing or electrical services furnished to the Common Areas, to make emergency repairs or for other reasonable purposes, and the Commissioner will restore the services as soon as reasonably possible. The City has no responsibility or liability for failure to supply heat, air cooling, ventilation, plumbing, electrical or any other service to the Location, or the Chicago Riverwalk as a result of the making of repairs or replacements, fire or other casualty, strikes, failure of the utility provider to provide service or due to any other matter not within the City's reasonable control.

B. Role of Licensee

- (i) Licensee must provide all utilities, cleaning and janitorial services to the Location. Licensee must clean, maintain and repair (including replacements, where necessary) the Location and Improvements in first-class condition and repair during the entire Term.
- (ii) Licensee is responsible for pest control within the Location by contracting with a professional pest control service to provide service on a regular basis or as needed, or at the Commissioner's election, the City or CMR may provide or contract for the pest control and charge Licensee a reasonable charge for the service. If the Commissioner so requires, Licensee must coordinate all pest control service with the City's or CMR's pest control contractor. Licensee must furnish the Commissioner and CMR a copy of its pest control contract and service records upon request.
- (iv) If applicable, Licensee must, at its own expense, keep the kitchen waste and exhaust system, including the grease trap and all risers, piping and fans used in connection with the waste and exhaust systems, whether located in or outside of the Location, and all other pipes or ducts used by Licensee, including black iron duct, in good repair and so as to meet the highest standards of cleanliness, health, and safety, in a manner consistent with the operation of a first-class restaurant and in accordance with all applicable laws, codes and regulations of any governmental authority having jurisdiction. Licensee must clean grease pans on a regular basis. Licensee must properly maintain the grease trap to prevent any overflow or discharge of grease. The grease trap and all plumbing pipes must be rodded and cleaned regularly and as often as necessary to prevent clogging or discharge. Licensee must not permit any grease to be discharged into the City's plumbing lines. If fixtures or equipment are installed in or attached to roof vents or other openings in the structure or to ducts that connect with the openings, Licensee must keep the ducts, vents and openings free from the accumulation of grease, dirt and other exhaust matter and must furnish and service any filters or other equipment necessary to prevent such accumulation. Licensee must keep the exhaust fan in good condition and repair so as to provide at least the air flow velocities required by applicable codes and regulations. Without limiting the foregoing, Licensee must clean black iron ducts twice yearly, or more often as may be required by any local governmental codes, regulations or officials, insurance requirements or applicable industry standards, whichever is more restrictive.

- (v) If applicable, Licensee must maintain all fire detection and fire suppression systems and mechanisms, if required by Building Code, in accordance with all applicable laws, codes and the requirements of all applicable policies of insurance and insurance inspectors and of the City. Licensee must not cause or permit any damage to insulation and fire protection materials surrounding the black iron duct. In addition to Licensee's obligation to maintain utility lines in the Location as set forth in Section 4.8 below, Licensee must install and maintain in good working order and in accordance with the rules and regulations of all insurers and applicable laws, codes, and regulations of any governmental authority, all fire extinguishing systems in the Location.
- (vi) Upon request, Licensee must provide City or CMR with monthly repair and maintenance reports detailing all repair and maintenance undertaken with respect to its Location. In the event that such repair and maintenance reports indicate that Licensee is not complying with its repair and maintenance obligations, it shall be an Event of Default. In addition to any other remedies available to the City, if Licensee fails to undertake required repair or maintenance within 5 days after receiving notice from the Commissioner (or such shorter time as may be required due to health or safety reasons) the City may undertake the required repair or maintenance through a City contractor or its own forces and charge Licensee the reasonable cost thereof.
- (vii) To the extent any City ordinance imposes a stricter standard than the requirements of this section, the stricter standard must govern.
- (viii) Any damage to property of the Chicago Riverwalk or property of other Licensees arising out of Licensee's failure to perform its maintenance obligations is expressly deemed a "Loss" subject to Licensee's indemnification obligations under Section 8.2.

C. Common Areas.

Licensee shall not use Common Areas, including areas adjacent to the Concession facilities, for any purpose other than ingress and egress, and any such use thereof shall be subject to the terms of this Agreement. Without limiting the generality of the foregoing, Licensee shall not use the Common Areas to canvass, solicit business or information from, or distribute any article or material to, other licensees, users, patrons, or visitors to Chicago Riverwalk property. Licensees shall not allow anything to remain in any passageway, sidewalk, court, path, roadway, corridor, patio, entrance, exit, or other area outside of the Location, unless approved by the Commissioner in writing.

4.8 UTILITIES.

A. Licensee must pay for all utilities furnished to the Location, to the extent separately metered. All utilities must be separately metered for usage within a Location except to the extent

that the Commissioner agrees otherwise in writing. Notwithstanding the foregoing, in the event that water/sewage is not separately metered, the City may charge Licensee for water/sewage based on a reasonable estimate of usage given the nature of the Concession.

B. In addition to payment for utility service, Licensee must maintain utility lines to the Location as follows:

- (i) where the utility lines, including gas, electrical, telephone, hot and cold water, fire sprinkler, gas, and sewer serve both the Location and other areas of the Chicago Riverwalk, Licensee is only obligated to maintain those branch lines and facilities that exclusively serve the Location; and
- (ii) where such utility lines are entirely for the exclusive service of the Location, Licensee is obligated to maintain the utility lines from the Location up to the main entry point of the utility to the Chicago Riverwalk. Alternatively, the City may, at the Commissioner's sole discretion, maintain such utility lines and charge Licensee the reasonable cost of the maintenance.
- (iii) Licensee must maintain all electrical cables, conduits, wiring, fire alarm systems, electrical panels and associated equipment located within and serving the Location.

4.9 REFUSE HANDLING.

A. Licensee, at its own cost and expense, must provide for the handling of all refuse, including trash, garbage, recycling and other waste created by its Concession operations and for their disposal at the Back of the House Areas within the Chicago Riverwalk designated by the Commissioner from time to time. Within its Location, Licensee must provide a complete and proper arrangement for the adequate sanitary handling and disposal of trash, garbage, recycling and other refuse resulting from its Concession operations. Licensee must provide and use suitable covered metal receptacles for all trash, garbage, recycling and other refuse in accessible locations within the boundaries of each Location. Piling of boxes, cartons, barrels or other similar items in an unsightly or unsafe manner on or about the Location or the Common Areas is forbidden. The Commissioner reserves the right, from time to time, to establish time periods or schedules during which Licensee must remove refuse from the Location. The Commissioner reserves the right, from time to time, to establish rules and revised processes for how refuse is managed.

B. Licensee must comply with all present and future laws, orders and regulations and any rules and regulations promulgated by the Commissioner regarding the separation, sorting and recycling of garbage, refuse and trash, including but not limited to those policies, rules and regulations incorporated in the Handbook. Licensee must separate and appropriately dispose of recyclable and non-recyclable waste, including organic materials. Recyclable waste includes newspaper, unsoiled paper products, cardboard, plastic, aluminum and glass. Licensee is encouraged to use service goods made from recycled and recyclable materials. All recyclable waste will be disposed at the direction of 2FM. 2FM may also require sorting and disposal of compostable/organic wastes, including food scraps and soiled paper products. Licensees must therefore also provide for the separation of pre-consumer compostable\organic waste for

composting. Licensees must comply with 2FM's waste recovery program by sorting, to the maximum extent possible, recyclable and compostable waste from that which will be sent to landfill.

C. Transporting of garbage and recycling to the designated Back of the House Areas must be done in a gondola that prohibits dripping in the common area.

4.10 PROMOTION / SIGNS AND ADVERTISING.

Licensee may, at its own expense and subject to obtaining any necessary permits, install and operate necessary and appropriate identification signs in and on the Concession Space for its promotional use (solely identifying the name of the Concession, the Concession operations at the Concession Space in question or the Products sold there). All such signage (especially all signage visible from the Common Areas) must be in compliance with signage and other applicable criteria adopted by the Commissioner or other City agencies from time to time and subject to the prior written approval of the Commissioner as to the number, size, height, location and design (as applicable). Licensee must not install, affix, or display any signage outside the Concession Space except as permitted by the Department. Without the prior written consent of the Commissioner, Licensee and its Subcontractors must not distribute any advertising, promotional or informational pamphlets, circulars, brochures or similar materials anywhere within the Chicago Riverwalk except within the Location and except as are related to Licensee's Concession.

4.11 DISTRIBUTION AND STORAGE; DELIVERIES.

Licensee acknowledges that the City will not be responsible for and will have no liability related to the operation of (or the failure to operate) the Back of the House Areas or comparable storage facility, including lost profits, consequential damages or any other losses or damages whatsoever.

4.12 CERTAIN RIGHTS RESERVED BY THE CITY.

A. Except as expressly provided otherwise in this Agreement: the City has the rights set forth below, each of which the City may exercise with notice to Licensee and without liability to Licensee for damage or injury to property, person or business on account of exercising them; the City's exercise of any such rights is not deemed to constitute a breach of this Agreement or a disturbance of Licensee's use the Location; the City's exercise does not give rise to any claim, including for set-off or abatement of Fees; the City's exercise also does not relieve Licensee of any obligation to pay all Fees when due. The rights include the rights to:

- (i) Install, affix and maintain any and all signs throughout the Riverwalk;
- (ii) Decorate or to make repairs, inspections, alterations, additions, or improvements, whether structural or otherwise, in and about the Riverwalk and for such purposes to enter upon the Location, and during the continuance of any of the work, to temporarily close doors, entryways, and public space in the Chicago Riverwalk, and to interrupt or temporarily suspend services, all without affecting any of

Licensee's obligations under this Agreement, so long as the Location is reasonably accessible and usable;

- (iii) Keys to the Locations, including master keys and passkeys, to all doors within and into the Locations will at all times be kept under adequate and appropriate security by the Department. Licensee must not change any locks, nor affix locks on doors. Notwithstanding the provisions for the Department's access to the Locations, Licensee releases the City from all responsibility arising out of theft, robbery, pilferage and personal assault. Upon the expiration or termination of the Term of this Agreement, whichever is earlier, Licensee must return all keys to the Concession Management Representative and must disclose the combination of any safes, cabinets or vaults left in the Location;
- (iv) Approve the weight, size and location of safes, vaults and other heavy equipment and articles in and about the Location and to require all such items and furniture and similar items to be moved into or out of the Chicago Riverwalk and the Location only at the times and in the manner as the Commissioner directs in writing. Licensee must not install or operate machinery or any mechanical devices of a nature not directly related to Licensee's ordinary use of the Location without the prior written consent of the Commissioner. Movements of Licensee property into or out of the Chicago Riverwalk or the Location and within the Chicago Riverwalk are entirely at the risk and responsibility of Licensee, and the Commissioner reserves the right to require permits before allowing any property to be moved into or out of the Chicago Riverwalk or the Location;
- (v) Establish controls for the purpose of regulating all property and packages, both personal and otherwise, to be moved into or out of the Chicago Riverwalk and the Location;
- (vi) Show the Location to prospective Licensees at reasonable times and, if vacated or abandoned, prepare the Location for re-licensing;
- (viii) Erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances to them, in and through the Locations at reasonable locations;
- (ix) Enter the Location for the purpose of periodic inspection for fire protection, maintenance and compliance with the terms of this Agreement, including but not limited to the Handbook, and exercise any rights granted to City or retained by City in this Agreement; except in the case of emergency, however, the right must be exercised upon reasonable prior notice to Licensee and with an opportunity for Licensee to have an employee or agent present;
- (x) Grant to any person the right to conduct any business or render any service in or to the Chicago Riverwalk.
- (xi) Promulgate from time-to-time rules and regulations regarding the operations at the

Chicago Riverwalk; and

B. Licensee will be solely responsible for installation and maintenance of all sprinkler systems, whether or not Licensee was required to install such sprinkler systems. If any sprinkler work requires a temporary shut-down and/or drainage of the sprinkler system or portion thereof in the Chicago Riverwalk, Licensee must pay an up-front fee of \$500 per occurrence in the form of a certified check or money order.

4.13 OBLIGATION TO RESTORE THE LOCATION. Upon completion of the Services, Licensee shall promptly restore the Location to the same or better condition existing as of the Effective Date. Licensee shall remove all Personal Property, trash, wastes and debris placed on the Location by Licensee or its Agents. Licensee shall dispose of all trash, wastes and debris in accordance with all applicable Laws, including without limitation, all applicable Environmental Laws (as hereinafter defined). Any Personal Property, trash, wastes or debris left by Licensee on or about the Location shall be considered abandoned and may be disposed of in the City's sole discretion. Licensee agrees to pay for any removal or disposal costs the City may incur with respect to this Agreement. The City shall be reimbursed for all sums it pays in connection with this Agreement. Such reimbursement shall occur within fifteen (15) days of such City payment, with interest accruing from the date of such City payment at the rate of 12% per annum. Licensee shall be responsible for any damage to the Location or any surrounding Location, structures, utility lines or subsurface lines or cables caused by the acts or omissions of Licensee or its Agents, including but not limited to, vandalism or misuse of the Location, and shall undertake any repairs necessitated by such acts or omissions. This Section 10 shall survive the expiration or earlier termination of this Agreement.

4.14 NO LIENS. Licensee shall not cause or permit any lien or encumbrance, whether created by act of Licensee or its Agents, operation of law or otherwise, to attach to or be placed upon the City's title or interest in the Location. In case of any such lien attaching, Licensee shall immediately pay and remove such lien. If Licensee fails to pay and remove any lien, the City, at the City's election, may, but is not obligated to, pay and satisfy same, and all sums so paid by the City shall be reimbursed by Licensee within fifteen (15) days of such payment with interest from the date of payment at the rate of 12% per annum.

4.15 NO FURTHER CITY OBLIGATIONS. The execution of this Agreement does not obligate the City or the City Parties to provide Licensee or Licensee's Agents with any other assistance. Without limiting the generality of the foregoing, the City shall not provide any security, maintenance, or custodial services that may be required by Licensee to undertake the Services on the Location.

4.16 SECURITY; FULL LIABILITY. Licensee assumes all legal and financial responsibility and liability for any and all uses of the Location by Licensee or Licensee's Agents. Licensee shall be responsible for properly securing and safeguarding Licensee's Personal Property. Licensee acknowledges that the City has no security responsibilities with respect to Licensee's Personal Property under this Agreement. This Section 4.16 shall survive the expiration or earlier termination of this Agreement.

4.17 NO PRINCIPAL/AGENT OR PARTNERSHIP RELATIONSHIP. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

4.18 **NO DRUGS**. Licensee agrees that no illegal drugs of any kind or nature shall be sold, given away, or consumed on the Location by Licensee or its Agents.

4.19 ALCOHOL. The sale of alcohol will be allowed in accordance with the Terms and Conditions of the Chicago Riverwalk Liquor License Ordinance, subject to the prior written approval of the Commissioner of 2FM.

4.20 **COORDINATION AND OVERSIGHT**. Licensee shall coordinate with 2FM for access to the Location in order to undertake the Services. Licensee acknowledges that any assistance or oversight provided by the City with respect to the Services shall be provided at the City's sole and exclusive discretion and convenience.

4.21 **CITY USE PARAMOUNT**. Licensee shall refrain from undertaking any activities that interfere with the City's use of the Location as determined by the City in its sole discretion. The City reserves the right to terminate Licensee's use of the Location at any time in the event such use interferes with the City's use of the Location or the Riverwalk, public safety, or with any other municipal purpose or interest, as determined by the City in the City's sole discretion. Licensee acknowledges that Licensee's access to the Location shall at all times be subordinate to City operations.

ARTICLE 5 LICENSE TO OPERATE CONCESSIONS

5.1 LOCATION. As provided in Section 4.2, the City grants Licensee a temporary, non-exclusive privilege to operate a Concession at the Location.

A. **Concession Space**. The Location includes the Concession Space. Concession Space is to be used for the sale of Products at retail to the public.

B. **Storage Space**. The Location also includes the Storage Space, if any, identified in Exhibit 2. Storage Space is to be used to store inventory and supplies for use in the Concession Space. It may be used for other purposes relating to the Concession with the consent of the Commissioner, but not as a point of retail sale of Products. If the Commissioner determines that Licensee is using Storage Space for purposes unrelated to the Concession, the Commissioner may unilaterally delete the Storage Space from the Location. If the Commissioner determines that the size of the Storage Space exceeds the needs of the Licensee, the Commissioner may unilaterally reduce the size of the Storage Space.

C. **Additional Space**.

(i) During the Term, the Commissioner may from time to time, at his sole discretion, make Additional Space available for Licensee's Concession operations. In such event, the Commissioner will send written notice to Licensee to advise Licensee of the following:

a. size and location of the Additional Space being offered, if any;

- b. whether the Additional Space is being offered as Concession Space or Storage Space;
- c. Licensee's Improvement obligations for the Additional Space; and
- d. the additional License Fee for the Additional Space.

Within 30 days after receiving the notice from the Commissioner, Licensee must notify the Commissioner if it accepts or rejects the Additional Space and, if the Additional Space is Concession Space, and the proposed Improvements. Upon notification from Licensee to the Commissioner that Licensee accepts the Additional Space and, if the Additional Space is Concession Space, acceptance by the Commissioner of the proposed Improvements, the square footage will be added to the Concession Space or Storage Space, as applicable, and this Agreement will be modified accordingly. Upon notification from Licensee to the Commissioner that it rejects the Additional Space or if Licensee fails to notify the Commissioner within 30 days that it accepts the Additional Space, the offer will terminate and the Commissioner may offer the Additional Space to others.

- (ii) Nothing in (i) above requires the Commissioner to offer any Additional Space to Licensee or limits or restricts the Commissioner's or the City's right to enter into any concession agreement with any third party for such space. Additional Space, if any, offered to Licensee is solely for the benefit of the City or to enhance Riverwalk revenues, and whether or not to offer such Additional Space to Licensee is at the Commissioner's sole discretion. **LICENSEE HAS NO RIGHT TO BE OFFERED ANY ADDITIONAL SPACE.**

5.2 TITLE TO PROPERTY IN THE LOCATION. Licensee shall retain title and ownership to all Products and other Licensee personal property and proprietary trade fixtures in the Location, except in the event of deemed abandonment, as determined in the sole discretion of the Commissioner after termination or expiration of this Agreement. The City owns all other property in the Location, and, upon completion, Licensee Improvements.

ARTICLE 6 TERM OF AGREEMENT

6.1 TERM. The term of this Agreement is the Term as defined in Article 3, unless this Agreement is terminated earlier in accordance with its terms.

6.2 RETURN OF THE LOCATION.

A. At the termination or expiration for any reason of this Agreement, whichever is earlier, Licensee must promptly, peaceably, quietly and in good order quit, deliver up and return the Location in good condition and repair, ordinary wear and tear and damage by fire or other casualty excepted.

B. Licensee must remove all Licensee personal property and trade fixtures from the before the date of termination or expiration. Any personal property or trade fixtures remaining in the Location 48 hours after the date of termination or expiration shall be deemed abandoned, and the City may dispose of such personal property or trade fixtures in the Commissioner's sole discretion, and Licensee shall have no claim to the proceeds, if any, from such disposition.

C. Licensee must repair any damage to the Location caused by Licensee's removal of Licensee personal property, trade fixtures. All the removal and repair required of Licensee under this section are at Licensee's sole cost and expense.

D. If Licensee fails to perform any of its foregoing obligations, then the Commissioner may cause the obligations to be performed by Department personnel or City contractors, and Licensee must pay the cost of the performance, together with interest thereon at the Default Rate from and after the date the costs were incurred until receipt of full payment therefor.

6.3 TERMINATION DUE TO CHANGE IN RIVERWALK OPERATIONS. This Agreement is subject to termination by either party on 60 days' written notice in the event of any action by the FHWA or any other governmental entity or the issuance of an order by any court of competent jurisdiction which prevents or restrains the use of the Riverwalk or a portion thereof that renders performance by either party in the Location impossible, and which governmental action or court order remains in force and is not stayed by way of appeal or otherwise, for a period of at least 90 days, so long as the action or order is not the result of any Event of Default of Licensee.

6.4 EMINENT DOMAIN.

A. If the entirety of the Chicago Riverwalk or a substantial part, including the entire Location, is taken by eminent domain by an authority other than the City, the Term of this Agreement will end upon the earlier of the date when possession is required by the condemning authority or the effective date of the taking.

B. If any eminent domain proceeding is instituted by an authority other than the City in which it is sought to take any part of the Chicago Riverwalk, the taking of which would, in the good faith judgment of the Commissioner or Licensee, render it impractical or undesirable to conduct Concession operations on the remaining portion of the Location for the intended purposes, the Commissioner and Licensee will each have the right to terminate this Agreement upon not less than 90 days' written notice to the other.

C. In the event of termination of this Agreement under either A. or B., all Fees accrued for the Location in question prior to the termination date is payable to the City. However, the City shall have no obligation to pay Licensee any unamortized Improvement Costs for such Location, and Licensee shall look solely to the condemning authority for any award of damages.

6.5 EARLY TERMINATION. Notwithstanding anything to the contrary set forth in this Agreement, the Commissioner may terminate this Agreement without cause for any reason, in

the Commissioner's sole discretion, upon at least thirty (30) days prior written notice to Licensee. Upon the effective date set forth in such notice, Licensee shall vacate the Location as if the Agreement had expired on that date.

