

BID SPECIFICATIONS

RESTAURANT/BAR & REFRESHMENT STAND CONCESSION

Spring Meadow Golf Course (“Spring Meadow”), Farmingdale, New Jersey

SCOPE OF CONCESSION

A. The Concessionaire shall be granted the exclusive right to dispense food, alcoholic and non-alcoholic beverages, and liquor (hereinafter referred to as “Concession Operations”). The Concession Operations shall be limited to the structure(s) or area(s) now provided by the Department of Environmental Protection (“Department”) for concession purposes in the areas at Spring Meadow specifically designated by the Department (hereinafter referred to as the “Concession Premises”).

B. The Concession Operations will dispense items only from the following areas on the Concession Premises: Spring Meadow Inn (“Restaurant”), Refreshment Stand (“Halfway House”), Mobile Food/Beverage Carts (on golf course), and any temporary structures as may be approved by Department.

C. Concessionaire shall use the Concession Premises solely for the purpose set forth above and is currently only permitted to sell alcoholic beverages and liquor inside the Restaurant from the bar area (“Restaurant Bar”). Patrons must consume all alcoholic beverages within the Restaurant and are not permitted to bring alcoholic beverages outside of the Restaurant.

D. Concessionaire’s status will be that of a licensee. Concessionaire will not, in any way whatsoever, be granted or conveyed any permanent easement, lease, fee, or other interest in the Concession Premises.

TERM OF AGREEMENT

The “Initial Term” of the Concession Agreement (“Agreement”) shall be for one (1) year, starting from the Effective Date of the Agreement’s Initial Term, and may include no more than two (2) subsequent one-year opportunities to renew at the Department’s discretion, based upon an evaluation of the Concessionaire’s performance and compliance with the terms and conditions of the Agreement. At the end of the Initial Term and prior to the start of any “Second Term,” a compensation analysis will be completed. The Department, in its sole discretion, may extend the Agreement with Concessionaire to a “Second Term.” A Second Term would run for one (1) year, starting from the Effective Date of the Agreement’s Second Term, and may include no more than two (2) subsequent one-year opportunities to renew at the Department’s discretion, based upon an evaluation of the Concessionaire’s performance and compliance with the terms and conditions of the Agreement.

EFFECTIVE DATE

For the purposes of the Agreement, the Effective Date for the commencement of the Initial Term or any renewal term shall be the date on which the last of the following has occurred:

- (i) The Agreement or any renewal agreement is signed on behalf of Concessionaire and Department; and
- (ii) Department dates the Agreement or any renewal agreement and forwards a copy to Concessionaire; and
- (iii) The Certificate of Insurance required under the Agreement is approved by Department; and
- (iv) Corporate resolution has been received by Department; and
- (v) Department has approved the proposed prices for all food, alcoholic and non-alcoholic beverages, and liquor.

COMPENSATION ANALYSIS

After the expiration of the third (3rd) year under the Initial Term of the Agreement, a compensation analysis will be performed to determine if the compensation amount will be increased, decreased, or remain the same for the Second Term. Based on the reported Total Gross Revenue and/or performance of the concession, the Department may choose to increase, decrease, or maintain the compensation amount. The total amount of annual compensation will be analyzed and may be adjusted to correspond with the Department's existing rental rates for similarly performing operations.

REVENUE PAYMENTS AND ANNUAL INCREASE

A. The total amount of annual compensation to be paid by Concessionaire to Department as consideration for the license and privileges granted to Concessionaire under the Agreement shall be paid in twelve (12) equal, monthly installments of the total amount of annual compensation on the first (1st) day of every month for each contract period.

B. All payments shall be made at the area office, by check made payable to "Treasurer - State of New Jersey." If Concessionaire fails to pay said compensation at such time and in such manner as specified herein, such failure shall constitute grounds for termination of the Agreement.

C. All past due payments shall be assessed a monthly penalty of one and one-half (1.5%) percent of the total amount due calculated on the tenth (10th) day of each month.

D. In the event any check for payment is returned to Department, all future compensation payments must be made by certified or cashier check only.

E. The total amount of annual compensation shall be increased by three (3%) percent each contract period.

RECORDS AND AUDIT

A. Concessionaire shall maintain complete, accurate, and detailed accounting records of all transactions pertaining to each Concession Operation covered by this Agreement that will allow Concessionaire to prepare financial statements in accordance with generally accepted accounting principles. Concessionaire shall make such records available to any authorized representative of Department upon request, as often as it is deemed necessary by Department, to determine the effectiveness of the financial management system and internal procedures that have been established by Concessionaire to ensure compliance with the terms and conditions of the Agreement and that the financial statements, cash register receipts, and reports present fairly the results of Concessionaire's operations pursuant to the Agreement. Said records shall be maintained and made available to Department for a period of six (6) years after the termination or expiration of the Agreement. Concessionaire shall maintain separate sales records for each of the following concession locations: Restaurant; Restaurant Bar; Halfway House; Mobile Food/Beverage Carts; and Banquets/Catering Events.