ARTICLE 7 FEES

7.1 FEES PAYABLE.

A. In consideration of City granting Licensee a license to operate its Concession in the Concession Space and a right to Storage Space, if any, Licensee must pay the following, without notice or demand: the License Fee and the Percentage Fee (collectively, "**Fees**") as follows:

- (i) **Operations Fee.** The "**Operations Fee**" is payable in equal monthly installments on the first day of each calendar month. The Operations Fee will begin to accrue on the first day access is granted in accordance with the Term Sheet and will be subject to adjustment to reflect Additional Space and any Licensed Space that has been vacated by Licensee at Commissioner's direction, and as prorated. The Operations Fee will reflect utility use and costs for the City to maintain the common areas shared by the Licensee and other concessions operators.
- (ii) **Percentage Fee:** The "**Percentage Fee**" is an amount equal to the Percentage Rate set forth in the Term Sheet multiplied by Gross Revenues for each Licensee whose concession includes the sale of alcohol. The percentage fee is due within thirty days of the end of the Term.
- (iii) Failure by Licensee to pay Fees, or any portion thereof, when due is an Event of Default.

B. **Impositions.** Licensee must timely pay, as and when due, any and all taxes, assessments, fees, and charges levied, assessed or imposed by a governmental unit upon this Agreement, the Location, Licensee's Concession business or upon Licensee's personal property, including but not limited to all permit fees and charges of a similar nature for Licensee's conduct of any business or undertaking in the Location (collectively, "**Impositions**"). Licensee must provide the Concession Management Representative with copies of any business licenses or permits required for the Licensee to operate the Concession. Nothing in this Agreement precludes Licensee from contesting the amount of an Imposition, including those taxes or charges enacted or promulgated by City, but unless otherwise allowed by the entity imposing the tax or charge, Licensee must pay the tax or charge pending the judicial or administrative decision on the Licensee's contest. Failure of Licensee to pay any Imposition when due, except to the extent that Licensee is allowed to withhold payment while contesting the amount of the Imposition, will constitute an Event of Default.

C. Fees under this Agreement are not considered to be a tax and are independent of any Imposition levied by the City on the Licensee's business. Further, the payment of the Fees under this Agreement is independent of each and every other covenant and agreement contained in this Agreement, and Licensee must pay all Fees without any set off, abatement, counterclaim or deduction whatsoever except as otherwise expressly provided in this Agreement.

7.2 TIME OF PAYMENTS.

A. On or before the first day of each calendar month, beginning on the first of the month and continuing throughout the Term, Licensee must pay the Common Area Maintenance Fee or Operations Fee.

7.3 MATERIAL UNDERPAYMENT OR LATE PAYMENT.

Without waiving any other remedies available to the City, if:

- (i) Licensee underpaid Fees due in any calendar year by more than 5%, or
- (ii) Licensee failed to make any Fee payments within 5 days of the date due then Licensee must pay, in addition to the amount due the City, interest on the amount of underpayment or late payment at the Default Rate. Interest on the amount underpaid accrues from the date on which the original payment was due until paid in full. The provision for the payment of interest does not constitute an authorization by the City of underpayment or late payment.

7.4 REPORTS.

A. Monthly. Licensee must furnish to the Commissioner within 10 business days of request a complete statement, certified by Licensee, of the amount of Gross Revenues derived from the Concession Space by Licensee during the specified time period.

B. Daily and/or Weekly. Licensee will furnish to the Commissioner daily and/or weekly sales reports, if requested, breaking down all sales and Gross Revenues by each separate Concession Space. If so requested, Licensee will provide Commissioner with statistical information regarding the number and type of transactions occurring at each Concession Space, in the form specified by the Commissioner.

C. Annually or more often.

- (i) Licensee also must furnish to Commissioner no later than February 15 of each License Year falling wholly or in part within the Term, and within 120 days after the expiration or termination of this Agreement, a complete statement of revenues. The City reserves the right to require License submit financial statement of revenues certified by an certified public accountant engaged by Licensee, showing

in all reasonable detail the amount of Gross Revenues made by Licensee in, on or from the Location during the preceding License Year and copies of all returns and other information filed with respect to Illinois sales and use taxes as well as such other reasonable financial and statistical reports as the Commissioner may, from time to time, require by written notice to Licensee.

- (ii) The annual statement must include a breakdown of Gross Revenues on a month-by-month basis. If the City requires a report and an opinion of a certified public accountant that must include the following language, or language of similar purport: "We, a firm of independent certified public accountants, have examined the accompanying statement reported to the City of Chicago by [_____] for the year ended _____ relating to its operations at the Chicago Riverwalk pursuant to an Agreement dated _____, _____. Our examination was made in accordance with generally accepted accounting principles and, accordingly, includes such tests of the accounting records and such other procedures as we considered necessary in the circumstances. In our opinion, the accompanying statement showing gross revenues of \$_____ presents accurately the amount of Gross Revenues, as defined in the Agreement, for the year ended _____."

D. All such reports and statements must be prepared on a form approved by the Commissioner and must, among other things, provide a breakdown of the Gross Revenues by category of Products and an analysis of all Percentage Fees, if applicable, due and payable to the City with respect to the period in question. If Licensee fails to timely furnish to the Commissioner any monthly or annual statement required under this Agreement or if the independent certified public accountant's opinion is qualified or conditioned in any manner, the Commissioner has the right (but is not obligated) without notice, to conduct an audit of Licensee's books and records and to prepare the statements at Licensee's expense. Licensee must also provide the Commissioner with such other financial or statistical reports and information concerning the Licensed Space or any part thereof, in the form as may be reasonably required from time to time by the Commissioner.

7.5 BOOKS, RECORDS AND AUDITS.

A. Except as provided below, Licensee must prepare and maintain at its office in Chicago full, complete and proper books, records and accounts in accordance with generally accepted accounting procedures relating to and setting forth the Gross Revenues, including but not limited to Gross Revenues generated by sales of Products for cash, debit, check, gift certificate, credit, or any other form of compensation, and must require and cause its operations personnel to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Licensee. The books and source documents to be kept by Licensee must include true copies of all federal, state and local tax returns filed with respect to Licensee's Concession operation and reports, records of inventories and receipts of Products, daily receipts from all sales and other pertinent original sales records and records of any other transactions conducted in or from the Licensed Space by Licensee.

B. Licensee must record at the time of each sale or other transaction, in the presence of the customer, all receipts from the sale or other transaction, whether for cash, credit or otherwise, in a point-of-sale system having a cumulative total that must be recorded or sealed in a manner approved by the Commissioner and that must possess such other features as required by the Commissioner. The books, records and accounts, including any sales tax reports that Licensee may be required to furnish to any government or governmental agency, must at all reasonable times be open to the inspection (including the making of copies or extracts) of the Commissioner, the Commissioner's auditor or other authorized representative or agent at the Licensed Space or Licensee's other offices in Chicago for a period of at least 3 years after the expiration of each calendar year falling wholly or in part within the Term.

C. The acceptance by the Commissioner of payments of any Percentage Fee is without prejudice to the Commissioner's right to conduct an examination of the Licensee's books and records relating to Gross Revenues and of inventories of Products at the Concession Space, in order to verify the amount of Gross Revenues made in and from the Concession Space.

D. After providing Licensee at least 3 days prior oral or written notice, the Commissioner may inspect the books and records of Licensee. Further, at its option, the Commissioner may at any reasonable time, upon no less than 10 days prior written notice to Licensee cause a complete audit to be made of Licensee's entire records relating to the Concession Space for the period covered by any statement issued by Licensee as above set forth. If the audit discloses that Licensee's statement of Gross Revenues is understated to the extent of:

- (i) 3% or more, Licensee must promptly pay the City the cost of the audit in addition to the deficiency (and any interest on the deficiency at the Default Rate), which deficiency is payable in any event; and
- (ii) 5% or more, an Event of Default is considered to have occurred, and in addition to all other remedies available under this Agreement, at law, or in equity, the Commissioner has the right to terminate this Agreement immediately upon giving notice to Licensee, without any opportunity for Licensee to cure.

In addition to the foregoing, and in addition to all other remedies available to the City, if Licensee or the City's auditor schedules a date for an audit of Licensee's records and Licensee fails to be available or otherwise fails to comply with the reasonable requirements for the audit, Licensee must pay all reasonable costs and expenses associated with the scheduled audit.

7.6 REVENUE CONTROL. Upon the request of the Commissioner Licensee must make available monthly sales data for each Concession Space ("Point of Sale Data"), reflecting the amount of each sales transaction, items sold per transaction, time and date of the transaction, and specifying the sales category applicable to each item sold.

7.7 LIEN. In addition to any liens as may arise under Illinois law, the City has a contractual lien under this Agreement on Licensee's personal property and Improvements located on the Licensed Space, as security for non-payment of any Fees due.

ARTICLE 8 INSURANCE, INDEMNITY AND SECURITY

8.1 INSURANCE. Licensee must, at its sole expense, procure and maintain at all times during the Term of this Agreement, and during any time period Licensee is required to return to the Licensed Space for any reason whatsoever, the types of insurance specified in Exhibit 4A (Insurance Requirements Applicable to All Licensees) covering all operations under this Agreement, with insurance companies authorized to do business in the State of Illinois. If any construction is to be performed, then, prior to any construction work commencing, Licensee must cause its general contractor at its sole expense, to procure and maintain at all times during the construction, and during any time period during which any contractor is required to return to perform additional construction work for any reason whatsoever, the types of insurance specified in Exhibit 4B (Insurance Requirements Applicable to Construction on the Chicago Riverwalk), with insurance companies authorized to do business in the State of Illinois.

8.2 INDEMNIFICATION.

Licensee must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees (collectively, the "Indemnified Parties,") from and against any and all Losses (as defined below), in consequence of the granting of this Agreement or arising out of or being in any way connected with the Licensee's performance under this Agreement, except as otherwise provided in 740 ILCS 35 "Construction Contract Indemnification for Negligence Act" if it applies, including those related to: injury, death or damage of or to any person or property; any infringement or violation of any property right (including any patent, trademark or copyright); failure to pay or perform or cause to be paid or performed Licensee's covenants and obligations as and when required under this Agreement or otherwise to pay or perform its obligations to any Subcontract; the City's exercise of its rights and remedies under this Agreement; and injuries to or death of any employee of Licensee or any Subcontractor under any workers compensation statute. When 740 ILCS 35 applies, indemnification provided by the Licensee to the Indemnified Parties will be to the maximum extent permitted under applicable law.

"Losses" means, individually and collectively, any and all debts, liens, claims, causes of action, demands, complaints, legal or administrative proceedings, losses, damages, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and expenses, consultants' fees and expenses and court costs), any or all of which in any way arise out of or relate to the negligent or otherwise wrongful errors, acts, or omissions of Licensee, its employees, agents and Subcontractors.

The Licensee will promptly provide, or cause to be provided, to the Commissioner and the Corporation Counsel copies of such notices as Licensee may receive of any claims, actions, or suits as may be given or filed in connection with the Licensee's performance or the performance of any Subcontractor and for which the Indemnified Parties are entitled to indemnification hereunder.

At the City Corporation Counsel's option, Licensee must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Licensee of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

Licensee shall be solely responsible for the defense of any and all claims, demands, or suits against the Indemnified Parties, including without limitation, claims by an employee, Subcontractors, agents, or servants of Licensee even though the claimant may allege that the Indemnified Parties were in charge of the work or service performed under this Agreement, that it involves equipment owned or furnished by the Indemnified Parties, or allege negligence on the part of the Indemnified Parties. The City will have the right to require Licensee to provide the City with a separate defense of any such suit.

To the extent permissible by law, Licensee waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due to third parties arising out of any Losses, including but not limited to any limitations on Licensee's liability with respect to a claim by any employee of Licensee arising under the Workers Compensation Act, 820 ILCS 305/1 et seq. or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute.

Licensee, for itself and its contractors, waives the right to receive the benefits of or to invoke the protection afforded by all maritime statutory limitations of liability, including the Limitation of Vessel Owner's Liability Act, 48 U.S.C. 183 et seq., that could act to diminish Licensee's or its contractors' liability for any harm or damage arising under the Agreement in any manner or for all claims or other costs arising from or occasioned by your operations on any waterways, including the Chicago River. This provision is not intended to avoid or waive federal jurisdiction under the applicable admiralty laws. This waiver extends only to the Indemnified Parties, and not to third parties seeking recovery for claims solely against you.

The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the Term of this Agreement or as the result of or during the Licensee's performance of work or services beyond the Term. Licensee acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by the Licensee's duties under this Agreement, including the insurance requirements set forth in this Agreement.

8.3 INTENTIONALLY DELETED

ARTICLE 9 DEFAULT, REMEDIES AND TERMINATION

9.1 EVENTS OF DEFAULT. The following (A) through (M) constitute Events of Default by Licensee under this Agreement. The Commissioner will notify Licensee in writing of any event that the Commissioner believes to be an Event of Default. If the Commissioner considers it to be in the City's best interests, the Commissioner may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the Commissioner permits Licensee to continue to provide the Concession despite one or more events of default, Licensee is in no way relieved of any of its responsibilities, duties or obligations under this Agreement, nor does the City waive or relinquish any of its rights. Licensee will be given an opportunity to cure the Event of Default within a reasonable period of time, as determined by the Commissioner, but not to exceed 30 days after written notice of the Event of Default; provided, that (i) if a provision of this Agreement provides for a different cure period for a particular Event of Default, that different cure period will apply; (ii) if a provision of this Agreement does not allow a right to cure a particular Event of Default, there will be no right to cure; and (iii) if neither (i) or (ii) apply and if the promise, covenant, term, condition or other non-monetary obligation or duty cannot be cured within the time period granted by the Commissioner, but Licensee promptly begins and diligently and continuously proceeds to cure the failure within the time period granted and after that continues to diligently and continuously proceed to cure the failure, and the failure is reasonably susceptible of cure within 30 days from delivery of the notice, Licensee will have the additional time, not in any event to exceed 30 days, to cure the failure.

A. Any material misrepresentation made by Licensee to the City in the inducement to City to enter this Agreement or in the performance of this Agreement. There is no right to cure this Event of Default.

B. Licensee's failure to make any payment in full when due under this Agreement and failure to cure the default within five days after the City gives written notice of the non-payment to Licensee. In addition, Licensee's failure to make any such payment within five days after the written notice more than three times in any License Year constitutes an Event of Default without the necessity of the City giving notice of the fourth failure to Licensee or allowing Licensee any opportunity to cure it.

C. Licensee's failure to promptly and fully keep, fulfill, comply with, observe, or perform any promise, term, condition, or obtain and all licenses necessary for the Concession, or other non-monetary obligation or duty of Licensee contained in this Agreement.

D. Licensee's failure to promptly and fully perform any obligation or duty, or to comply with any restriction of Licensee contained in this Agreement concerning Transfer or Change in Ownership, whether directly or indirectly, of Licensee's rights or interests in this Agreement or of the ownership of Licensee.

E. Licensee's or its contractors' failure to provide or maintain the insurance coverage required under this Agreement (including any material non-compliance with the requirements) and the failure to cure the Event of Default within two days following oral or written notice from the

Commissioner; or, if the noncompliance is nonmaterial, the failure to cure the Event of Default within 20 days after the Commissioner gives written notice. The Commissioner, in his sole discretion, will determine if noncompliance is material.

F. Licensee's failure to conduct Concession operations in any Concession Space at all times Licensee is required to do so under this Agreement.

G. Licensee's failure to begin or to complete its Improvements on a timely basis or to timely open for business in the Location.

H. An Event of Default by Licensee or any Affiliate under any other agreement it may presently have or may enter into with the City during the Term of this Agreement and failure to cure the default within any applicable cure period.

I. Licensee or its guarantor, if any, does any of the following and the action affects Licensee's ability to carry out the terms of this Agreement:

- (i) becomes insolvent, as the term is defined under Section 101 of the Bankruptcy Code as amended from time to time; or
- (ii) fails to pay its debts generally as they mature; or
- (iii) seeks the benefit of any present or future federal, state or foreign insolvency statute; or
- (iv) makes a general assignment for the benefit of creditors, or
- (v) files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of its indebtedness under the Bankruptcy Code or under any other law or statute of the United States or of any State or any foreign jurisdiction; or
- (vi) consents to the appointment of a receiver, trustee, custodian, liquidator or other similar official, of all or substantially all of its property.

J. An order for relief is entered by or against Licensee or its guarantor (if any) under any chapter of the Bankruptcy Code or similar law in any foreign jurisdiction and is not stayed or vacated within 60 days following its issuance.

K. Licensee is dissolved.

L. A violation of law that results in a guilty plea, a plea of nolo contendere, guilty finding, or conviction of a criminal offense, by Licensee, or any of its directors, officers, partners or key management employees directly or indirectly relating to this Agreement, and that may threaten, in the sole judgment of Commissioner, Licensee's performance of this Agreement in accordance with its terms.

M. Any failure to perform, act, event or omission that is specifically identified as an Event of Default elsewhere in this Agreement.

9.2 REMEDIES.

If an Event of Default occurs and is not cured by Licensee in the time allowed, in addition to any other remedies provided for in this Agreement or at law or equity, the City through the Commissioner or other appropriate City official may exercise any or all of the following remedies:

A. Terminate this Agreement and exclude Licensee from the Location and participation in future requests for proposals relating to the operation of a concession at the Riverwalk. If the Commissioner elects to terminate this Agreement, the Commissioner may, at the Commissioner's sole option, serve notice upon Licensee that this Agreement ceases and expires and becomes absolutely void with respect to the Location on the date specified in the notice, to be no less than five days after the date of the notice, without any right on the part of Licensee after that to save the Agreement by payment of any sum due or by the performance of any term, provision, covenant, agreement or condition broken. At the expiration of the time limit in the notice, this Agreement wholly ceases and expires and becomes void with respect to the Location in the same manner and with the same force and effect (except as to Licensee's liability and any provisions that survive termination) as if the date fixed in the notice were the date in this Agreement stated for expiration of the Term.

B. Recover all Fees and any other amounts due that have accrued and are then due and payable and also all damages available at law or under this Agreement. If the Agreement is terminated, whether in its entirety or with respect to a part of the Location, the damages will include any and all amounts that Licensee would have been obligated to pay for the balance of the Term with respect to the Location, calculated as provided in this Agreement or, if not fixed, as reasonably estimated; provided, however, that such damages based on Fees that Licensee would have been obligated to pay will cease when and if City executes a license agreement with a replacement licensee for the Location but only to the extent that the Fees paid by the replacement licensee equal or exceed the Fees that Licensee would have been obligated to pay. In determining the amount of damages for the period after termination, the Commissioner may make the determination based upon the sum of any future payments that would have been due to the City, for the full License Year immediately before the Event of Default.

C. Remove from the Location, Storage Area, and Additional Space if applicable all inventory, equipment, machinery, trade fixtures and personal property of any kind or nature, whether owned by Licensee or by others. If such items listed in the immediately preceding sentence are not collected by Licensee with five days, the City, at Licensee's sole cost and expense, may dispose of such property in any manner selected by the Commissioner.

D. Seek and obtain specific performance, a temporary restraining order or an injunction, or any other appropriate equitable remedy.

E. Seek and obtain money damages; including special, exemplary, incidental and consequential damages.

F. Deem Licensee and Affiliates non-responsible in future contracts or concessions to be awarded by the City.

G. Declare Licensee and Affiliates in default under any other existing contracts or agreements they might have with the City and to exercise any remedies available under those other contracts or agreements.

H. Accept the assignment of any and all Subcontracts between Licensee and the design and construction Subcontractors.

I. Require Licensee to terminate a Subcontractor that is causing breaches of this Agreement.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies.

9.3 Effect of Default and Remedies.

A. Licensee, for itself and on behalf of any and all persons claiming through or under it (including creditors of all kinds), waives all right that they or any of them might have under or by reason of any present or future law, to have a continuance of this Agreement for the Term, as it may have been extended.

B. The City's waiver of any one right or remedy provided in this Agreement does not constitute a waiver of any other right or remedy then or later available to the City under this Agreement or otherwise. A failure by the City or the Commissioner to take any action with respect to any Event of Default or violation of any of the terms, covenants or conditions of this Agreement by Licensee will not in any respect limit, prejudice, diminish or constitute a waiver of any rights of the City to act with respect to any prior, contemporaneous or later violation or Event of Default or with respect to any continuation or repetition of the original violation or Event of Default. The acceptance by the City of payment for any period or periods after an Event of Default or violation of any of the terms, conditions and covenants of this Agreement does not constitute a waiver or diminution of the City's remedies, nor create any limitation upon any right of the City under this Agreement to terminate this Agreement for any subsequent violation or Event of Default, or for continuation or repetition of the original violation or Event of Default. Licensee has no claim of any kind against the City by reason of the City's exercise of any of its rights as set forth in this Agreement or by reason of any act incidental or related to the exercise of rights.

C. All rights and remedies of the City under this Agreement are separate and cumulative and none excludes any other right or remedy of the City set forth in this Agreement or allowed by law or in equity. No termination of this Agreement deprives the City of any of its remedies against Licensee for Fees, or other amounts due or for damages for the Licensee's breach of this Agreement. Every right and remedy of the City under this Agreement survives the expiration of the Term or the termination of this Agreement.

ARTICLE 10 SPECIAL CONDITIONS

10.1 WARRANTIES AND REPRESENTATIONS. In connection with the execution of this Agreement, Licensee warrants and represents statements (A) through (J) below are true as of the Effective Date. If during the Term there is any change in circumstances that would cause a statement to be untrue, Licensee must promptly notify the Commissioner in writing. Failure to do so will constitute an Event of Default. Licensee must incorporate all of the provisions set forth in this Section 10.1 in all Subcontracts entered into with any suppliers of materials, furnishers of services, Subcontractors, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any materials, labor or services in connection with this Agreement, such that the parties warrant, represent and covenant to Licensee as to the matters set forth in this section. Licensee must cause its Subcontractors to execute those affidavits and certificates that may be necessary in furtherance of these provisions. The certifications must be attached and incorporated by reference in the applicable agreements. If any Subcontractor is a partnership or joint venture, Licensee must also include provisions in its Subcontract insuring that the entities comprising the partnership or joint venture are jointly and severally liable for its obligations under it.

A. Licensee is financially solvent; Licensee holds itself to very high standards of quality and professionalism; Licensee and each of its employees and agents are competent to perform as required under this Agreement; this Agreement is feasible of performance by Licensee in accordance with all of its provisions and requirements; Licensee has the full power and is legally authorized to perform or cause to be performed its obligations under this Agreement under the terms and conditions stated in this Agreement; and Licensee can and will perform, or cause to be performed, all of its obligations under this Agreement in accordance with the provisions and requirements of this Agreement.

B. Licensee is qualified to do business in the State of Illinois; and Licensee has a valid current business privilege license to do business in the State of Illinois and the City of Chicago, if required by applicable law.

C. The person signing this Agreement on behalf of Licensee has been duly authorized to do so by Licensee; all approvals or consents necessary in order for Licensee to execute and deliver this Agreement have been obtained; and neither the execution and delivery of this Agreement, the consummation of the transactions contemplated, nor the fulfillment of or compliance with the terms and conditions of this Agreement:

- (i) conflict with or result in a breach, default or violations of: Licensee's organizational documents; any law, regulation, ordinance, court order, injunction, or decree of any court, administrative agency or governmental body, or any license or permit; or any of the terms, conditions or provisions of any restriction or any agreement or other instrument to which Licensee is now a party or by which it is bound; or
- (ii) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Licensee under the terms of any instrument or agreement.

D. There is no litigation, claim, investigation, challenge or other proceeding now pending or, to Licensee's knowledge after due and complete investigation, threatened, challenging the existence or powers of Licensee, or in any way affecting its ability to execute or perform under this Agreement or in any way having a material adverse effect on the operations, properties, business or finances of Licensee.

E. This Agreement constitutes the legal, valid and binding obligation of Licensee, enforceable against Licensee in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium and other laws affecting creditors' rights and remedies generally and by the application of equitable principles.

F. No officer, agent or employee of the City is employed by Licensee or has a financial interest directly or indirectly in this Agreement, a Subcontract under it, or the compensation to be paid under it, except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code and as may otherwise be permitted by law.

G. Licensee has not and will not knowingly use the services of any person or entity for any purpose in its performance under this Agreement, when such person or entity is ineligible to perform services under this Agreement or in connection with it, as a result of any local, state or federal law, rule or regulation, or when such person or entity has an interest that would conflict the performance of services under this Agreement.

H. Neither Licensee nor any Affiliate of Licensee is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U. S. Department of Commerce or their successors, or on any other list of persons with which the City may not do business under applicable law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, and Entity List, and the Debarred List.

I. Licensee, and to the best of Licensee's knowledge, its Affiliates, Subcontractors, any of their respective owners holding 7.5% or more beneficial ownership interest, and any of Licensee's directors, officers, members, or partners:

- (i) currently have no interest, directly or indirectly, that conflicts in any manner or degree with Licensee's performance under this Agreement and will not at any time during the Term have any interest nor acquire any interest, directly or indirectly, that conflicts or would or may conflict in any manner or degree with Licensee's performance under this Agreement;
- (ii) have no outstanding parking violation complaints or debts, as the terms are defined in Section 2-92-380 of the Municipal Code (with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding) and agrees that, for the Term, they will promptly pay any debts, outstanding parking violation complaints or monetary obligations to the City that

may arise during the Term, with the exception of any debt or obligation that is being contested in a pending administrative or judicial proceeding;

- (iii) are not in default under any other City contract or agreement as of the Effective Date, nor have been deemed by the City to have been in default of any other City contract or agreement within five years immediately preceding the Effective Date;
- (iv) are not in violation of the provisions of § 2-92-320 of the Municipal Code pertaining to certain criminal convictions or admissions of guilt and are not currently debarred or suspended from contracting by any Federal, State or local governmental agency;
- (v) are not delinquent in the payment of any taxes due to the City; and
- (vi) will not make use of the Licensed Space in any manner that might interfere that otherwise constitute a hazard to the operations of the Riverwalk or to the public generally.

J. Except only for those representations, statements, or promises expressly contained in this Agreement, including any exhibits attached to this Agreement and incorporated by reference in this Agreement, no representation, warranty of fitness, statement or promise, oral or in writing, or of any kind whatsoever, by the City, its officials, agents, or employees, has induced Licensee to enter into this Agreement or has been relied upon by Licensee, including any with reference to:

- (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement;
- (ii) the nature of the Concession license being granted;
- (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities, needed for the performance of this Agreement;
- (iv) the general conditions that may in any way affect this Agreement or its performance;
- (v) the compensation provisions of this Agreement; or
- (vi) any other matters, whether similar to or different from those referred to in clauses (i) through (iv) immediately above, affecting or having any connection with this Agreement, the negotiation of this Agreement, any discussions of this Agreement, the performance of this Agreement or those employed in connection with it.

10.2 BUSINESS DOCUMENTS, DISCLOSURE OF OWNERSHIP INTERESTS AND MAINTENANCE OF EXISTENCE.

A. Licensee must provide evidence of its authority to do business in the State of Illinois including, if applicable, certifications of good standing from the Office of the Secretary of State of Illinois, and appropriate resolutions or other evidence of the authority of the persons executing this Agreement on behalf of Licensee.

B. Licensee has provided the Commissioner with an Economic Disclosure Statement and Affidavit (“EDS”) for itself and EDSs for all entities with an ownership interest of 7.5 percent or more in Licensee, copies of which have been scanned for viewing on the City’s website, and are attached hereto as Exhibit 5. Upon request by the Commissioner, Licensee must further cause its Subcontractors, and proposed Transferees (and their respective 7.5 percent owners) to submit an EDS to the Commissioner. Licensee must provide the Commissioner, upon request, a “no change” affidavit if the information in the EDS(s) previously supplied remains accurate, or revised and accurate EDS(s) if the information contained in the EDS(s) has changed. In addition, Licensee must provide the City revised and accurate EDS(s) within 30 days of any event or change in circumstance that renders the EDS(s) inaccurate. Failure to maintain accurate EDS(s) on file with the City is an Event of Default.

10.3 LICENSES AND PERMITS. Licensee must in a timely manner consistent with its obligations under this Agreement, secure and maintain, or cause to be secured and maintained at its expense, the permits, licenses, authorizations and approvals as are necessary under federal, state or local law for Licensee, and Subcontractors: to operate the Concession; to construct, operate, use and maintain the Licensed Space; and otherwise to comply with the terms of this Agreement and the privileges granted under this Agreement. Licensee must promptly provide copies of any required licenses and permits to the Commissioner and to the Concession Management Representative.

10.4 CONFIDENTIALITY. Except as may be required by law during or after the performance of this Agreement, Licensee will not disseminate any non-public information regarding this Agreement or the Concession operations without the prior written consent of the Commissioner, which consent will not be unreasonably withheld or delayed. If Licensee is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any documents that may be in its possession by reason of this Agreement, Licensee must immediately give notice to the City’s Corporation Counsel. The City may contest the process by any means available to it before the records or documents are submitted to a court or other third party. Licensee, however, is not obligated to withhold the delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended. Licensee must require each prospective Subcontractor to abide by such restrictions in connection with their respective Subcontracts.

10.5 SUBCONTRACTS AND ASSIGNMENTS.

A. The City expressly reserves the right to assign or otherwise transfer all or any part of its interest under this Agreement, at any time and to any third party. Upon assignment to any successor or assignee of the City's right, title and interest in and to the Riverwalk, the City is forever relieved, from and after the date of the assignment, of any and all obligations arising under or out of this Agreement, to the extent the obligations are assumed by the successor or assignee.

- B. Limits on Licensee's transfers and changes in ownership:
- (i) Licensee may not sell, assign, sublicense, convey, pledge, encumber or otherwise transfer (individually and collectively, "**Transfer**") all or any part of its rights or interests in or to this Agreement, the Licensed Space, or otherwise permit any third party to use the Licensed Space, without prior consent of the City, which consent may be given or denied in the City's sole discretion. Consent by the City does not relieve Licensee from obtaining further consent from the City for any subsequent Transfer. Transfers may require approval of the City Council; if such approval is not required, then approval of the Commissioner is required. Consent by the City to any Transfer does not relieve Licensee from the requirement of obtaining consent from the City for any subsequent Transfer. Transfers that have the effect of granting a third party a security interest in this Agreement or the Licensed Space as collateral for Licensee financing are strictly prohibited and, if entered into by Licensee, are an Event of Default.
 - (ii) Except as otherwise provided below, any transaction involving a change of any ownership interest in Licensee, whether to an Affiliate, subsidiary or otherwise, or the transfer of an interest in any holder of a direct or indirect ownership interest in Licensee, or any merger or consolidation of Licensee (individually and collectively, "**Change in Ownership**"), is subject to the consent of:
 - a. City Council, in its sole discretion, if consent by City Council was required for approval of this Agreement, or
 - b. the Commissioner, in his sole discretion, if consent by City Council was not required for approval of this Agreement.
 - (iii) If Licensee (or, if Licensee is a joint venture or other entity comprised of other entities, any of the entities comprising Licensee) is a corporation whose shares are traded at arms-length on a public exchange, any Change in Ownership involving 7.5% or more of the shares of Licensee's (or if Licensee is a joint venture or other entity comprised of other entities, of any of the entities comprising Licensee) stock is subject to the City's consent as set forth above. If Licensee (or if Licensee is a joint venture or other entity comprised of other entities, of any of the entities comprising Licensee) is a publicly traded corporation, a Change in Ownership of less than 7.5% does not require consent as set forth in (ii) above unless a series of such transactions results in a cumulative Change in Ownership of 7.5% or more.
 - (iv) Consent by the City to any Change in Ownership does not relieve Licensee (or if Licensee is a joint venture, any of the entities comprising Licensee) from the requirement of obtaining consent from the City for any subsequent Change in Ownership.

- (v) Any Transfer or Change in Ownership made without the City's prior consent is an Event of Default subject to all remedies, including termination of this Agreement at the City's option, and does not relieve Licensee of any of its obligations under this Agreement for the balance of the Term. This section applies to prohibit a Transfer, such as an assignment by a receiver or trustee in any federal or state bankruptcy, insolvency or other proceedings or by operation of law. Under no circumstances will any failure by the Commissioner to act on or submit any request by Licensee or to take any other action as provided in this Agreement be deemed or construed to constitute consent to the Licensee's request by the Commissioner or by the City Council.
- (vi) Notwithstanding any permitted Transfer by Licensee of any rights under this Agreement, Licensee remains fully liable for all payments due to the City under this Agreement and for the performance of all other obligations under this Agreement. In the event of a permitted Transfer of this Agreement, where the fees payable to Licensee exceed the License Fee or pro rata portion of the License Fee under this Agreement, as the case may be, for the Licensed Space, Licensee must pay the City quarterly, at the same time as the quarterly installments of the License Fee under this Agreement that are payable in quarterly installments, the excess of the fees payable to Licensee pursuant to the Transfer over the License Fee payable to the City under this Agreement.
- (vii) Any or all of the requests by Licensee for consents under this section must be made in writing and provided to the Commissioner (a) at least 60 days prior to the proposed Transfer or Change in Ownership if the Commissioner's consent is required; and (b) at least 120 days prior to a proposed Transfer or Change in Ownership if the City Council's consent is required, unless the City determines that more time is required. All requests for consent must include copies of the proposed documents of Transfer or Change in Ownership, evidence of the financial condition, reputation and business experience of the proposed transferee, completed Economic Disclosure Statements and Affidavits for all involved parties in the form then required by the City, and such other documents as the City may reasonably require to evaluate the proposed Transfer or Change in Ownership. All documents of Transfer or Change in Ownership must completely disclose any and all monetary considerations payable to Licensee in connection with the Transfer or Change in Ownership. Consent to a Transfer or Change in Ownership proposed under this Agreement is in the sole discretion of the City and, as a condition of the consent, the City may require a written acknowledgment from Licensee that, notwithstanding the proposed Transfer or Change in Ownership, Licensee remains fully and completely liable for all obligations of Licensee under this Agreement; however, Licensee shall remain so liable regardless of whether or not the City requests a written acknowledgement.
- (viii) If any Transfer or Change in Ownership under this Agreement occurs, whether or not prohibited by this section, the Commissioner may collect the Fees payable under this Agreement from any transferee of Licensee and in that event will apply

the net amount collected to the amounts payable by Licensee under this Agreement without, by doing so, releasing Licensee from this Agreement or any of its obligations under this Agreement. If any Transfer or Change in Ownership occurs without the consent of the City and the City collects compensation from any transferee of Licensee and applies the net amount collected in the manner described in the preceding sentence, the actions by the City are not deemed to be waiver of the covenant contained in this section and do not constitute acceptance of the transferee by the City.

- (ix) All reasonable costs and expenses incurred by the City in connection with any prohibited or permitted Transfer or Change in Ownership must be borne by Licensee and are payable to the City.

C. The provisions of this Agreement, to the extent applicable, are deemed a part of any contract between Licensee and Subcontractor.

10.6 COMPLIANCE WITH LAWS. Licensee must at all times observe and comply with all applicable laws, statutes, ordinances, rules, regulations, court orders and executive or administrative orders and directives of the federal, state and local government, now existing or later in effect (whether or not the law also requires compliance by other parties), including the Americans with Disabilities Act and Environmental Laws, that may in any manner affect the performance of this Agreement (collectively, “Laws”), and must not use the Licensed Space, or allow the Licensed Space to be used, in violation of any Laws or in any manner that would impose liability on the City or Licensee under any Laws. Licensee must notify the City within seven days of receiving notice from a competent governmental authority that Licensee or any of its Subcontractors may have violated any Laws. Provisions required by any Law to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement. Without limiting the foregoing, Licensee covenants that it will comply with all Laws, including but not limited to the following:

A. In connection with Section 2-92-320 of the Municipal Code, Licensee has executed an Economic Disclosure Statement and Affidavit which is attached to this Agreement as Exhibit 5 and which contains a certification as required under the Illinois Criminal Code, 720 ILCS 5/33E, and under the Illinois Municipal Code, 65 ILCS 5/8 10 1 et seq. Ineligibility under Section 2-92-320 of the Municipal Code continues for 3 years following any conviction or admission of a violation of Section 2-92-320. For purposes of Section 2-92-320, when an official, agent or employee of a business entity has committed any offense under the section on behalf of such an entity and under the direction or authorization of a responsible official of the entity, the business entity is chargeable with the conduct. If, after Licensee enters into a contractual relationship with a Subcontractor, it is determined that the contractual relationship is in violation of this subsection, Licensee must immediately cease to use the Subcontractor. All Subcontracts must provide that Licensee is entitled to recover all payments made by it to the Subcontractor if, before or subsequent to the beginning of the contractual relationship, the use of the Subcontractor would be violative of this subsection.

B. It is the duty of Licensee and all officers, directors, agents, partners, and employees of Licensee to cooperate with the Inspector General of the City in any investigation or hearing undertaken under Chapter 2-56 of the Municipal Code. Licensee understands and will abide by all provisions of Chapter 2-56 of the Municipal Code. Licensee must inform all Subcontractors of this provision and require under each Subcontract compliance herewith by each Subcontractor as to each such Subcontractor and all of its officers, directors, agents, partners and employees.

C. Licensee must not use or allow the Licensed Space to be used for the release, storage, use, treatment, disposal or other handling of any hazardous substance, as defined in any Environmental Laws, except in full compliance with all Environmental Laws. Licensee must not use or allow the Licensed Space to be used for the storage of any such hazardous substances except small amounts of cleaning fluids, business equipment materials (such as copy machine toner) and other small amounts of such hazardous substances customarily handled or used in connection with the Concession operations, all of which must be stored and used in compliance with all applicable Environmental Laws. Upon the expiration or termination of this Agreement, Licensee must vacate the Licensed Space to the City free from the presence and contamination of any hazardous substances.

D. In accordance with Section 11-4-1600(e) of the Municipal Code, Licensee warrants and represents that it, and to the best of its knowledge, its Subcontractors have not violated and are not in violation of the following sections of the Municipal Code (collectively, the “Waste Sections”):

- 7-28-390 Dumping on public way—Violation—Penalty;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge;
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste;
- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements;
- 11-4-1560 Screening requirements; and
- any other sections listed in Section 11-4-1600(e), as it may be amended from time to time.

During the period while this Agreement is executory, Licensee’s or any Subcontractor’s violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an Event of Default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Commissioner. Such breach and Event of Default entitles the City to all remedies under the Agreement, at law or in equity. This section does not limit the Licensee’s and its Subcontractors’ duty to comply with all Environmental Laws, in effect now or later, and whether or not they appear in this Agreement. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect the Licensee's eligibility for future City agreements.

E. Section 2-92-586 of the Municipal Code: The City encourages Licensee to use contractors and subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code, where not otherwise prohibited by federal or state law.

F. Prohibition on Certain Contributions.

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Licensee, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Licensee represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Licensee or the date the Licensee approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Licensee shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Licensee violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, the Commissioner may reject Licensee's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Licensee and the City that is (i) formed under the authority of Municipal Code Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in Municipal Code Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in Municipal Code Ch. 2-156, as amended.

G. Licensee covenants that no payment, gratuity or offer of employment must be made in connection with this Agreement by or on behalf of any Subcontractors or higher tier Subcontractors or anyone associated with them as an inducement for the award of a Subcontract or order; and Licensee further acknowledges that any agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 of the Municipal Code is voidable as to the City.

H. Pursuant to Municipal Code Sec. 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other City official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Violation of Municipal Code Sec. 2-156-030 by any elected official with respect to this Agreement will be grounds for termination of this Agreement. The term financial interest is defined as set forth in Municipal Code Chapter 2-156.

I. Visual Rights Act.

- (i) The Licensee will cause any artist who creates artwork for the Licensed Space to waive any and all rights in the artwork that may be granted or conferred on any work of visual art (the "Artwork") under Section 106A and Section 113 of the United States Copyright Act, (17 U.S.C. § 101 et seq.) (the "*Copyright Act*"). The waiver must include, but is not limited to, the right to prevent the removal, storage,

relocation, reinstallation, or transfer of the Artwork. The Licensee acknowledges and will cause the artist to acknowledge that such removal, storage, relocation, reinstallation or transfer of the Artwork may result in the destruction, distortion, mutilation or other modification of the Artwork. Further, the Licensee acknowledges and consents and will cause the artist to acknowledge and consent that the Artwork may be incorporated or made part of a building or other structure in such a way that removing, storing, relocating, reinstalling or transferring the Artwork will cause the destruction, distortion, mutilation or other modification of the Artwork.

- (ii) The Licensee represents and warrants that it will obtain a waiver of Section 106A and Section 113 of the Copyright Act as necessary from any employees and subcontractors, or any other artists. Licensee must provide City with copies of any such waivers required by Section 106A and Section 113 of the Copyright Act prior to installation of any Artwork in the Licensed Space.

10.7 NON-DISCRIMINATION.

A. Licensee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, covenants that: (i) no person on the grounds of race, color, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in the use of the Licensed Space; (ii) in the construction of any Improvements within the Licensed Space and the furnishing of services in them, no person on the grounds of race, color, gender identity, ancestry, sexual orientation, marital status, parental status, military status, source of income, credit history, or national origin will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination; (iii) Licensee will use the Licensed Space in compliance with all other requirements imposed by or under 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as those regulations may be amended; and (iv) Licensee shall operate the Concession on a fair, equal, and not illegally discriminatory basis to all users of it, and shall charge fair, reasonable, and nondiscriminatory prices for Products (but Licensee is allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.) In addition, Licensee assures that it will comply with all other pertinent statutes, Executive Orders and the rules as are promulgated to assure that no person will, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefitting from federal assistance.

B. It is an unlawful practice for Licensee to, and Licensee must at no time: (i) fail or refuse to hire, or discharge, any individual or discriminate against the individual with respect to his or her compensation, or the terms, conditions, or privileges of his or her employment, because of the individual's race, creed, color, religion, sex, age, handicap, gender identity, ancestry, sexual orientation, marital status, parental status, military status, source of income, credit history or national origin; or (ii) limit, segregate, or classify its employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of the individual's race, creed, color, religion, sex, age, handicap, gender identity, ancestry, sexual orientation, marital status, parental status, military

status, source of income, credit history or national origin; or (iii) in the exercise of the privileges granted in this Agreement, discriminate or permit discrimination in any manner, including the use of the Licensed Space, against any person or group of persons because of race, creed, color, religion, national origin, age, handicap, sex, ancestry, gender identity, ancestry, sexual orientation, marital status, parental status, military status, source of income or credit history. Licensee must post in conspicuous places to which its employees or applicants for employment have access, notices setting forth the provisions of this non-discrimination clause.

C. Licensee must comply with the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1981), as amended, and to the extent required by the law, must undertake, implement and operate an affirmative action program in compliance with the rules and regulations of the Federal Equal Employment Opportunity Commission and the Office of Federal Contract Compliance, including 14 CFR Part 152, Subpart E. Attention is called to: Exec. Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. § 2000e note, as amended by Exec. Order No. 11,375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101 06 (1981); Rehabilitation Act of 1973, 29 U.S.C. §§ 793 94 (1981); Americans with Disabilities Act, 42 U.S.C. § 12101 and 41 CFR Part 60 et seq. (1990) and 49 CFR Part 21, as amended (the "ADA"); and all other applicable federal statutes, regulations and other laws.

D. Licensee must comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 5 Ill. Admin. Code §750 Appendix A. Furthermore, Licensee must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended, and all other applicable state statutes, regulations and other laws.

E. Licensee must comply with the Chicago Human Rights Ordinance, sec. 2-160-010 et seq. of the Municipal Code, as amended, and all other applicable City ordinances and rules. Further, Licensee must furnish or must cause each of its Subcontractor(s) to furnish such reports and information as requested by the Chicago Commission on Human Relations.

F. Licensee must insert these non-discrimination provisions in any agreement by which Licensee grants a right to any person, firm, or corporation to render accommodations and/or services to the public on the Licensed Space. Licensee must incorporate all of the above provisions in all agreements entered into with any sublicensees, suppliers of materials, furnishers of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement, and Licensee must require them to comply with the law and enforce the requirements. In all solicitations either by competitive bidding or negotiations by Licensee for work to be performed under a Subcontract, including procurements of materials or Licenses of equipment, each potential Subcontractor or supplier must be notified by Licensee of the Licensee's obligations under this Agreement relative to nondiscrimination.

G. Noncompliance with this section will constitute a material breach of this Agreement; therefore, in the event of such breach, Licensee authorizes the City to take such action

as federal, state or local laws permit to enforce compliance, including judicial enforcement. In the event of Licensee's noncompliance with the nondiscrimination provisions of this Agreement, the City may impose such sanctions as it or the Federal or state government may determine to be reasonably appropriate, including cancellation, termination or suspension of the Agreement, in whole or in part.

H. Licensee must permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City, the Commissioner or the Federal government to be pertinent to ascertain compliance with the terms of this section. Licensee must furnish to any agency of the Federal or state government or the City, as required, any and all documents, reports and records required by Title 14, Code of Federal Regulations, Part 152, Subpart E, including an affirmative action plan and Form EEO-1.

10.8 NATIONAL EMERGENCY. This Agreement and all the provisions of this Agreement are subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of the Riverwalk, or the exclusive or non-exclusive use of the Riverwalk by the United States during the time of war or national emergency.

10.9 2014 HIRING PLAN PROHIBITIONS.

A. The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

B. Licensee is aware that City policy prohibits City employees from directing any individual to apply for a position with Licensee, either as an employee or as a subcontractor, and from directing Licensee to hire an individual as an employee or as a subcontractor. Accordingly, Licensee must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Licensee under this Agreement are employees or subcontractors of Licensee, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Licensee.

C. Licensee will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual

persons in support of or in opposition to political organizations or parties or candidates for elected public office.

D. In the event of any communication to Licensee by a City employee or City official in violation of paragraph B above, or advocating a violation of paragraph C above, Licensee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Licensee will also cooperate with any inquiries by OIG Hiring Oversight.

10.10 MINIMUM WAGE. Licensee agrees that this Agreement is subject to Mayoral Executive Order 2014-1 (“Executive Order 2014-1”), which provides for a fair and adequate Minimum Wage to be paid to employees of City concessionaries and their contractors, subcontractors and sublicensees. Licensee and any of its sublicensees and Subcontractors must pay the Minimum Wage set forth in Executive Order 2014-1 and comply with any applicable regulations issued by the Chief Procurement Officer. Every July 1, the hourly wages shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor. Any hourly wage increase shall be rounded up to the nearest multiple of \$0.05. Such increase shall remain in effect until any subsequent adjustment is made.

As of July 1, 2023, the Minimum Wage for all employees to be paid pursuant to Executive Order 2014-1 is \$16.80 per hour. When the employer takes an allowance for gratuities pursuant to 820 ILCS 105/3(c), the employer shall base the calculation of the amount to be paid by the employer to the employee on the minimum wage as set forth in 820 ILCS 105/3, and add \$1.00 per hour to that amount. As of July 1, 2023, the amount to be paid when taking an allowance for gratuities, is \$8.80 per hour. On or before June 1 of each year, the City will make available to the Licensee a bulletin announcing the adjusted minimum hourly wages for the upcoming year.

Licensee, and any sublicensees or Subcontractors, that pay an employee the wage for employees who receive gratuities, shall transmit to the City, in a manner provided by regulation, substantial evidence establishing both the amount that the employee received as gratuities during the relevant pay period or periods, and the fact that the employee did not return any part of those gratuities to the Licensee, sublicensees, or Subcontractor. If Licensee, sublicensee, or Subcontractor, is required by the Minimum Wage Law to provide substantially similar data to the Illinois Department of Labor, the City may allow compliance with this requirement by filing the same documentation with the City. The City shall utilize this data to ensure that each employee receives, in combined salary and gratuities, at least the base hourly wage required under Executive Order 2014-1.

However, the Minimum Wage is not required to be paid to categories of employees subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

Additionally, the Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by Executive Order 2014-1, if that collective bargaining agreement was in force prior to October 1, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the order.

This Minimum Wage section does not apply if Licensee, Subcontractor or sublicensee is a not-for-profit organization having tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code and recognized under Illinois law governing not-for-profit corporations.

ARTICLE 11 GENERAL CONDITIONS

11.1 ENTIRE AGREEMENT. This Agreement contains all the terms, covenants, conditions and agreements between the City and Licensee relating in any manner to the use of the Licensed Space and otherwise to the subject matter of this Agreement. No prior or other agreement or understandings pertaining to these matters are valid or of any force and effect. This Agreement supersedes all prior or contemporaneous negotiations, undertakings, and agreements between the parties. No representations, inducements, understandings or anything of any nature whatsoever made, stated or represented by the City or anyone acting for or on the City's behalf, either orally or in writing, have induced Licensee to enter into this Agreement, and Licensee acknowledges, represents and warrants that Licensee has entered into this Agreement under and by virtue of Licensee's own independent investigation.

11.2 COUNTERPARTS. This Agreement may be comprised of several identical counterparts and may be fully executed by the parties in separate counterparts. Each such counterpart is deemed to be an original, but all such counterparts together must constitute but one and the same Agreement.

11.3 AMENDMENTS. Except as otherwise expressly provided in this Agreement, the provisions of this Agreement may be amended only by a written agreement signed by the City and Licensee. No review or approval by the Commissioner, including approval of Construction Documents, constitutes a modification of this Agreement (except to the extent that the review or approval expressly provides that it constitutes such a modification or it is apparent on its face that the review or approval, if made in writing, modifies terms or provisions of this Agreement that are within the express powers of the Commissioner under this Agreement to modify), nor excuse Licensee from compliance with the requirements of this Agreement or of any applicable laws, ordinances or regulations. Amendments must be signed by the Commissioner or any representative authorized in writing to act on the Commissioner's behalf, and approved by the Budget Director and the Corporation Counsel (as to form and legality). Notwithstanding the foregoing, any amendment that would modify the Agreement such that the Agreement would no longer substantially conform with the form of Agreement that was approved by City Council requires approval by the City Council.

11.4 SEVERABILITY. Whenever possible, each provision of this Agreement must be interpreted in such a manner as to be effective and valid under applicable law. However, notwithstanding anything contained in this Agreement to the contrary, if any provision of this Agreement is under any circumstance prohibited by or invalid under applicable law, the provision is severable and deemed to be ineffective, only to the extent of the prohibition or invalidity, without invalidating the remaining provisions of this Agreement or the validity of the provision in other circumstances.

11.5 COVENANTS IN SUBCONTRACTS. All obligations imposed on Licensee under this Agreement pertaining to the maintenance and operation of the Licensed Space and compliance with the MBE and WBE requirements in this Agreement are deemed to include a covenant by Licensee to insert appropriate provisions in all Subcontracts covering work under this Agreement and to enforce compliance of all Subcontractors with the requirements of those provisions.

11.6 NOTICES. Any notices or other communications pertaining to this Agreement must be in writing and are deemed to have been given by a party if sent by nationally recognized commercial overnight courier or registered or certified mail, return receipt requested, postage prepaid and addressed to the other party. Notices are deemed given on the date of receipt if by personal service, or one day after deposit with a nationally recognized commercial overnight courier, 3 days after deposit in the U.S. mails, or otherwise upon refusal of receipt. Unless otherwise directed by Licensee in writing, all notices or communications from City to Licensee will be addressed to the person identified as the Licensee's contact person in the preamble of this Agreement. All notices or communications from Licensee to the City must be addressed to:

City of Chicago
Department of Fleet & Facility Management
2 N. LaSalle Street Suite 200
Chicago, Illinois 60602
Attn: Commissioner

and with a copy to: Deputy Commissioner of Asset Management at the same address.

If the notice or communication relates to a legal matter or the indemnification requirements, a copy must also be sent to:

City of Chicago, Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attn: Deputy Corporation Counsel, Real Estate Division

Either party may change its address or the individual to whom the notices are to be given by a notice given to the other party in the manner set forth above.

11.7 SUCCESSORS AND ASSIGNS; NO THIRD PARTY BENEFICIARIES. This Agreement inures to the exclusive benefit of, and be binding upon, the parties and their permitted successors and assigns; nothing contained in this section, however, constitutes approval of an assignment or other transfer by Licensee not otherwise permitted in this Agreement. Nothing in this Agreement, express or implied, is intended to confer on any other person, sole proprietorship, partnership, corporation, trust or other entity, other than the parties and their successors and assigns, any right, remedy, obligation, or liability under, or by reason of, this Agreement unless otherwise expressly agreed to by the parties in writing. No benefits, payments or considerations received by Licensee for the performance of services associated and pertinent to this Agreement must accrue, directly or indirectly, to any employees, elected or appointed officers or

representatives, or to any other person or persons identified as agents of, or who are by definition an employee of, the City. Neither this Agreement nor any rights or privileges under this Agreement are an asset of Licensee or any third party claiming by or through Licensee or otherwise, in any bankruptcy, insolvency or reorganization proceeding.

11.8 SUBORDINATION.

A. The Licensee acknowledges and agrees that this Agreement is subject to and subordinate to any existing or future agreement(s) of any kind between the City and any other person or party pertaining to the use, development, construction, operation and/or maintenance of the Chicago River, the Chicago Riverwalk, or the adjoining dockwalls, wharf areas, roadways and walkways. The City reserves the right, at its sole discretion, to further develop, improve, maintain, modify and repair the dockwalls, wharf areas, roadways and walkways connected to them at any time without interference or hindrance by the Licensee. This Agreement is subordinate to the provisions and requirements of any existing or future agreements between the City and the United States government or other governmental authority, pertaining to the development, operation or maintenance of the Riverwalk, including agreements the execution of which have been or will be required as a condition precedent to the granting of federal or other governmental funds for the development of the Riverwalk. If the United States government requires modifications, revisions, supplements or deletions of any of the terms of this Agreement, then Licensee consents to the changes to this Agreement.

B. To the extent of a conflict or inconsistency between this Agreement and any agreement described in paragraph A. above, those provisions in this Agreement so conflicting must be performed as required by those agreements referred to in paragraph A.

11.9 CONFLICT. In the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of any Subcontract between Licensee and third parties, the terms and provisions of this Agreement govern and control.

11.10 OFFSET BY LICENSEE. Whenever in this Agreement the City is obligated to pay Licensee an amount, then the City Comptroller may elect to require Licensee to offset the amount due against Fees or other payments owed by Licensee to the City, in lieu of requiring the City to pay such amount. Licensee shall have no right to offset any amount due to City under this Agreement against amounts due to Licensee by City unless so directed in writing by the City Comptroller.

11.11 WAIVER; REMEDIES. No delay or forbearance on the part of any party in exercising any right, power or privilege must operate as a waiver of it, nor does any waiver of any right, power or privilege operate as a waiver of any other right, power or privilege, nor does any single or partial exercise of any right, power or privilege preclude any other or further exercise of it or of any other right, power or privilege. No waiver is effective unless made in writing and executed by the party to be bound by it. The rights and remedies provided for in this Agreement are cumulative and are not exclusive of any rights or remedies that the parties otherwise may have at law, in equity or both, except that the City will not be liable to Licensee for any consequential damages whatsoever related to this Agreement.

11.12 AUTHORITY OF COMMISSIONER. Unless otherwise expressly stated in this Agreement, any consents and approvals to be given by the City under this Agreement may be made and given by the Commissioner or by such other person as may be duly authorized by the City Council, unless the context clearly indicates otherwise.

11.13 NO PERSONAL LIABILITY. Licensee, or any sublicensee (if any), assignee or Subcontractor, must not charge any elected or appointed official, agent, or employee of the City personally or seek to hold him or her personally or contractually liable to Licensee, sublicensee, assignee, or Subcontractor for any liability or expenses of defense under any provision of this Agreement or because of any breach of its provisions or because of his or her execution, approval, or attempted execution of this Agreement.

11.14 LIMITATION OF CITY'S LIABILITY. Licensee, and Subcontractors, and sublicensees (if any) must make no claims against the City for damages, charges, additional costs or fees or any lost profits or costs incurred by reason of delays or hindrances by the City in the performance of its or their obligations under this Agreement. All of Licensee's personal property, and any personal property of any Subcontractor, or any sublicensee (if any) upon the Licensed Space or upon any other part of the Riverwalk, is present solely at the risk of Licensee, or its Subcontractors, or sublicensees (as applicable), and the City shall not be liable for any loss or damage to such personal property or theft of such personal property. The City is not liable or responsible to Licensee, and Subcontractors, and sublicensees, and Licensee waives, and will cause its Subcontractors and sublicensees (if any) to waive, to the fullest extent permitted by law, all claims against the City for any loss or damage or inconvenience to any property or person or any lost profits any or all of which may have been occasioned by or arisen out of any event or circumstance, including (i) theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or water leakage, steam, excessive heat or cold, falling plaster, or broken glass, or (ii) any act or neglect of the City or any occupants of the Riverwalk, or the Licensed Space, or (iii) repair or alteration of any part of the Riverwalk or the Licensed Space, or failure to make any such repairs, (iv) or any other thing or circumstance, whether of a like nature or a wholly different nature. If the City fails to perform any covenant or condition of this Agreement that the City is required to perform and, notwithstanding the foregoing, Licensee recovers a money judgment against the City, the judgment must be satisfied only out of credit against the Fees and other monies payable by Licensee to the City under this Agreement.

11.15 JOINT AND SEVERAL LIABILITY. If Licensee, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then in that event, each and every obligation or undertaking stated in this Agreement to be fulfilled or performed by Licensee is the joint and several obligation or undertaking of each such individual or other legal entity.

11.16 NON-RECORDATION. Licensee must not record or permit to be recorded on its behalf this Agreement or a memorandum of this Agreement, in any public office.

11.17 SURVIVAL. Any and all provisions set forth in this Agreement that, by its or their nature, would reasonably be expected to be performed after the expiration or termination of this Agreement survive and are enforceable after the expiration or termination. Any and all liabilities, actual or contingent, that have arisen in connection with this Agreement, survive any expiration or termination of this Agreement. Any express statement of survival contained in any section must not be construed to affect the survival of any other section, which must be determined under this section.

11.18 FORCE MAJEURE. Neither party is liable for non-performance of obligations under this Agreement due to delays or interruptions beyond their reasonable control, including delays or interruptions caused by strikes, lockouts, labor troubles, war, fire or other casualty, acts of God (“*force majeure* event”). As a condition to obtaining an extension of the period to perform its obligations under this Agreement, the party seeking such extension due to a *force majeure* event must notify the other party within 20 days after the occurrence of the *force majeure* event. The notice must specify the nature of the delay or interruption and the period of time contemplated or necessary for performance. The foregoing notwithstanding, however, in no event will Licensee be entitled to an extension of more than 60 days due to a *force majeure* event, without the express written consent of the Commissioner.

11.19 LICENSEE’S AUTHORITY. Licensee represents, warrants and covenants that it is duly organized, validly existing and qualified to do business in Illinois; that it has the right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that the person signing this Agreement on behalf of Licensee has the authority to do so; and that this Agreement shall be binding upon and enforceable against Licensee in accordance with its terms.

11.20 TIME IS OF THE ESSENCE. Time is of the essence for all obligations and deadlines contained in this Agreement.

[Signature page follows.]

**EXHIBIT 1 SCOPE OF SERVICES- DESCRIPTION OF CONCESSIONS
AND
PRODUCTS/PRICE LIST - MENU**

Scope of Services – Description of Concessions:

[to come]

EXHIBIT 1 (continued)

PRODUCTS AND PRICE LIST- MENU

Licensee may sell from the Location only the following items, and such items may be sold only at the prices set forth below. Licensee may not sell from the Location any items not set forth in this Exhibit C, without the Commissioner's prior written consent. In addition, Licensee may not sell any items at a price other than as set forth below, without the Commissioner's prior written approval.

[Products and Price List – Menu (to come)]

EXHIBIT 2: LOCATION

[to come]

EXHIBIT 3
(Intentionally Deleted)

EXHIBIT 4A: INSURANCE REQUIREMENTS APPLICABLE TO ALL LICENSEES

Concessions on the Chicago Riverwalk Retail and Food Licensees

A. INSURANCE REQUIRED

Licensee must provide and maintain at Licensee's own expense, during the term of the Agreement and during the time period following expiration if Licensee is required to return and perform any work, services, or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the Agreement.

1) Workers Compensation and Employers Liability (Primary and Umbrella)

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work, services or operations under this Agreement and Employers Liability coverage with limits of not less than \$1,000,000 each accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Licensee may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to, the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion) explosion, collapse, underground, separation of insureds, defense, contractual liability (not to include endorsement CG 21 39 or equivalent).

The City must be provided additional insured status with respect to liability arising out of Licensee work, services or operations and completed operations performed on behalf of the Licensee. Such additional insured coverage must be provided on ISO form CG 2037 10 01 or on an endorsement form at least as broad for ongoing operations and completed operations. The City's additional insured status must apply to liability and defense of suits arising out of Licensee's acts or omissions, whether such liability is attributable to the City. The full policy limits and scope of protection also will apply to the City as additional insureds, even if they exceed the City's minimum limits required herein. Licensee's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Licensee may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work, services, or operations to be performed, Licensee must maintain Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the Location including loading and unloading. The City is to be named as an additional insured on a primary, non-contributory basis.

Licensee may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Licensee may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Liquor Liability

When applicable, Liquor Liability (“Dram Shop”) Insurance must be obtained with limits of not less than \$1,000,000 per occurrence. Coverage must include but not be limited to the following: off-site coverage, assault and battery coverage, and common law. The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the services.

6) Property

Licensee is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies) owned, rented, or used by Licensee and for loss or damage to property in the Licensee’s care, custody and control.

B. Additional Requirements

Evidence of Insurance. Licensee must furnish the City of Chicago, Department of Fleet & Facility Management, Attn: Bureau of Asset Management, 2 North LaSalle Street, Suite 200, Chicago, IL 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Agreement, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Licensee must submit evidence of insurance prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement

have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Agreement. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Licensee, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Licensee must advise all insurers of the Agreement provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Licensee for liabilities which may arise from or relate to the Agreement. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of the Licensee to comply with required coverage and terms and conditions outlined herein will not limit Licensee's liability or responsibility nor does it relieve Licensee of its obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Licensee must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Licensee.

Waiver of Subrogation. Licensee hereby waives its rights of subrogation and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Agreement. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City have received a waiver of subrogation endorsement for Licensee's insurer(s).

Licensees Insurance Primary. All insurance required of Licensee under this Agreement must be endorsed to state that Licensee's insurance policy is primary and not contributory with any insurance carrier by the City.

No Limitation as to Licensee's Liabilities. The coverages and limits furnished by Licensee in no way limit the Licensee's liabilities and responsibilities specified within the Agreement or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Licensee under this Agreement.

Insurance not Limited by Indemnification. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

Joint Venture or Limited Liability Company. If Licensee is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Other Insurance obtained by Licensee. If Licensee desires additional coverages, the Licensee will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Licensee must name Subcontractor(s) as a named insured(s) under Licensee's insurance or Licensee will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability

Insurance and when applicable Excess/Umbrella Liability Insurance and Professional Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Licensee. Licensee must determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Licensee is responsible for ensuring that each Subcontractor has named the City as additional insureds where required and name the City as an additional insured under the Commercial General Liability on ISO form CG 2037 10 01 for ongoing operation and completed operations on an endorsement form at least as broad and acceptable to the City. Licensee is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. Failure of the Subcontractors to comply with required coverage and terms and conditions outlined herein will not limit Licensee's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Agreement to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

**EXHIBIT 4B: INSURANCE REQUIREMENTS APPLICABLE TO CONSTRUCTION
ON THE CHICAGO RIVERWALK.**

**THESE INSURANCE REQUIREMENTS ARE IN ADDITION TO, AND NOT IN LIEU
OF, THE INSURANCE REQUIREMENTS SET FORTH EXHIBIT 4A.**

A. INSURANCE REQUIRED

Licensee shall cause each of its contractors (each a “Contractor”) to provide and maintain at Contractor's (or Licensee’s) own expense, during the term of the Contract (defined below) and during the time period following completion if Contractor is required to return and perform any work, services, or operations, the insurance coverages and requirements specified below, insuring all work, services, or operations related to the construction contract (“Contract”).

1) Workers Compensation and Employers Liability (Primary and Umbrella)

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work, services or operations under the Contract and Employers Liability coverage with limits of not less than \$1,000,000 each accident, \$1,000,000 disease-policy limit, and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include, but not be limited to, the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion) explosion, collapse, underground, separation of insureds, defense, and contractual liability (**not to include Endorsement CG 21 39 or equivalent**).

The City must be provided additional insured status with respect to liability arising out of Contractor’s work, services or operations and completed operations performed on behalf of the Licensee. Such additional insured coverage must be provided on ISO form CG 2010 or on an endorsement form at least as broad for ongoing operations and completed operations. The City’s additional insured status must apply to liability and defense of suits arising out of Contractor’s acts or omissions, whether such liability is attributable to the Contractor or to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City’s minimum limits required herein. Contractor’s liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work, services, or operations to be performed, Automobile Liability Insurance must be maintained by the Contractor with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work, both on and off the Location, including loading and unloading services. The City is to be named as additional insureds on a primary, non-contributory basis.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella

Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Liquor Liability

When applicable, Liquor Liability (“Dram Shop”) Insurance must be obtained with limits of not less than \$1,000,000 per occurrence. Coverage must include but not be limited to the following: off-site coverage, assault and battery coverage, and common law.

6) Builders Risk/Installation – (If Applicable)

When any construction, or major installation projects is undertaken at the Location, including improvements, betterments, and/or repairs, the Contractor must provide or cause to be provided, All Risk Builders Risk/Installation Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility or project. The City is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

7) Property

Contractor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies) owned, rented or used by Contractor.

B. Additional Requirements

Evidence of Insurance. Contractor must furnish the Licensee and the City of Chicago, Department of Fleet & Facility Management, Attn: Bureau of Asset Management, 2 North LaSalle Street, Suite 200, Chicago, IL 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of the Contract, and renewal certificates of Insurance and endorsement,

or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of the Contract. Contractor must submit evidence of insurance prior to execution of the Contract. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Contractor must advise all insurers of the Agreement provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Contractor for liabilities which may arise from or relate to the Agreement. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of the Contractor to comply with required coverage and terms and conditions outlined herein will not limit Licensee's or Contractor's liability or responsibility nor does it relieve Licensee or Contractor of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of this Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Contractor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Contractor.

Waiver of Subrogation. Contractor hereby waives its rights and its insurer(s)' rights of subrogation and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Agreement. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement for Contractor's insurer(s).

Contractors Insurance Primary. All insurance required of Contractor under this Agreement must be endorsed to state that Contractor's insurance policy is primary and not contributory with any insurance carrier by the Licensee and the City.

No Limitation as to Contractor's Liabilities. The coverages and limits furnished by Contractor in no way limit the Licensee's or Contractor's liabilities and responsibilities specified within this Agreement or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Contractor under this Agreement.

Insurance not Limited by Indemnification. The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

Joint Venture or Limited Liability Company. If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Other Insurance obtained by Contractor. If Contractor desires additional coverages, the Licensee or Contractor will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Contractor shall name the Subcontractor(s) as a named insured(s) under Contractor's insurance or Contractor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance and Professional Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Contractor. Contractor shall determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Contractor is responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City as an additional insured under the Commercial General Liability on ISO form CG 2037 10 01 for ongoing operation and completed operations on an endorsement form at least as broad and acceptable to the City. Contractor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. Failure of the Subcontractors to comply with required coverage and terms and conditions outlined herein will not limit Licensee's or Contractor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Agreement to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

EXHIBIT 5: ECONOMIC DISCLOSURE STATEMENT
[Attached]

**EXHIBIT 6: CHICAGO RIVERWALK COMMUNITY MARKETPLACE
CONCESSION PROGRAM HANDBOOK**

The Chicago Riverwalk Community Marketplace Concession Program Handbook is available on the Riverwalk website at <https://www.chicagoriverwalk.us/concession-handbook>.

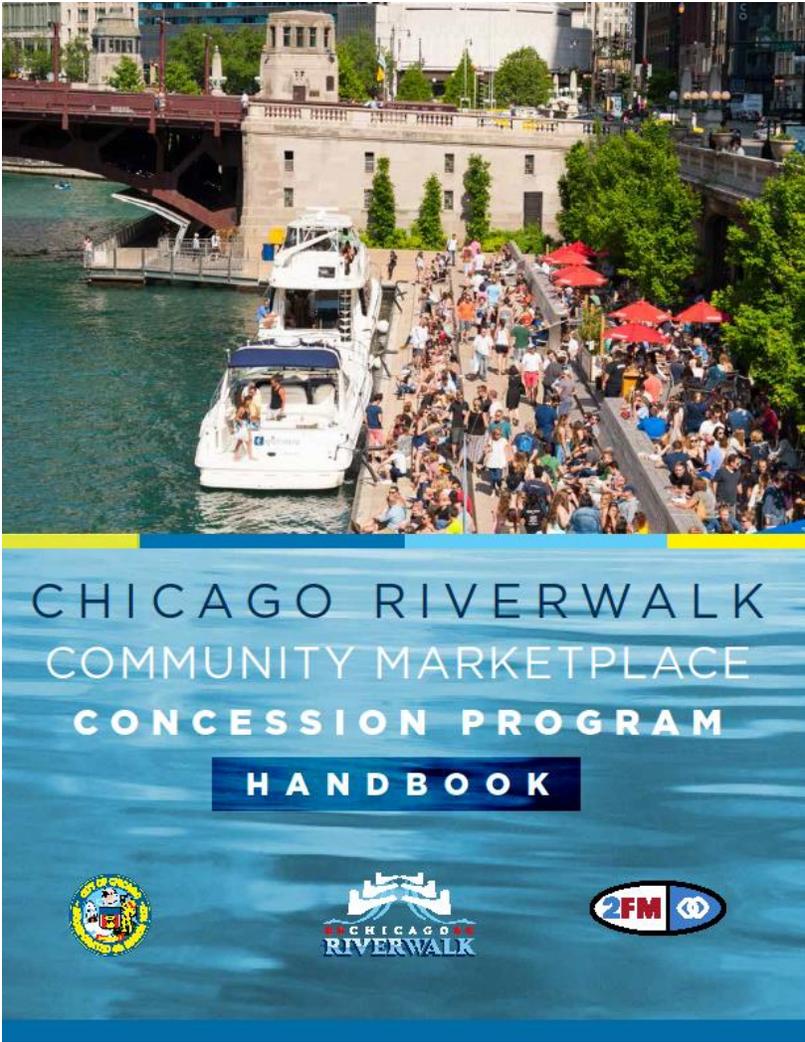


EXHIBIT 7: CAPITAL IMPROVEMENT DESIGN AND CONSTRUCTION

1. Licensee's Improvement Obligations for Capital Improvements.

A. Concession Space and Storage Space. Unless otherwise agreed in writing by the Commissioner, Licensee must complete, or cause to be completed, the Improvements as described in the Development Plan as set forth in this Agreement. Improvements shall be at Licensee's sole cost and expense and must be completed on or before the Date of Beneficial Occupancy set forth for the Licensed Space in accordance with the schedule set forth in the Development Plan, subject to Section 11.18, "Force Majeure." Failure to achieve the Date of Beneficial Occupancy for the Improvements in accordance with the schedule in the Development Plan will result in liquidated damages pursuant to Section 9 of Exhibit 7.

B. Additional Space. Licensee must complete or cause to be completed, at Licensee's sole cost and expense, the Improvements for each Additional Space approved by the Commissioner by the proposed Date of Beneficial Occupancy applicable to each such Additional Space, at a total investment in Improvement Costs for each permanent Additional Space of at least 95% of the budget approved by the Commissioner.

C. Improvement Costs. Only Improvement Costs of the types set forth in the budget in the Development Plan are deemed to be validly incurred Improvement Costs for purposes of this Agreement. Licensee must provide the Commissioner with a statement certified by Licensee, setting forth the aggregate amount of the Improvement Costs expended by Licensee for each Licensed Space, with such detail as may be reasonably requested by the Commissioner. The certified statement must be submitted at the same time as the "as-built" drawings for the Licensed Space. Licensee must make available to the Commissioner, at the Commissioner's request, receipted invoices for labor and materials covering all Improvement Costs. The Commissioner has the right to audit the Improvement Costs. The actual Improvement Costs, as approved by the Commissioner, will be memorialized in writing and this Agreement will be amended to identify such amount.

2. Work Requirements.

A. **TIME IS OF THE ESSENCE IN THE PERFORMANCE OF WORK UNDER THIS AGREEMENT.**

B. Compliance with Standards. Licensee must comply in its design, construction, use, occupancy and operation of the Licensed Space, at its own cost, with:

- (i) all federal, State of Illinois, and City laws, rules, regulations and ordinances, including all building, zoning and health codes and all Environmental Laws; and
- (ii) the Handbook.

Licensee must complete or cause to be completed all Improvements in accordance with all rules, regulations and standards, including the Handbook and the approved Construction Documents (as

defined below) for any Improvements. If there is a conflict between work requirements stated in this Agreement and those set forth in the Handbook, the Commissioner has the sole discretion to determine which prevails. No construction must take place until the Commissioner has approved the Construction Documents.

Licensee must provide for any supplemental heating, cooling and exhaust facilities that Licensee may require to properly heat, cool, ventilate and exhaust air in the Licensed Space. All such supplemental facilities must be designed and installed in accordance with the Handbook and applicable building codes, and must be approved by the Commissioner prior to installation. If at any time the Licensee's supplemental heating, cooling and exhaust facilities fail to comply with the design and operational standards set forth in the Handbook, Licensee must, on notice from the City, cause repairs to be made so that Licensee is in compliance with this requirement.

3. 60 Percent Design Phase. Within 45 days of the Effective Date, Licensee must submit to the Commissioner its proposed 60 percent design drawings and specifications prepared as required under the Handbook ("**60 Percent Designs**"). The Commissioner will attempt to review and respond to the 60 Percent Designs within 10 days after the Commissioner's receipt with an "accepted," "accepted [with comments] as noted," or "revise and resubmit." If any of the 60 Percent Designs requires resubmission, Licensee must resubmit the 60 Percent Designs addressing the Commissioner's comments within 5 days after receiving the Commissioner's response. Licensee must resubmit the 60 Percent Designs as many times as necessary until the Commissioner either accepts them or accepts them as noted; however, if Licensee fails to provide acceptable 60 Percent Designs after 5 attempts, it will be an Event of Default.

4. 100 Percent Design Phase. Licensee must prepare and submit to the Commissioner, within 30 days following its receipt of the Commissioner's approval of the 60 Percent Designs, the 100 percent design drawings and specifications and a construction schedule that complies with the Development Plan ("**100 Percent Designs**"). The Commissioner will attempt to review and respond to the 100 Percent Designs within 10 days after the Commissioner's receipt with an "accepted," "accepted [with comments] as noted," or "revise and resubmit." If any of the 100 Percent Designs requires resubmission, Licensee must resubmit the 100 Percent Designs addressing the Commissioner's comments within 5 days after receiving the Commissioner's response. Licensee must resubmit the 100 Percent Designs as many times as necessary until the Commissioner either accepts them or accepts them as noted; however, if Licensee fails to provide acceptable 100 Percent Designs after 3 attempts, it will be an Event of Default. Upon acceptance by the Commissioner, the 100 Percent Designs drawings, specifications, and construction schedule will be deemed the approved "**Construction Documents**". If Licensee desires to use the services of any Subcontractor, Licensee must submit the name and qualifications of the Subcontractor to the Commissioner for review and approval, which approval may be granted or denied in the Commissioner's sole discretion. Within 10 days following the receipt of Commissioner's approval of the 100 Percent Designs, Licensee must prepare and submit to the City's Buildings Department, or its successor agency, applications for all building permits required to undertake construction of the Improvements.

5. Start of Construction. Within 10 days after the latest of occur of: 1) the date the City provides access to Licensee to the Licensed Space, 2) the date Licensee has obtained

applicable building permits for the Licensed Space, and 3) the date of commencement of construction set forth in the Development Plan, Licensee must begin construction of the Improvements under and consistent with the approved Construction Documents, in a diligent, first-class and workmanlike manner. Commissioner may require Licensee and its Subcontractors to meet with the Department's construction manager and Concessions Management Representative prior to starting construction. Among other requirements, the Improvements:

- (i) Must conform with all architectural, fire, safety, zoning and electrical codes and all federal, State, City and other local laws, regulations and ordinances pertaining to them, including the ADA, and all Riverwalk standards, procedures and regulations.
- (ii) Must be free and clear of any mechanics' or materialmen's liens or similar liens or encumbrances.
- (iii) Except as otherwise provided in this Agreement, must be completed entirely at Licensee's cost and expense and in accordance with the requirements of this Agreement including, but not limited to, the requirements and procedures set forth in the Handbook.
- (iv) Upon the request of the Commissioner, Licensee must purchase and install a security camera and connect the camera feed into a junction box at a location to be determined by the Commissioner. Licensee will permit the Commissioner to connect the security camera to the Riverwalk security system.

Approval of the Construction Documents by the Commissioner does not constitute his or the City's representation or warranty as to their conformity with any architectural, fire, safety, zoning, electrical or building code, and responsibility therefore at all times remains with Licensee. Licensee must not permit its design and construction Subcontractors to make any modifications to Riverwalk infrastructure without prior written consent of the Commissioner.

6. Change Order Review. Licensee must cause all Work to be performed in a first class, good and workmanlike manner and in accordance with the Construction Documents. Licensee may request in writing that change orders relating to the Work be responded to by the City, and the City will so respond within 10 days, unless a response within 10 days is unreasonable in the circumstances, in which case the response period will be as reasonably determined by the City but in no event longer than 20 days. At all times during the Work, Licensee must have on file with the Commissioner and on the construction site for inspection by the Commissioner, a copy of the approved Construction Documents. Licensee must immediately begin to reconstruct or replace and diligently pursue to completion, at its sole cost and expense, before or after completion of the Work, any Work that is not performed in accordance with the Construction Documents as approved by the Commissioner.

7. Inspection of Improvements in Progress. The Department has the right to enter upon the Licensed Space for the purposes of inspecting and recording the Improvements in progress, ensuring that Licensee's construction complies with the Construction Documents, and rejecting any such construction that does not so conform

8. Notice of Substantial Completion and Inspection. At least 10 days prior to anticipated substantial completion of the construction of a Licensed Space, Licensee must deliver to the Commissioner a “**notice of substantial completion**” in order for the Commissioner to schedule a representative to inspect the Improvements. On the date specified in the notice of substantial completion, the Department will perform a final inspection of the Improvements for compliance with the Construction Documents for the Improvements, and will, not later than 10 days after inspection, provide a punchlist to Licensee describing in sufficient detail any discrepancies between the Improvements and the Construction Documents. Licensee must cause all discrepancies (other than those approved by the Commissioner as variances) to be reconstructed, replaced or repaired in substantial accordance with the Construction Documents. Within 10 days after the date of substantial completion and prior to commencing Concession operations in Licensed Space, Licensee must provide, as evidence of the substantial completion of the Work, copies of any and all Certificates of Occupancy and other approvals, if any, necessary for Licensee to occupy the Licensed Space for its intended use. Licensee shall not commence Concession operations in the Licensed Space until such documents have been received by the Commissioner and until authorized to do so by the Commissioner.

9. Timeliness - Punch Lists; Opening for Business. Licensee acknowledges that if it fails to comply with Construction Document requirements (including all tasks necessary to satisfy them, such as, but not limited to, applying at the earliest possible time for and diligently pursuing all necessary building permits), the delay may cause the City to suffer substantial damages, including loss of goodwill, that might be difficult to ascertain or prove. For that reason, but subject to extensions that may be approved by the Commissioner, if Licensee has not caused the Improvements to be substantially completed in accordance with the Construction Documents and Concession Space to be open to the public for business not later than the scheduled Date of Beneficial Occupancy in the Development Plan:

- (i) Licensee must pay the City liquidated damages at the rate of \$1,000 per day for each day from and after the Date of Beneficial Occupancy, until the date on which the Concession Space actually opens to the public for business; and
- (ii) if, for any reason, Licensee fails to substantially complete the Improvements in accordance with the approved Construction Documents relating to them and open the Concession Space to the public for business within 30 days after the Date of Beneficial Occupancy, the failure is an Event of Default, and the City has the right to exercise any and all remedies under this Agreement, at law or in equity; and
- (iii) if Licensee is permitted to open for business in accordance with the schedule in the Construction Documents but any punchlist items are not completed within 30 days following the date on which Licensee opens to the public for business, the Commissioner will assess liquidated damages against Licensee at the rate of \$200 per day per punchlist item not timely completed; and
- (iv) if Licensee is permitted to open for business but any punchlist items are not completed within 60 days following the date on which Licensee opens to the public

for business, the City reserves the right, at the Commissioner's sole discretion, to either:

- a. complete the punchlist Work at the City's cost and bill the Licensee for this Work, in which case the charges are considered Additional Fees; or
- b. close the affected Concession Space until all outstanding punchlist items are completed.

10. Post-construction Documentation. Licensee must submit a complete set of “**as-built**” drawings and documentation as outlined in the Handbook to the Commissioner within 30 days after the date the Commissioner authorizes Licensee to begin Concession operations in the Licensed Space. The as-built drawings and documentation are and become the property of the City, except to the extent of any intellectual property reflecting Licensee's trademarks, trade names or trade dress contained in them.

11. Mechanic's Liens. Licensee must not permit any mechanic's lien for labor or materials furnished or alleged to have been furnished to it to attach to any portion of the Licensed Space or the Chicago Riverwalk. Upon making payments to Subcontractors, Licensee must obtain from each Subcontractor a waiver of mechanic's liens against any portion of the Licensed Space or the Chicago Riverwalk arising out of any Work done by the Subcontractor and each and every of the Subcontractor's materialmen and workmen. If, nonetheless, any such mechanic's lien is filed upon any portion of the Licensed Space, or the Chicago Riverwalk, Licensee must indemnify, protect, defend and save harmless the City against any loss, liability or expense whatsoever by reason of the mechanic's lien and must promptly and diligently proceed with or defend, at its own expense, the action or proceedings as may be necessary to remove the lien. Licensee must deliver notice to the Commissioner of any such lien or claim within 15 days after Licensee has knowledge of it. Licensee may permit the mechanic's lien to remain undischarged and unsatisfied during the period of the contest and appeal; provided that, upon request by the Commissioner, Licensee must post a bond with the City equal to 150% of the amount of the lien. If the lien is stayed and the stay later expires or if by nonpayment of any lien any portion of the Licensed Space or the Riverwalk will be, or is claimed to be, subject to loss or forfeiture, then Licensee must immediately pay and cause to be satisfied and discharged the lien. If Licensee fails to do so, the Commissioner may, in his or her sole discretion, draw on the bond and make such payment and, in such event, the amount paid shall immediately be payable by Licensee to the City. Failure to post a bond when requested by the Commissioner or make the payment due shall be an Event of Default.

12. Damage or Destruction.

A. Insubstantial Damage. If the Licensed Space or kiosks are damaged, in whole or in part, by fire or other casualty, and there is no Major Damage (as defined below) to the portion of the Chicago Riverwalk infrastructure served by the damaged Improvements, Licensee must repair the damage to the Improvements as soon as reasonably possible at Licensee's expense.

B. Major Damage.

- (i) **"Major Damage"** means any damage or destruction that, based on reasonable estimates made by the Department within 60 days after the occurrence of the damage or destruction, in order to be repaired to the condition existing before the damage or destruction
- a. would cost, with respect to the Improvements, in excess of 50% of the replacement cost value of all Improvements to the Licensed Space; and
 - b. would, with respect to Chicago Riverwalk infrastructure, require, in the sole judgment of the Commissioner, more than six months to complete.
- (ii) If any portion of the Chicago Riverwalk infrastructure suffers Major Damage, whether or not including any portion of the Licensed Space, in whole or in part by fire or other casualty, the Commissioner has the right, for a period of six months starting on the date of the occurrence, to elect not to repair the Major Damage as otherwise required under this section, by giving written notice of the election to all licensees. If the Licensed Space is not affected by the Major Damage, Licensee may be required to continue Concession operations and pay Fees, in the sole discretion of the Commissioner. If the Licensed Space is rendered unusable for Concession operations, then Licensee must cease Concession operations and will not be required to pay Fees after the date of the occurrence of Major Damage but must pay all Fees otherwise owing prior to the date of occurrence. If the Commissioner elects not to repair the Major Damage, the Commissioner has the right to terminate, in the Commissioner's sole discretion, any or all license agreements, whether or not affected by the Major Damage, and relevant licensees must vacate the relevant licensed spaces.
- (iii) If any portion of the Licensed Space suffers Major Damage, and if after the occurrence of the damage the Agreement is not terminated at the sole discretion of the Commissioner, the Licensee will, in accordance with paragraph B(v) below, estimate the cost of restoration and the length of time that will be required to repair the damage and will notify City of the estimate, which estimate must be approved by the Commissioner. If the damage can be repaired and the Improvements restored before the Term expires, then Licensee must repair the damage and restore the Improvements. If repair and restoration cannot be substantially completed before the Term expires, then this Agreement terminates as of the date of the Major Damage.
- (iv) If this Agreement is not terminated in accordance with paragraphs (B)(ii) or (iii) and a casualty has damaged or destroyed any portion of the Chicago Riverwalk infrastructure involving the Licensed Space, the City will restore the Chicago Riverwalk infrastructure to the condition existing on the Delivery Date as nearly as possible, in the Commissioner's sole determination. Upon completion of the Chicago Riverwalk infrastructure restoration work, if any, Licensee must proceed to rebuild the Improvements as nearly as possible to the character of Improvements existing immediately before the occurrence.

- (v) Before beginning to replace, repair, rebuild or restore Improvements, Licensee must deliver to the Commissioner a report of an independent consultant acceptable to the Commissioner setting forth:
 - a. an estimate of the total cost of the Work;
 - b. the estimated date upon which the Work will be substantially completed; and
 - c. a statement to the effect that insurance proceeds are projected to be sufficient to pay the costs of the Work.

- (vi) The Commissioner will use commercially reasonable efforts to provide suitable temporary space during the period of restoration subject to the reasonable approval of Licensee. Licensee must relocate the Concession operations to the temporary space, and the costs associated with any such relocation, including moving expenses and the cost of reconstructing the Improvements in the temporary space, must be borne by Licensee.

13. Insufficient Insurance. In no event will the City be obligated to repair, alter, replace, restore, or rebuild any Improvements, or any portion of them, nor to pay any of the costs or expenses for them. If Licensee's available insurance proceeds are not sufficient to cover the cost of the restoration as required under this section, then Licensee is liable to complete the repairs at its own cost and expense, except as provided in (C) above.

14. City Resident Construction Worker Employment Requirement.

A. Use of Residents. In connection with and during the construction of any Work in excess of \$100,000 in Improvement Costs, Licensee and its Subcontractors must comply with the provisions of Section 2-92-330 of the Municipal Code, as amended from time to time concerning the minimum percentage of total construction worker hours performed by actual residents of the City. (At least 50% of the total construction worker hours worked by persons on the site of the Work must be performed by actual residents of the City. Licensee may request a reduction or waiver of this minimum percentage level of Chicagoans in accordance with standards and procedures developed by the Chief Procurement Officer of the City.) In addition to complying with this percentage, Licensee and its Subcontractors are required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions. "**City Resident**" means persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment. Licensee and each Subcontractor (for purposes of this subsection, "**Employer**") must provide for the maintenance of adequate employee residency records to ensure that City Residents are employed. Each Employer will maintain copies of personal documents supportive of every employee's actual record of residence.

B. Certified Payroll Reports. Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) must be submitted by hard copy or electronically to the Commissioner and must clearly identify the actual residence of every employee on each submitted

certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

C. Inspection of Records. Each Employer must provide full access to its employment records to the Chief Procurement Officer, the Commissioner, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Each Employer must maintain all relevant personnel data and records for a period of at least 3 years after final acceptance of the Work. At the direction of the Commissioner, affidavits and other supporting documentation may be required of each Employer to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

D. Level of Effort. Efforts on the part of each Employer to provide utilization of City Residents that are not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer will not suffice to replace the actual, verified achievement of the requirements of this section concerning the worker hours performed by City Residents.

E. Shortfalls; Liquidated Damages. When the Work is completed, in the event that the City has determined that Licensee has failed to ensure the fulfillment of the requirement of this section concerning the worker hours performed by City Residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1% of the aggregate hard construction costs of the Improvement Costs (the product of .0005 x such aggregate hard construction costs) (as evidenced by approved contract value for the actual contracts) must be surrendered by Licensee to the City as liquidated damages, and not as a penalty, in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Licensee and/or the Subcontractors to prosecution. The City may draw against the Security any amounts that appear to be due to the City under this provision pending the City's determination as to the full amount of liquidated damages due on completion of the Work.

F. Nothing set forth in this section acts as a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents, as applicable.

G. Inclusion in Subcontracts. Licensee must cause or require the provisions of this section to be included in all construction Subcontracts related to the Work.

15. Licensing of General Contractor. This Agreement is subject to Chapter 4-36 of the Municipal Code which requires all persons acting as a general contractor (as defined in Chapter 4-

36) to be licensed as a general contractor by the City. Licensee's failure to ensure that any general contractor working on Improvements complies with Chapter 4-36 will be an Event of Default.

16. Prevailing Wages. In connection with the construction, repair, and maintenance of Improvements, Licensee must comply with the applicable provisions of 820 ILCS 130/0.01 et seq. regarding the payment of prevailing wages, and the most recent Illinois Department of Labor schedule of prevailing wages, and any successors to them. Licensee must insert appropriate provisions in all Subcontracts covering construction work under this Agreement to ensure compliance of all construction Subcontractors with the foregoing wage statutes and regulations.

17. Subcontractor Certifications. Licensee must require all Subcontractors performing Work in connection with this Agreement to be bound by the following provision and Licensee must cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

“Subcontractor certifies and represents that Subcontractor and any entity or individual that owns or controls, or is controlled or owned by, or is under common control or ownership with Subcontractor is not currently indebted to the City and will not at any time during the Term be indebted to the City, for or on account of any delinquent taxes, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, Subcontractor acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the withholding of payments otherwise due to Subcontractor for services rendered in connection with the Agreement and, if the breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against the payments otherwise due to Subcontractor and/or the termination of Subcontractor for default (in which case Subcontractor will be liable for all excess costs and other damages resulting from the termination.)”

18. MBE/WBE Compliance. Licensee shall make good faith efforts to meet the following goals with respect to participation of Minority-Owned Business Enterprises/Woman-Owned Business Enterprises (“MBE/WBE”) in the design and construction of Licensee's Improvements, respectively: (i) Design: 25% MBE and 5% WBE; and (ii) Construction: 30% MBE and 8% WBE. Prior to execution of this Agreement, the City's current Special Conditions and related forms used by the City in its own procurements will be attached as an exhibit and incorporated herein. Licensee must submit to the CMR completed Schedules C's and D's from its design and construction Contractors demonstrating their percentage MBE and WBE participation commitments, and their good faith efforts to achieve the foregoing goals if the commitments are less than those goals. Thereafter, Licensee must submit periodic reports to the CMR, in a form and frequency determined by the Commissioner, documenting its Contractors' compliance with their commitments.

19. Licensee must remove all Improvements installed by or for Licensee, or Licensee's agents, employees or Subcontractors, except for Improvements that the Commissioner may elect to require Licensee to leave in place. As provided in Section 5.2 of this Agreement, all Improvements are City property and, if not requested to be removed by the Commissioner, may be used by the City or a replacement Licensee; provided, however, that all of Licensee's trade dress, service marks, trademarks and trade names shall be removed, obliterated or painted out in a commercially reasonable manner at Licensee's cost. If directed by the Commissioner to remove Improvements, Licensee must also secure any plumbing and remove, obliterate or paint out any and all of its signs, advertising and displays as the Commissioner or his designated representative may direct, and repair any holes or other damage left or caused by Licensee.

EXHIBIT 8: TERM SHEET

1. Licensee Term:

2. Term extension possible:

3. Licensee Fee:

4. Days and Hours of Operation:

Hours can be modified with the Commissioner's prior written approval.

5. Delivery Location and Hours:

6. Date of Occupancy:

The Department may allow earlier access to the Location at the Commissioner's sole option. Earlier access would be to prepare the site for concession operations.

ATTACHMENT G:

CONCESSION PROGRAM REVENUES

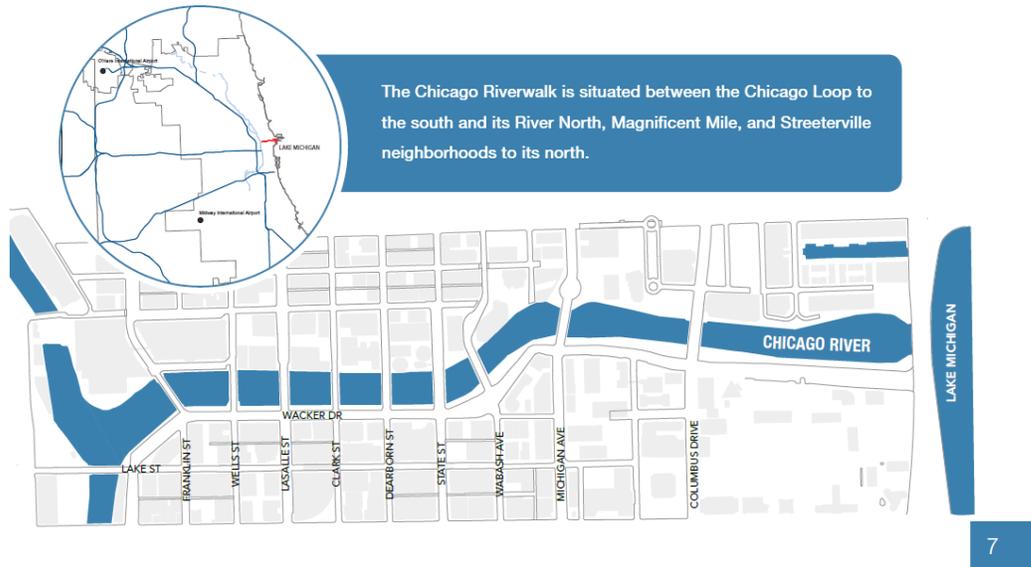
Chicago Riverwalk Vendors	2019			2020			2021			2022			2023		
	Vendor	Total Revenue	Taxes	Gross Sales	Total Revenue	Taxes	Gross Sales	Total Revenue	Taxes	Gross Sales	Total Revenue	Taxes	Gross Sales	Total Revenue	Taxes
Juban Karaoke	\$ 661,315.84	\$ 54,645.83	\$ 606,670.01	\$ 1,178,387.72	\$ 4,338.04	\$ 1,174,049.68	\$ 1,711,304.92	\$ 3,654.58	\$ 1,713,710.34	\$ 1,413,469.87	\$ 3,152.97	\$ 1,410,316.91	\$ 1,312,749.09	\$ 1,583.10	\$ 1,311,165.99
Island Party Hut	\$ 1,119,291.63	\$ 117,285.54	\$ 1,002,005.69	\$ 508,897.90	\$ 57,113.81	\$ 451,778.09	\$ 1,410,604.27	\$ 165,702.83	\$ 1,244,941.44	\$ 2,699,059.15	\$ 265,458.64	\$ 2,433,600.51	\$ 2,707,718.69	\$ 267,100.33	\$ 2,440,618.36
Northman	\$ 1,057,181.48	\$ 108,581.70	\$ 948,601.78	\$ 507,974.12	\$ 53,400.99	\$ 454,569.13	\$ 1,964,375.32	\$ 204,997.90	\$ 1,758,522.42	\$ 2,757,914.31	\$ 287,655.45	\$ 2,470,278.86	\$ 2,881,717.19	\$ 299,789.23	\$ 2,581,947.96
Beat Kitchen on the River		Opened in 2020		\$ 646,268.00	\$ 65,357.00	\$ 580,916.00	\$ 2,630,514.00	\$ 266,029.00	\$ 2,364,485.00	\$ 2,810,286.12	\$ 283,427.57	\$ 2,526,858.55	\$ 3,050,957.16	\$ 307,300.03	\$ 2,743,657.13
O'Briens	\$ 1,540,493.61	\$ 159,838.92	\$ 1,380,654.69	\$ 599,108.84	\$ 63,184.87	\$ 535,923.97	\$ 2,056,413.36	\$ 216,497.97	\$ 1,839,915.39	\$ 2,230,075.05	\$ 233,343.41	\$ 1,996,731.64	\$ 1,706,094.10	\$ 179,610.61	\$ 1,526,483.49
Chicago Brew House	\$ 2,113,995.00	\$ 220,556.01	\$ 1,913,438.99	\$ 1,107,612.56	\$ 116,123.06	\$ 991,489.50	\$ 3,758,090.57	\$ 392,800.20	\$ 3,409,528.17	\$ 4,391,551.98	\$ 459,560.16	\$ 3,931,991.82	\$ 3,412,157.09	\$ 358,167.33	\$ 3,053,989.76
City Winery	\$ 5,612,441.05	\$ 562,946.10	\$ 5,049,494.95	\$ 1,565,063.35	\$ 156,681.76	\$ 1,400,381.59	\$ 3,810,354.26	\$ 369,522.91	\$ 3,420,663.25	\$ 2,445,392.15	\$ 277,303.29	\$ 2,168,018.00	\$ 3,101,012.81	\$ 317,865.30	\$ 2,783,147.51
Tiny Tapp	\$ 3,032,012.67	\$ 310,046.44	\$ 2,721,966.23	\$ 699,684.86	\$ 81,101.31	\$ 618,583.55	\$ 2,402,020.66	\$ 250,089.18	\$ 2,151,931.48	\$ 3,284,819.63	\$ 341,268.93	\$ 2,943,550.70	\$ 4,057,185.66	\$ 412,720.05	\$ 3,644,465.61
Taco Rio				Opened in 2023											
Downtown Docks (Duffy)	\$ 944,118.86	\$ 87,874.94	\$ 856,243.92	\$ 668,654.89	\$ 54,016.22	\$ 614,638.67	\$ 1,473,307.81	\$ 115,336.65	\$ 1,357,971.16	\$ 1,638,275.43	\$ 129,824.21	\$ 1,508,451.22	\$ 1,565,972.25	\$ 125,286.16	\$ 1,440,686.09
Sweet Home Gelato (CHV)	\$ 389,023.95	\$ 40,271.54	\$ 348,752.41	\$ 138,664.24	\$ 14,349.12	\$ 123,815.12	\$ 363,917.62	\$ 38,086.57	\$ 325,831.05	\$ 362,711.45	\$ 38,354.46	\$ 324,356.99	\$ 454,440.55	\$ 47,959.97	\$ 406,480.58
Coco Bar				Opened in 2023											
Brews and Bites				Opened in 2023											
Marketplace Vendors															
Neighborhood				Opened in 2021											
Clubboys				Opened in 2022											
Chi Boys Cafe				Opened in 2023											
Colores Mexicanos				Opened in 2021											
Feed Your Head				Opened in 2022											
Cliva Chia				Opened in 2021											
TOTAL	\$16,489,876.09	\$1,790,922.36	\$14,687,828.67	\$7,619,616.48	\$673,673.18	\$6,945,943.30	\$22,037,198.93	\$2,065,681.69	\$19,994,732.54	\$24,370,988.37	\$2,350,866.88	\$22,029,280.11	\$26,180,066.46	\$2,519,478.09	\$23,660,588.37

ATTACHMENT H:

Riverwalk Concession Handbook

Maps

Riverwalk Location & Map



Guiding Principles

Cities have historically been built along rivers because they were indispensable resources for transportation and commerce. Chicago's earliest non-native settler, Jean Baptiste Pont du Sable established a trading post along the Chicago River which served as Chicago's harbor until the early 20th century. The river has always been a social and economic hub.

While the Chicago River remains an important part of local and regional economy, it is also Chicago's second coastline, connecting Chicago's most recognizable landmarks and destinations. Recreational activities and public art installations are increasing exponentially. The Chicago Riverwalk is a model for other riverside developments on both the north and south branches of the Chicago River. The Guiding Principles were developed from the community outreach conducted in the early stages of the project.

Access

The Riverwalk project provides unprecedented access to the river, giving Chicagoans and visitors a dynamic pathway to experience Chicago and connect to the city's many cultural, natural, and commercial assets.

- Bring people to the water
 - o Maintain a continuous public walkway
 - o Improve vertical circulation
 - o Easy to locate and navigate

- Establish connections
 - o Promote as vibrant, active link to the lakefront and other Chicago landmarks
 - o Establish the Riverwalk as a connecting thread that runs through the city
- Access for everyone
 - o ADA compliant
 - o Improve perceived and actual safety
 - o A neighborhood amenity for all to enjoy

Activation

Making the Chicago River easier to access will have a profound effect on the number of annual visitors. Seasonal programming, unique gathering spaces with seating surrounded by landscaping and leasable space for restaurants, retail and boat docking will bring activity and life to the River and will bring a strong sense of place to an already historic space.

- Bring life to the River
 - o Provide more seasonal public river uses
 - o Ensure year-round program and activity
 - o Increase recreational and commercial boating
- Create space for civic gathering & diverse events
 - o Promote the space for groups and entertainment functions
 - o Invest in placemaking, creating unique places on the River
- Economic activation
 - o Developing new opportunities along the Chicago River
 - o Improve commercial functions and maximize leasable opportunities
 - o Support commercial boating activity

Authenticity

The Chicago River has shaped the city and remains an important part of the downtown urban landscape. It is important that the Riverwalk work in harmony with the existing context of the city. The Chicago River is authentic Chicago, it should not feel overly manicured or scripted, but always retain a strong feeling of nature, history, and community.

- Weave the life of the River into the urban fabric of the city
- Work in dialogue with existing urban context
- Maintain a sense of unpredictability and encourage the unexpected
- Embrace the history of the Chicago River
- Honor and showcase history
- Celebrate the river's uniqueness
- Historically & architecturally significant buildings, bridges, and bridge houses
 - o Modern skyscrapers
 - o Classical + industrial details + architecture
- Enhance community life
- Outreach to residents of Downtown and River North communities
- Utilize green and open spaces for fitness, wellness, and educational programming
- Feature public art from local artists
- Balance local pride with tourist intrigue
- Promote the Riverwalk as a neighborhood amenity for all Chicagoans to enjoy

- Promote the Riverwalk to visitors as a connection point that weaves together all the best of downtown Chicago.

Standard of Service for the Riverwalk

The Riverwalk is a unique destination that is along a natural resource in the heart of downtown. The Concession Program was created to enhance visitor experience of the 1.25-mile-long linear park. The Chicago River is a natural amenity, and the environment is home to many ecosystems which should be enjoyed and respectfully protected. The Standards of Service were developed for the Riverwalk to define expectations of Licensees in the Concession Program. Members and staff of the Concession Program are Ambassadors of the City of Chicago. Staff should be reflective of the diversity of city's neighborhoods and exercise Chicago friendliness to all visitors.

Standard of Service

- (1) **Personnel.** Licensees shall provide, at their own expense, enough employees to adequately serve the public; train and closely supervise all employees so that they consistently maintain and practice a high standard of cleanliness, courtesy and service. Further, during all times that the Concession is in operation, at least one employee of Licensee who is present at the facility shall have attended an approved food service sanitation program and received a food service sanitation completion certificate certifying such attendance, if applicable. Licensees shall provide the City upon its request a complete list of employees assigned to work at the facility. Such list shall include the employees' names, addresses, and job titles and shall state whether each employee is compensated by salary, commission, or both. Licensees shall not employ or otherwise engage any City employee(s) in the operation of the Concession.
- (2) **Uniforms.** All Licensee personnel on the Riverwalk shall be required to maintain minimum uniform requirements. Each individual shall wear uniform shirts and head wear that meet the following criteria: (i) shirts shall be either a collared golf shirt or sweatshirt with the Licensee's logo (T-shirts with logo silk screened on front or back are also acceptable), (ii) head wear shall be either a ball cap, visor or hair net, Uniforms must be maintained in a clean and sanitary condition. No excessively worn or faded clothes will be allowed. 2FM shall use its sole discretion to determine if Licensee's uniforms are acceptable. Food handlers may not wear jewelry or watches other than a plain wedding band.
- (3) **Deliveries.** All deliveries may be brought to the Licensee's Area only at times and in the manner designated by 2FM, in compliance with all Laws, and always at the sole risk of the Licensees. 2FM may inspect items brought into the Licensees' Area with respect to dangerous nature or compliance with this Agreement or applicable Laws. Licensees' use of roadways, paths, sidewalks, loading, parking, and service areas shall be subject to approval by 2FM. No motorized vehicles are permit on the Chicago Riverwalk without Commissioner approval. Violators will be subject to fines.
- (4) **Trash.** All garbage, refuse, trash, and any other waste resulting from the operation of a Concession must be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places specified by the City. Maintenance and trash removal must be

completed daily or more frequently if required to maintain a neat, orderly environment. Trash can not be piled up within any visible areas of the location. Garbage shall be put into environmentally acceptable plastic bags and transported to the designated area, approved by 2FM in a closed container to prevent spilling and dripping on the Riverwalk. Licensees shall police and maintain the public areas within one hundred (100) feet of the Licensees' Area for all such refuse generated by its Concession. Trash must be swept up around the garbage dumpsters. Any spills made during transport from the location to the trash area must also be cleaned up.

(5) Cleanliness. Licensees shall maintain, in a clean, sanitary, orderly, and inviting condition appropriate to the Riverwalk facilities and satisfactory to the City and the area within one hundred (100) feet of their facilities. Trash, debris and deliveries should be removed or cleared away in a timely manner and not allowed to accumulate for long periods of time.

(6) Pest Control. Licensees shall use, at Licensees' sole cost, such pest and rodent extermination contractor as 2FM may direct and at such intervals as either may require. Licensees shall provide 2FM with evidence of their compliance with this provision within three (3) days after written notice from 2FM. In the alternative, from time to time, 2FM may arrange for pest control (in which case, Licensees shall pay their proportionate share of the cost thereof, or such other share as 2FM may fairly and reasonably determine to 2FM on or before the first day of each calendar month in advance).

(7) Graffiti Removal. Licensees shall maintain their facilities free of any graffiti at all times during tenant operating agreement, within 24 hours of identified graffiti, at Licensees' cost. Licensees' obligations hereunder shall include but not be limited to Licensees' walls, storefront, equipment, trade fixtures, security panels, ceilings, entrances and doors, signs, interior and exterior decorations, service counters or other areas which comprise the Licensees' facilities. 2FM will be responsible for graffiti on Wacker Drive limestone, or columns within the Esplanade.

(8) Locks and Keys. Licensees are responsible for the locks of their location and provide one set to 2FM for emergency use only. Keys to the back of the house area will be provided to Licensee for use throughout the season. Upon termination of this Concession Permit Agreement or Licensee's right to operate, Licensees shall return to 2FM all keys, and in the event of the loss of such keys shall pay 2FM for the cost to replace or to change the locking system or mechanisms. 2FM will provide keys to vendors in the Community Marketplace which must be returned at the end of the season.

(9) Trade name and Trademarks. Licensees shall use no symbol, design, name, mark, picture, likeness, or insignia adopted by 2FM without the prior written consent of 2FM.

(10) Going-Out-Of-Business Sales and Auctions. Licensees shall not use, or permit any other party to use, the Licensees' Area for any distress, fire, bankruptcy, close-out, "lost our lease", or going-out-of-business sale or auction. Licensees shall not display any signs advertising the foregoing anywhere in or about the Licensees' Area. This prohibition shall also apply to Licensees' creditors.

(11) Common Areas. Licensees shall not use common areas, including areas adjacent to the Concession facilities, for any purpose other than ingress and egress, and any such use thereof shall be subject to the terms of their Concession License Agreement without Commissioner approval. Without limiting the generality of the foregoing, Licensees shall not use the common park areas to canvass, solicit business or information from, or distribute any article or material to, other Licensees, users, patrons, or visitors to Riverwalk property. Licensees shall not allow anything to remain in any passageway,

sidewalk, court, path, roadway, corridor, patio, entrance, exit, or other area outside of the Licensees' Area without Commissioner approval.

(12) Signage. At all times, Licensee shall display at the concession location the required Chicago Department of Health certificate or C.P.D. Health Authority license. Licensees shall place no sign or advertisement upon any property of the Riverwalk or upon any vehicle operated by Licensee or any structure, stand, trailer, or cart occupied by it under the terms of their Concession License Agreement except as shall first have been approved in writing by 2FM. 2FM will approve the final Licensees' signage size and sign panel proportion to the facility. Signage other than the approved product price board required below will not be permitted in any other locations unless approved by 2FM.

(13) General Repairs and Maintenance. Licensees shall, at their own expense, at all times during the term of the Concession License Agreement, keep the facilities and appurtenances thereto, in good working order, repair, and condition (which condition shall also be clean, sanitary, safe, sightly and free of pests and rodents). Licensee's obligations hereunder shall include but not be limited to Licensees trade fixtures and equipment, roof above the facility, ceilings, interior and exterior walls, entrances, signs, interior decorations, floor-coverings, wall-coverings, entry and interior doors, exterior and interior glass, plumbing fixtures, light fixtures and bulbs, keys and locks, fire extinguishers and fire protection systems, and equipment and lines for water, sewer, including the sewer lines exclusively serving the facilities, including meters and switches therefore, HVAC, electrical, gas, sprinkler and mechanical facilities and other systems and equipment which serve the facility exclusively whether located within or outside the facility, and all alterations and improvements to the facility whether installed by Licensee or the City. Any repairs or other work to be performed by Licensee shall be reviewed and approved in writing by 2FM prior to performing the work. Licensee shall at 2FM's option perform or reimburse 2FM for any repairs, maintenance and replacements to areas outside the facility caused as a result of moving goods, fixtures, or other personal property to or from the facility, or otherwise caused by Licensee or any other occupant of the facility, or any of their employees, agents, invitees or contractors. Licensees that operate their facilities, as restaurants pursuant to their Concession License Agreement shall provide to the City upon demand, proof that monthly cleaning and maintenance of all kitchen exhaust ductwork has been performed and a suitable contractor has cleaned grease interceptors located within the Licensees' Area. A suitable contractor shall be one who is bondable and capable of performing Licensees' obligations hereunder. The City reserves the right to inspect facilities, after 24 hours verbal or written notice.

(14) Prohibited Activities. Licensees shall not: (i) use strobe or flash lights in or on City Property or in any signs therefore, (ii) use, sell, or distribute any leaflets, handbills, bumper stickers, other stickers or decals, balloons or other such articles at the facility(or other areas of City property), (iii) operate any loudspeaker, television set, phonograph, radio, CD player or other musical or sound producing instrument or device so as to be heard outside the facilities, (iv) make or permit objectionable noise, vibration or odor to emanate from the facilities or any equipment serving the same, (v) do or permit anything to be done upon the Licensees' Area in any way tending to disturb, bother or annoy any other Licensees or visitors of Riverwalk property or the occupants of neighboring property.

(15) Roof and Projections. Licensees shall not install any aerial, antennae, satellite dish or any other device on the roof, exterior walls, canopy, or other areas of the facilities without the written consent of the 2FM and must obtain all applicable permits.

(16) Securing Licensee's Area. Before leaving the facilities daily, Licensees shall secure all doors or other means of entry to the facilities and shut off all lights (except signs required to be illuminated, if any), water faucets and other utilities in the facilities. Upon completion of each season, as approved by 2FM, heat can remain on to the extent necessary to prevent the freezing or bursting of pipes.

(17) Plumbing Equipment. The toilet rooms, urinals, washbowls, drains and sewers and other plumbing fixtures, equipment and lines shall not be misused or used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein, and Licensees shall properly install, maintain, clean, repair and replace adequate grease traps.

(18) Utility Equipment. All utility equipment of Licensees such as portable generators, propane tanks, battery systems, cables, lines, and other such equipment shall be placed only in those areas as specified and approved in writing by the City.

(19) Security. All security personnel of Licensees (or contractors who provide such service for Licensees) must be approved by the City and shall be required to adhere to the security policies and guidelines established by the City and the Chicago Police Department, which may be revised from time to time. At no time is a Licensee's personnel or security contractor(s) permitted to carry a firearm, regardless of state license or certification to do so. Firearms are prohibited on the Chicago Riverwalk.

(20) Parking. Parking is allowed and where applicable, included in the Concessions License Agreement. Designated parking locations will be assigned by 2FM. Parking may be restricted from time to time determined by 2FM for public safety reasons. Motorized vehicles are strictly prohibited on the Chicago Riverwalk without Commissioner approval.

(21) Snow and Ice Control. Licensees shall be responsible for ensuring that the Licensee's Area and those areas of ingress and egress to the facilities are kept free of snow and ice during approved dates of operation designated in their Concession Permit Agreement. Snow and ice control methods and products must meet the criteria established in the Environmental Guidelines created for the Chicago Riverwalk which are subject to change from time to time. Methods are required to be reported in the annual Environmental Report.

(22) Power Washing. Licensees shall be responsible for ensuring that the Licensee's Location, areas of ingress and egress and Additional Space areas as approved by the Commissioner are power washed as needed, and as directed by 2FM. Power washing operations must meet the criteria established in the Environmental Guidelines created for the Chicago Riverwalk, which are subject to change from time to time. Power washing of spills and drips during transport of trash is required. Power washing procedures and directions are as follows:

- Wastewater must be disposed of in accordance with all local, state and federal regulations and the property manager is responsible for obtaining any necessary permits.
- Pre-sweep before washing to pick up and containerize and properly dispose any loose dirt and debris and use dry spot cleaning methods, such as absorbent materials to clean spills.

- Minimize water usage through the use of water regulating nozzles and/or high pressure delivery systems.
- Washing must be limited to hot water only. **Cleaning agents are prohibited**
- Sweep up any visible solids/residue after the power washing

(23) Glass Containers. Licensees shall not sell beverages or other items in glass containers unless they have met all the Department of Health requirements for the sanitary handling of glass containers.

(24) Goods and Services. Licensees shall assure that all goods and services sold to the public are of the best quality.

(25) Food Service Only Rules and Regulations. All Licensees that serve food shall also comply with the Chicago Department of Public Health Rules and Regulations for Food Service as created specifically for the Chicago Riverwalk

(26) Boat Docking. Boat docking is not permitted unless specifically licensed by the City of Chicago in conjunction with all applicable State and Federal permits. Tie ups for business located within the Riverwalk are not allowed unless approved by 2FM. (28) Responsibility for Compliance. Licensees shall be responsible for ensuring compliance with these Regulations, as they may be amended, by Licensees' employees and as applicable, by Licensees' agents, invitees, contractors, subcontractors, and suppliers.

(27) Environmental Guidelines. Licensee's are encouraged to limit use of plastics as much as possible. Licensees are expected to follow the rules and regulations for operations as outlined in the Environmental Guidelines and established for the Chicago Riverwalk which included Green Cleaning Policy, power washing, snow removal and deicing, Sustainable Purchasing Policy. 2FM requires annual reporting of to ensure compliance and will monitor. Inaccurate reports or violators of the criteria established in the Guidelines will be subject to fines and default.

Environmental Initiatives

CITY OF CHICAGO SUSTAINABLE OPERATIONS Sustainable Purchasing Policy APRIL 2015

This Sustainable Purchasing Policy (Policy) applies to the sustainable purchasing associated with City of Chicago (City) facilities; and that are within the City's control, including the Chicago Riverwalk. Although this Policy is specifically developed for 2FM's purchases, it is also applicable to contractor working on behalf of 2FM and concessions with License Agreements on the Chicago Riverwalk, each is responsible for identifying purchase needs and requirements and ensuring that their contracts are in compliance with this Policy.

This Policy applies to sustainable purchasing of the following types of products:

- Ongoing Consumables
- Durable goods
- Building materials used in facility alterations and additions
- Lamps and light bulbs
- Food (when applicable)

Facility personnel are encouraged to also consider the following areas of interest:

- Packaging
- Recycled Content
- Post-consumer Use and Recycling Opportunities
- Locally-sourced Options

GOALS

To purchase products in a manner that will:

- be fiscally responsible
- protect the environment and public health
- conserve natural resources
- minimize waste, including landfilling and incineration, and reduce toxicity

QUALITY ASSURANCE CONTROL PROCESS

2FM evaluates the performance, safety, cost, and environmental/public health benefits achieved as a result of the sustainable purchasing program on an on-going basis.

SUSTAINABLE PURCHASING STRATEGIES

PERFORMANCE METRICS

The practices listed below shall be implemented to the extent noted in the table. When less than complete adoption occurs, the performance metrics indicated will be used to gauge performance against the implementation target.

Licensee is required to record and track purchases on an annual basis and provide a report to 2FM using the provided Materials Purchasing Worksheet. documenting the manner by which each product purchase meets the following purchasing criteria.

Materials Purchasing Criteria	Performance Metric	Implementation Target
Ongoing consumables	Percentage of the cost of goods	60%
Electronics and appliances	Percentage of the cost of goods	40%
Furniture	Percentage of the cost of goods	40%
Facility alterations and additions	Percentage of the cost of goods	50%
Reduced mercury in lamps	Percentage of the cost of goods	90%
Food	Percentage of the cost of goods	25%

Sustainable Purchasing of Ongoing Consumables

The term “ongoing consumables” refers to low-cost-per-unit materials that are regularly used and replaced through the course of daily business operations. These products may include, but are not limited to: printing and copying paper, notebooks, envelopes, business cards, sticky notes, paper clips, toner cartridges, and batteries. The City’s goal is that at least 60% of the cost of goods purchased will comply with one or more of the following criteria:

- Contains at least 10% post-consumer and/or 20% post-industrial material
- Contains at least 50% rapidly renewable material (e.g., bamboo, cotton, cork, wool)
- Contains at least 50% materials harvested and extracted and processed within 500 miles of the facility
- Consists of at least 50% Forest Stewardship Council (FSC)-certified paper products
- Rechargeable batteries

The City acknowledges the value of purchasing sustainable products and requires that vendors support that effort when appropriate and/or possible. The City’ requests that vendors notify them of recycled content and reduced packaging options or alternative products that would comply with the above specifications. Nothing contained in this Policy shall be construed as requiring the City to procure products that do not perform adequately for their intended use, exclude adequate competition, or are not available at a reasonable price in a reasonable period of time.

Sustainable Purchasing of Durable Goods

The term “durable goods” refers to higher-cost-per-unit materials that are replaced infrequently and/or may require capital outlays to purchase. These products may include, but are not limited to: office equipment (such as computers, monitors, printers, copiers, fax machines), appliances (refrigerators, dishwashers, water coolers), external power adaptors, televisions, and furniture. The purchasing criteria for these products fall into the following two categories.

Electronics and Appliances

The City’s goal is that at least 40% of the cost of goods purchased will comply with one or more of the following criteria:

- Energy Star labeled products, when available
- Electronic Product Environmental Assessment Tools (EPEAT) rated products (at least bronze level)
- The equipment replaces conventional gas-powered equipment, i.e. maintenance equipment and vehicles

Furniture

The City will make it a priority to reuse furniture as much as possible. When new furniture must be purchased, the goal is that at least 40% of the cost of goods purchased will comply with one or more of the following criteria:

- Contains at least 10% post-consumer and/or 20% post-industrial material
- Contains at least 70% salvaged material from off-site or outside the organization
- Contains at least 70% salvaged material from on-site through an internal materials and equipment reuse program.
- Contains at least 50% rapidly renewable material (bamboo, cotton, cork, wool)
- Contains at least 50% materials harvested, extracted and processed within 500 miles of the facility/site
- Consists of at least 50% Forest Stewardship Council (FSC) certified wood

The City acknowledges the value of purchasing sustainable products and requires that vendors support that effort when appropriate and/or possible. The City requests that vendors notify them of Energy Star and sustainable furniture opportunities that would comply with the above specifications, as well as reduced packaging options.

Sustainable Purchasing: Facility Alterations and Additions

This Policy covers materials that are permanently or semi-permanently attached to a building itself in the course of facility renovations, demolitions, refits and new construction additions. These products may include, but are not limited to: building components and structures (wall studs, insulation, doors, windows), panels, attached finishes (drywall, trim, ceiling panels), carpet and other flooring materials, adhesives, paints and coatings. The City's goal is that at least 50% of the cost of goods purchased will comply with one or more of the following criteria:

- Contains at least 10% post-consumer and/or 20% post-industrial material
- Contains at least 70% salvaged material from off-site or outside the organization
- Contains at least 70% salvaged material from on-site through an internal materials and equipment reuse program.
- Contains at least 50% rapidly renewable material (bamboo, cotton, cork, wool)
- Contains at least 50% materials harvested/extracted and processed within 500 miles of the facility/site
- Consists of at least 50% Forest Stewardship Council (FSC) certified wood
- Specific requirements for paints, coatings, adhesives, and sealants are provided in the Appendix and summarized below:
 - Adhesives, paints and sealants (both indoor and outdoor) must comply with the VOC content limits of South Coast Air Quality Management District (SCAQMD) Rule #1168, GS-36, and GS-11.
 - Clear wood finishes, floor coatings, stains, sealers and shellacs must comply with the VOIC content limits of SCAQMD Rule #1113.
 - Anti-corrosive and anti-rust paints applied to interior ferrous metal substrates must comply with

the VOC content limit of 250 g/L established in GC-03.

- Finished flooring is FloorScore-certified and constitutes a minimum of 25% of the finished floor area
- Carpet and carpet cushion meets the requirements of the Carpet and Rug Institute (CRI) Green Label Plus carpet testing program
- Composite panels and agrifiber products contain no added urea-formaldehyde resins

The City acknowledges the value of purchasing sustainable products and requires that vendors support that effort when appropriate and/or possible. The City requests that vendors notify them of potential opportunities that would comply with the above specifications, as well as reduced packaging options.

Sustainable Purchasing: Toxic Material Source Reduction – Reduced Mercury in Lamps

The City seeks to reduce the amount of mercury brought into all sites through purchase of lamps and light bulbs or the buildings and associated grounds. The City's goal is that at least 90% of the number of lamps purchased will meet the following overall mercury-content target:

- No more than 90 picograms of mercury per lumen-hour

City representatives acknowledge the value of purchasing low-mercury lamps and require that vendors support that effort when appropriate and/or possible. The City requests that vendors notify them of specific lamps and other opportunities that would comply with the above specifications, as well as reduced packaging options.

Sustainable Purchasing: Food

This Policy is applied to all food purchases including but not limited to food provided in the employee kitchen, coffee/tea provided, food catered on-site and take-out food provided for events and/or meetings. The City's goal is that at least 25% of the total cost of all food and beverages purchased will comply with one or more of the following criteria:

- Labeled USDA Organic
- Labeled Food Alliance Certified
- Labeled Rainforest Alliance Certified
- Achieves Fair Trade Label
- Achieves Marine Stewardship Council's Blue Eco-Label
- Produced within a 100-mile radius of the site

The City acknowledges the value of purchasing sustainable food and beverages and requires vendor support in sustainable food purchasing when appropriate and/or possible. The City requests that vendors notify them of potential opportunities that would comply with the above specifications, as well as reduced/recyclable packaging options.

APPENDIX: VOC LIMITS FOR PAINTS, COATINGS, ADHESIVES AND SEALANTS

Architectural Applications	VOC Limit [g/L less water]	Specialty Applications	VOC Limit [g/L less water]
Indoor carpet adhesives	50	PVC welding	510
Carpet pad adhesives	50	CPVC welding	490
Wood flooring Adhesives	100	ABS welding	325
Rubber floor adhesives	60	Plastic cement welding	250
Subfloor adhesives	50	Adhesive primer for plastic	550
Ceramic tile adhesives	65	Contact adhesive	80
VCT and asphalt adhesives	50	Special purpose contact adhesive	250
Drywall and panel adhesives	50	Structural wood member adhesive	140
Cove base adhesives	50	Sheet applied rubber lining operations	850
Multipurpose construction adhesives	70	Top and trim adhesive	250
Structural glazing adhesives	100		
Substrate Specific Applications	VOC Limit [g/L less water]	Sealants	VOC Limit [g/L less water]
Metal-to-metal	30	Architectural	250
Plastic foams	50	Non-membrane roof	300
Porous materials (except wood)	50	Roadway	250
Wood	30	Single-ply roof membrane	450
Fiberglass	80	Other	420
Sealant Primers	VOC Limit [g/L less water]	Aerosol Adhesives	VOC Limit
Architectural non-porous	250	General purpose mist spray	65% by weight
Architectural porous	775	General purpose web spray	55% by weight
Other	750	General purpose aerosol adhesives	70% by weight
Paints	VOC Limit [g/L]	Clear Wood Finishes, Floor Coatings, Sealers, and Shellacs	VOC Limit [g/L]
Interior nonflat	150	Clear wood finishes - Varnish	350
Interior flat	50	Clear wood finishes - Lacquer	550
Exterior nonflat	200	Floor Coatings	100
Exterior flat	100	Sealers – Waterproofing	250
		Sealers – Sanding	275
		Sealers – All Other	200
		Shellac – Clear	730
		Shellac – Pigmented	550
		Stains	250
Anti-Corrosive and Anti-Rust Paints	VOC Limit [g/L]		
Applied to interior ferrous metal substrates	250 g/L		

SECTION 2 GREEN CLEANING POLICY

CLEANING PRODUCTS

PRACTICES TO OPTIMIZE USE OF SUSTAINABLE CLEANING PRODUCTS

Cleaning products and materials used at City facilities shall, when possible, meet the requirements below.

Product types subject to these requirements include, but are not limited to, bio-enzymatic cleaners, hard-floor cleaners, carpet cleaners, general-purpose cleaners, specialty cleaners, odor control, disinfectants, metal polish, floor finishes, strippers, disposable janitorial paper products and trash bags, and hand soaps. In general, the use of multi-attribute certifications, when available, is preferred over single-attribute certifications.

Green Cleaning, Purchase of Sustainable Cleaning Products and Materials Criteria:

- All general-purpose, bathroom, glass and carpet cleaner use for industrial and institutional purposes, carpet and upholstery care, hard-surface cleaners, cleaning and degreasing compounds, metal polish, floor finishes, strippers or any other products as applicable must meet one or more of the following standards for the appropriate category:
 - Green Seal
 - EcoLogo
 - EPA Safer Choice
- Disinfectants must meet the following standards:
 - Disinfectants, including antimicrobial mold and mildew cleaners, and non-food contact surfacesanitizers, shall be EPA FIFRA-registered.
 - The use of disinfectants and non-food contact sanitizers that only contain the following active ingredients shall be prioritized:
 - Hydrogen peroxide or accelerated hydrogen peroxide
 - Citric acid
 - Lactic acid
 - Caprylic acid
 - Silver

Recommended products included in the [Safer Products and Practices for Disinfecting and Sanitizing Surfaces](#) guide prepared by SF Environment and Responsible Purchasing Network should be used when applicable.

Specialty cleaners, such as but not limited to, metal and furniture polish, graffiti and gum removers, and lime and scale removers shall meet the above standards or not contain volatile organic compounds (VOCs) in concentrations that exceed the levels required by the California Air Resources Board's (CARB) Regulation for Reducing Emissions from Consumer Products for the specific product category according to the most current version of the CARB regulations in effect at the time of purchase.

Disposable janitorial paper products and trash bags meet the minimum requirements of one or more of the following programs for the applicable product category:

- U.S. EPA Comprehensive Procurement Guidelines for Janitorial Paper and Plastic Trash Can Liners
- Green Seal

- Eco Logo

Hand soaps must contain no antimicrobial agents (other than as a preservative) except where required by health codes and other regulations (i.e., food service and health care requirements) and must meet one or more of the following standards for the appropriate category:

- Green Seal
- EcoLogo
- EPA Safer Choice

If a product is not available with the above certifications, the following stand may also be considered:

- Biopreferred
- Others as approved by 2FM

In addition, floor coating products will preferentially be free of metals such as zinc. The intent of this requirement is to reduce the content and use of toxic materials in cleaning systems and those that may enter the Chicago River or Lake Michigan.

All cleaning agents used by the Contractor will be of a quality acceptable to 2FM and appropriate for the surface being cleaned. No abrasive cleaner or pads will be used on marble, glass, plastic, painted, chrome, stainless steel, aluminum, wood, or porcelain surfaces.

Exceptions

If the sustainable version of a material or supply is not available in a reasonable period of time, fails to meet performance standards, excludes adequate competition, or is only available at unreasonable prices, then alternative materials or supplies may be considered and approved on a case-by-case basis. All nonconforming products must be approved by 2FM prior to use.

Recordkeeping

The Licensee must submit documentation to 2FM for approval indicating the required certification prior to using a product at the Location. Examples of acceptable documentation includes verification from the certification organization's website; specification sheets, cut sheets or actual labels from product containers demonstrating that the cleaning products in use are certified; or independent third-party validation that the products meet the above criteria. All product documentation must also be maintained at the Location. The Licensee will also be required to submit annual reports of products used.

Site Improvements

Requirements for Site Improvements, Trailers and Mobile Carts on the Chicago Riverwalk

Introduction

Site improvements may become necessary or required during the term of the License Agreement and must be approved by 2FM. This section of the Handbook is intended to provide Licensees, their designers and contractors with information required for the design and construction of their Licensed Area within the Chicago Riverwalk. If site improvements are being considered, begin discussions regarding the

proposal with 2FM immediately. Site improvements proposed by Licensees should be reflective of the intent of the Guiding Principles of the Riverwalk. Any construction, renovation or installation of structures or facilities for the Chicago Riverwalk shall be in conformance with these guidelines and require prior 2FM approval and all applicable permits including, but not limited to Building permits, CDOT bridge permit and harbor permits.

Please use the information provided in this document when preparing your proposal for operations along the Riverwalk which includes site improvements, trailers and/or mobile carts.

Licensee is responsible for reviewing, understanding and incorporating as part of its design all applicable current federal state and local laws, codes, ordinances, and/or regulations applicable to their operations.

These laws include, but are not limited to:

- Municipal Code of the City of Chicago
- City of Chicago Building Code
- City of Chicago Department of Health Regulations
- Americans with Disabilities Act
- Illinois Accessibility Code
- United States Coast Guard and Army Corps of Engineers
- All federal, state and local environmental laws

Review of Licensee's documentation by 2FM and/or its designated representative does not relieve Licensee of its responsibility to comply with all applicable laws and requirements.

Whenever possible, 2FM will share existing drawings and available information with the Licensee. 2FM will make its best efforts to provide the most current information available but does not warrant the accuracy or completeness of same; the Licensee shall be responsible for verification of existing conditions. In addition, other base building drawings and specifications may be available for review. Copies of available selected sections will be provided after finalizing the Licensee Agreement.

Licensee must coordinate with 2FM any work necessary to determine whether utilities are available at the proposed location. If utilities are unavailable at the location, the Licensee will coordinate any work with 2FM. Licensee is responsible for removal of all trash and debris from construction of Improvements at their own expense.

Submittal Requirements

If the Licensee proposes site improvements to its location, Licensee must submit the following information with its proposal:

1. Design Plan describing in detail the thematic concept for the Location
2. Implementation Plan with a detailed schedule for constructing the site improvements.

Submission Requirements for construction are:

- (1) Cover letter describing the nature and scope of the project.
- (2) Proposed schedule for all elements of work.
- (3) Plan showing the location of site within Riverwalk.
- (4) Drawings and Documents, including cut sheets of major elements or finishes.

- (5) Preliminary Floor Plan showing interior and exterior design including materials and finishes.
- (6) Landscaping plan surrounding the Location.
- (7) Storefront elevation and section showing storefront concept.
- (8) Proposed graphics, signage, materials and finishes.
- (9) Cost estimate for Improvements.

The Licensee's Plan must also describe: any food service equipment (types and appearance); utility needs and supply methods; signage design and location; product price board design and location; all lighting requirements and methods, customer seating, tables and umbrella etc.

The submitted documents and materials must be prepared by design professionals licensed to practice in the State of Illinois, examples of whose previous design work shall be of a standard acceptable to 2FM and its sole discretion. Architects who are registered with the Department of Buildings Self-Certification program are recommended.

Design Review

2FM will review each design submission on individual merit and in the context of the surroundings of the proposed location within the Riverwalk, but 2FM reserves the right to request changes to plans, and/or to reject elements of the design.

Once finalized, 2FM will make its best efforts to expedite the reviews of the Licensee's submissions and assist with acquiring permits required by the Department of Buildings and the Department of Transportation.

Permits

Following the design approvals indicated above, the Licensee shall obtain a Building Permit from the Department of Buildings. Note, that approval from 2FM does not constitute approval from the City's Department of Buildings, Department of Transportation or Department of Health. Licensees are responsible for obtaining all required approvals, necessary permits, and paying all fees.

Construction shall not commence until the above noted approvals and permits are secured and satisfactory evident of same has been provided to 2FM. And in no event can construction begin before a license agreement is fully executed or without written approval by 2FM.

If specified by Department of Buildings, the Licensee shall obtain a Certificate of Occupancy for the applicable Improvements. In the case of food or beverage tenancies the Licensee shall also obtain all approvals and certificates as required by the City of Chicago Department of Health.

Pre-Construction Meeting

A pre-construction meeting must be scheduled with 2FM and involve the Licensee, Licensee's contractor and job site superintendent. Schedule and scope of work will be reviewed along with logistical items (security, delivery, trash removal etc.) 24 hour Contact numbers of construction team will be provided to 2FM along with:

- a. One copy of the applicable City of Chicago Building Permit
- b. One copy of the approved drawings, stamped by the City of Chicago, Department of Buildings
- c. One copy of the Insurance Certificate

- d. A construction schedule and plan that includes all activities required to complete the work. The submission shall include plans for any special provisions required to protect existing conditions and to coordinate the work with 2FM, CDOT or any other agency. If 2FM identify any problems with regards to the schedule or construction plan, they will inform the Licensee.

Construction

Licensee is responsible for the following during construction:

- a. Providing a weekly look ahead schedule. Depending on the scope of work included in the Site Improvements, 2FM may require weekly construction meetings.
- b. Maintain the Riverwalk path is a safe, fully ADA compliant and accessible, providing necessary resources and equipment for pedestrian traffic control as needed
- c. Maintaining that any construction debris is not visible to path users
- d. Maintaining a clean and sanitary job site
- e. No advertising signage for the contractors is allowed on construction fencing

Post Construction Inspection and Documentation

- a. Complete and accurate as-built drawings signed by the contractor/ builder of all work provided within the Location. "As-built" submissions shall include:
- b. One flash drive or, or web-link to the as-built construction document electronic drawings files that were created using an acceptable version of CADD software, and a set in PDF format.
- c. Copies of all reviews, sign-offs and other items pertaining to construction of the Improvements.
- d. A statement certified by the Licensee detailing the costs for the Improvements.
- e. If applicable, a copy of the approved Certificate of Occupancy.
- f. A walk-thru of the Location to see Improvements

Trailers

If Licensee proposes site improvements which include a trailer to be located on site, Licensee must submit the same required document for the site improvements as listed above and the following information about the trailer:

- Drawings and Documents, including cut sheets of mobile unit being proposed.
- Drawings, documents and cut sheets of major elements or finishes of mobile unit.

Submission Requirements for construction are:

- (1) Cover letter describing the nature and scope of the project.
- (2) Proposed schedule for all elements of work.
- (3) Plan showing the location of site within Riverwalk.
- (4) Drawings and Documents, including cut sheets of major elements or finishes.
- (5) Preliminary Floor Plan showing interior and exterior design including materials and finishes.
- (6) Landscaping plan surrounding the Location.
- (7) Storefront elevation and section showing storefront concept.
- (8) Proposed graphics, signage, materials and finishes.
- (9) Cost estimate for Improvements.

In order to address the seasonality of the Chicago Riverwalk operations, trailers, tents and temporary facilities may be approved. A trailer is a semi-permanent mobile unit, which may be towed to its designated operation location. It is intended that trailers remain in place throughout the duration of the term of the License Agreement. The trailer is to be installed, anchored in place, maintained and removed in accord with the Agreement. The trailer is to incorporate elements to create a unified appearance. All trailers must be approved in writing by 2FM.

Vehicles moving trailers or carts throughout the Riverwalk daily will not be permitted.

In order to comply with the City's Building Code, the Licensee is required to meet certain conditions for their location and for its trailer. It is the responsibility of the Licensee, the Licensee's designers and contractors to be aware of the City's Building Code requirements. The list below is not all inclusive and was prepared to assist Licensee in development of their Design Plan for Improvements to the site.

1. Type II Non-Combustible Construction (shipping containers)
 - a. Occupancy will trigger building permit.
 - b. There is a public restroom and portable hand sink requirement.
 - c. Counters and other improvements must be ADA compliant.
 - d. Must be compliant with municipal code 13-60-030
 - e. Non-combustible construction, shall be that construction in which all structural elements, including walls, bearing partitions, floors, ceilings, roofs and their supports, are of noncombustible materials but which are generally not fire protected except as required in Section 13-60-100. Fire retardant treated wood may be used in roof framing and roof sheathing of one-story buildings only.
 - f. Subject to the provisions of Chapter 15-8, combustible material may be used in buildings of noncombustible construction for the following purposes:
 - i. Doors, door frames and bucks;
 - ii. Windows and window frames;
 - iii. Interior trim, including grounds and furring;
 - iv. Finished flooring and sleepers;
 - v. Frames, platforms and aprons of exterior show windows, at street level;
 - vi. Handrails;
 - vii. Interior wall and ceiling finishes;
 - viii. Roof insulation;
 - ix. Exterior wall finishes, when in compliance with Sections 15-8-080 through 15-8-086.
2. Cooking Trailers and similar facilities
 - a. The proposed facility may be viewed similar to a food truck and acceptable provided they pass Department of Health and Fire Department inspections.
 - b. Any electrical or plumbing connections for these trailers will be reviewed with DOB.

The Licensee is to provide a trailer which complies with these requirements: the License Agreement; the City of Chicago building codes; and Chicago Health Department requirements. Reference the

requirements from the Department of Business Affairs and Consumer Protection-Mobile Food Vendor Licenses and the Department of Health Rules and Regulations Re: Riverwalk Food Establishments.

If the Licensee has an existing trailer or other equipment or type of vehicle it would like to retrofit to comply with this program, photographs along with a specific description of the modifications proposed for compliance are to be presented to 2FM for review and approval. Other temporary facilities may be proposed for consideration and potentially approved by 2FM upon review if they fulfill the Guiding Principles of the Riverwalk and Appearance Requirements stated and not require the use of motor vehicles daily. The Licensee will be responsible for any permits and inspections from the Department of Buildings and Health Departments. No motorized vehicles are permitted on the Chicago Riverwalk.

Licensee will be required to submit table, chair and umbrella selections for approval and will be responsible for maintenance, storage and replacement as identified as part of the Agreement. Seating for persons with disabilities should be dispersed throughout the footprint. Tables should have a minimum clearance of 30" under tables and 30" between legs. **Mobile Cart**

This unit is designed to be rolled from its operating location to a Licensee provided storage location within the Riverwalk (if available). Carts that require vehicles to transport them required approvals daily are not acceptable.

Licensee must provide drawings depicting what the cart will look like including cut sheets of the mobile unit being proposed. The body of the cart is to be primary color and have protective corner angles and must be approved in writing by 2FM. If a canopy or awning is part of the design, it shall be supported by four metal supports, one at each corner of the cart.

The Licensee is responsible for securing the cart when it is not in use. 2FM in some instances may make available an area for cart storage, provided the carts can be moved safely through the pedestrian path. The availability of storage areas for Licensee use, if any, must be coordinated with and approved by 2FM on a case-by-case basis depending on location and the facilities available in the area and will be included in the Licensee Agreement. Licensee should include a plan for storage overnight and when not in use. Licensee must provide a plan for daily cleaning of the cart.

Depending on the type of food handling performed by the Licensee, the cart or trailer shall provide integrated sanitary facilities such as a hand sink, hot water, clean water storage tank and soiled water storage tank and any other facilities as may be required by 2FM and Department of Health and any other jurisdictions. The cart will be required to pass a Department of Health inspection prior to being placed in operation. Please reference the Rules and Regulations for Riverwalk Food Establishments.

For operation after dusk, in accordance with the Agreement, the Licensee's carts and facilities shall provide incandescent lighting in concealed locations to permit operation by the Licensee. Lighting shall not be directed into the eyes of customers and shall be low glare type directed at work surfaces. Fixtures that minimize light pollution are recommended.

Upon obtaining the 2FM approval, the Licensee will submit drawings of new cart or trailer fabrication as well as existing facility modifications to 2FM and to any other jurisdiction as required by law for approval prior to fabrication or construction. The Licensee is responsible for all permits and Agreements required for installation and operation in the Chicago Riverwalk.

The carts or trailers components shall be maintained by the Licensee at all times during operation. Carts and trailers shall remain free of stickers, decals, signage, striping, graffiti, logos, banners, writing, etc. except as required or specifically approved by 2FM. Carts and trailers shall be refurbished or replaced at the Licensee's expense when they no longer maintain an acceptable appearance level at the sole discretion of 2FM.

RIVERWALK VENUE LIQUOR LICENSE ORDINANCE

4-60-074. Riverwalk Venue liquor licenses - Special conditions.

(a) In addition to the other categories of licenses authorized under this chapter, the local liquor control commissioner may issue Riverwalk Venue liquor licenses. Provided, however, that no Riverwalk Venue liquor license shall be issued under this section unless: (1) the applicant holds a valid retail food establishment license and a valid retail consumption on premises liquor license at another location within the city; or (2) if the applicant does not hold a valid retail food establishment license and a valid retail consumption on premises liquor license at another location within the city, the location identified in the liquor license application has adequate plumbing facilities within the meaning of Section 7-38-030 and otherwise complies with all requirements of this code applicable to retail food establishments under Article I of Chapter 7-38 of this code, including all rules and regulations promulgated thereunder by the board of health.

(b) A separate Riverwalk Venue liquor license shall be required for each outdoor location from which sales of alcoholic liquor are made on the Chicago Riverwalk. In addition to the information required under Section 4-60-040, an application for a Riverwalk Venue liquor license shall: (1) designate the specific site at which the applicant intends to sell alcoholic liquor; (2) designate any area where liquor will be sold, if such area is not part of a restaurant or tavern; and (3) designate the location at which the licensee will clean glasses and utensils used in the service of alcoholic liquor. The fee for a Riverwalk Venue liquor license shall be the same as the fee for a consumption on the premises-incidental activity license.

(c) Except as otherwise provided in subsection (k) of this section, Riverwalk Venue liquor licenses may authorize the sale of beer, wine and spirits at the approved location. Persons holding a Riverwalk Venue liquor license are authorized to serve alcoholic liquor indoors and outdoors at the approved location. Any approved location outdoors where alcoholic liquor is sold or served shall be clearly demarcated in a manner that effectively isolates such location from thru-traffic by non-patrons of the licensed venue.

(d) A Riverwalk Venue liquor licensee shall be subject to all provisions of this chapter with the following exceptions:

(1) Subsections (e) and (f) of Section 4-60-040; the 45-day review period of subsection (h) of Section 4-60-040; and Section 4-60-050.

(2) A Riverwalk Venue licensee shall not be required to maintain facilities for the cleaning of glasses and utensils at the point of sale as otherwise required under subsection (a) of Section 4-60-100, if the licensee serves food and alcoholic liquor in disposable containers only.

(e) A Riverwalk Venue liquor licensee shall (1) maintain at the licensed venue adequate handicap-accessible portable toilet and hand-washing facilities distributed equally between genders and consisting of water closets or chemical closets equipped with a sink or hand-sanitizer-gel-dispensers; and (2) comply with all the health, sanitary and inspection requirements of Chapter 4-8 of this code. Provided, however, that item (1) of this subsection shall not apply if the licensed venue has toilet and hand-washing facilities meeting the applicable requirements of Sections 18-29-403.1 through 18-29-403.6 and Section 18-29-404.

(f) No Riverwalk Venue licensee shall serve or permit the service of alcoholic liquor outdoors between the hours of 11:00 P.M. and 11:00A.M.

(g) (1) Except as otherwise provided in paragraph (2) of this subsection (g), no Riverwalk Venue licensee shall sell or offer for sale any package goods.

(2) A Riverwalk Venue license shall be permitted to sell or offer for the sale of packaged wine if the packaged wine is: (i) produced or manufactured by the licensee only, at a properly licensed location in Chicago other than the Chicago Riverwalk, by a business licensed to sell food and alcohol on the Chicago Riverwalk; and (ii) available only for purchase at the business location in Chicago where the packaged wine was produced or manufactured, or at any of the business's other Chicago locations, including its licensed location on the Chicago Riverwalk; and (iii) sold in a corked, unbroken and sealed 750 milliliter ("ml") glass bottle with an alcohol concentration between 5% and 20%; and (iv) affixed with a federally approved label; and (v) sold or offered for sale in compliance with all applicable Federal, State and local laws pertaining to such sales or offers; and (vi) purchased during the Riverwalk Venue licensee's normal business hours, but in no event, before 11 a.m. or after 9:00 p.m.; and (vii) before completion of any sale, placed for transport in an opaque carryout bag provided by the licensee; and (viii) not accompanied by the sale, giveaway or distribution of any drinking container or corkscrew or other opening device. It shall be unlawful for any Riverwalk Venue licensee to sell or to offer for sale packaged wine in violation of any requirement set forth in items (i) through (viii), inclusive of this paragraph (2) In addition, Riverwalk Venue licensees who sell or offer for sale packaged wine at their licenses venue shall have an affirmative duty to: (A) train their service staff to inform customers that it is illegal to drink alcoholic liquor on the Chicago Riverwalk, and (B) to post legible and clearly visible signage, in a conspicuous place on all venue exits and in each bay of operation, stating that: "All retail wine purchases are for off-site consumption only- No open containers beyond this point."

(h) No Riverwalk Venue licensee shall sell or offer for sale any food other than prepackaged and non-perishable foods as defined in Section 4-8-010, unless (1) such food is prepared at a venue holding a valid retail food establishment license under Chapter 4-8 and the venue at which such food is prepared meets the requirements of Article I of Chapter 7-28 of this code, including all rules and regulations promulgated thereunder by the board of health; or (2) the location identified in the liquor license application has adequate plumbing facilities within the meaning of Section 7-38-030 and otherwise complies with all requirements of this code applicable to retail food establishments under Article I of Chapter 7-38 of this code, including all rules and regulations promulgated thereunder by the board of health. Foods prepared at a venue meeting the requirements of item (1) of this subsection may be refrigerated or heated, as applicable, and sold or offered for sale at a venue licensed under this section, if the applicable food handling and sanitation requirements set forth in Sections 7-38-005 through 7-38-025 are met.

(i) No Riverwalk Venue licensee shall sell or serve alcoholic liquor on the licensed premises unless regular food service is also available to patrons at all times that alcoholic liquor is sold or served. All drinks containing alcoholic liquor must be served and consumed on site.

(j) No Riverwalk Venue licensee shall allow seating at any bar located outdoors. Service bars only may be provided outdoors. Bars with seating may be provided indoors.

(k) No Riverwalk Venue licensee shall sell or serve spirits by the bottle.

(l) No Riverwalk Venue licensee shall broadcast music, announcements or other disruptive sounds or offer live music or entertainment between 8:30 P.M and 11:00 A.M., or violate any limitation on noise or vibrations set forth in Chapter 11-4 of this code. Provided, however, that emergency broadcasts may be made.

(m) For purposes of this section:

“Approved location” means the location identified in the site plan submitted and approved for use in the original license application, unless notice of any proposed change is given to the department, 30 days in advance of the proposed change, and the proposed change is approved by the local liquor control commissioner.

“Chicago Riverwalk” has the meaning ascribed to the term in section 2-32-1300(a).

“Heated” means warmed in or on an oven, microwave, indoor or outdoor barbeque grill or similar object.

“Retail food establishment license” means a license issued under Chapter 4-8 of this code.

“Spirits” has the meaning ascribed to the term in Section 3-44-020.

(Added Coun. J. 1-9-08, p. 18918, § 2; Amend Coun. J. 11-8-12, p. 38872, § 55; Amend Coun. J. 3-13-13, 47545, § 1002)

CONCESSION PROGRAM VENDOR VIOLATION REPORT

In the unanticipated event that a Licensee is not complying with the terms and conditions of the License Agreement, Use Agreement, Standard of Service, Riverwalk policies, or common courtesy, 2FM and the property management team will issue a Violation Report. Multiple violations will be cause for default.