B. All Restaurant, Restaurant Bar, and Halfway House sales shall be recorded by means of cash registers that publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded on a sales slip. Said cash registers shall, in all cases, have locked-in sales totals and transaction counters that constantly accumulate and that cannot, in either case, be reset. In addition, such cash registers must have a tape located within the register upon which transaction numbers and sales details are imprinted. Beginning and ending cash register readings shall be recorded on a daily basis. In the event of technical or electrical failure of the cash registers, Concessionaire shall record all transactions by hand and issue a sequentially pre-numbered customer's receipt in like manner.

Each cash register must have the following:

- Dual Tape/Readable tape (customer must be offered a receipt)
- Customer Display
- Continuous grand total
- Cumulative "Z" counter
- Current printed date on detail tape

DAILY RECEIPTS AND BANK ACCOUNT

A. Under the Agreement, Concessionaire is required to maintain a daily record of all gross receipts derived from the Concession Operation. This record shall be available at all times. Concessionaire also shall maintain daily "Z" reports that provide a breakdown and accounting of all sales activity for each day.

B. All cash received by Concessionaire shall be deposited into a single bank account, maintained at a bank located within the State of New Jersey and maintained solely for subject

Concession Operation, through which all financial transactions (including but not limited to deposits, withdrawals, and purchases) must pass.

MONTHLY REPORT

On or before the tenth (10th) of each month during operation, Concessionaire shall provide Department with the following: (1) a "Monthly Concession Report" containing a Statement of Total Gross Receipts, excluding New Jersey State Sales Tax, derived by Concessionaire from operation of the Concession and any other Concession-related operation approved by Department during the previous month; and (2) the daily "Z" tapes for that month showing each day's sales activity.

ANNUAL REPORT

Concessionaire shall submit to Department, no later than November 15th of each term the Agreement is in effect, an Annual Financial Statement including the following: Total Gross Revenue; Cost of Sales; Operating Expenses; and Net Profit from State Park Concession Operations. Said financial statement shall be signed and certified by a Certified Public Accountant (CPA) or shall be attached to a letter signed by a CPA certifying the information is truthful and accurate.

HOURS OF OPERATION AND LIMITATIONS

The Concession Operation shall be open for business during the following dates, days, and hours:

- A. Each Concession Premises shall be open for business as follows:
 - (i) Restaurant
 - (a) Lunch - A complete lunch menu shall be available and served throughout the term of the Agreement, with the exception of those times agreeable to the Concessionaire and Department, for which the golf course and Restaurant may be closed. The hours for lunch shall be 11:30 a.m. to 4:00 p.m.
 - (b) Dinner - A complete dinner menu shall be available and served throughout the term of the Agreement, with the exception of those times agreeable to the Concessionaire and Department, for which the golf course and Restaurant may be closed. The hours of operation for dinner shall be 4:00 p.m. to 10:00 p.m.
 - (c) Breakfast – Concessionaire has the option to provide a breakfast menu. Requirements under "Prices" section will also apply to the Breakfast menu. The Superintendent and concessionaire will determine the hours and days of operation.

(ii) Restaurant Bar

- (a) The hours of operation for serving alcoholic beverages and liquor shall be Monday through Saturday, from 11:30 a.m. to 2:00 a.m., and Sunday, from 12:00 p.m. to 2:00 a.m. A complete selection of beer (imported and domestic), wines, and liquor, as approved by Department, shall be available for public consumption.
- (b) No package goods shall be sold from the Restaurant, Restaurant Bar, or Halfway House of Spring Meadow.

(iii) Halfway House

- (a) The Concessionaire will be required to dispense non-alcoholic beverages, lunch-type food items, and snack commodities from the Halfway House.
- (b) The minimum hours of operation for the Halfway House shall be as follows:
 - (1) From May 1 to September 30, Concessionaire shall provide continuous, uninterrupted service on Sunday through Saturday, from 8:00 a.m. to 7:00 p.m.
 - (2) From October 1 to April 30, Concessionaire shall provide continuous, uninterrupted service, based on weather and golf course conditions, on Sunday through Saturday, from 8:00 a.m. to 4:00 p.m. Concessionaire also shall provide service during any other hours of operation as may be determined by the golf course superintendent and Concessionaire.

(iv) Mobile Food/Beverage Carts

- (a) The Concessionaire will be required to dispense non-alcoholic beverages and food snack commodities from Mobile Food/Beverage Carts.
- (b) The minimum hours of operation for the Mobile Food/Beverage Carts shall be as follows:
 - (1) From May 1 to September 30, Concessionaire shall provide continuous, uninterrupted service on Sunday through Saturday, from 8:00 a.m. to 7:00 p.m.
 - (2) From October 1 to April 30, Concessionaire shall provide continuous, uninterrupted service, based on weather and golf course

conditions, on Sunday through Saturday, from 8:00 a.m. to 4:00 p.m. Concessionaire also shall provide service during any other hours of operation as may be determined by the golf course superintendent and Concessionaire.

(v) Banquets/Catering Events

- (a) Concessionaire shall have the privilege to conduct banquets, special events, and catered affairs from the Spring Meadow Inn.
- (b) At no time shall the general public be precluded from accessing and using the Spring Meadow Inn, specifically the Restaurant Bar and the seating area in front of the bar (“Restaurant Bar Seating Area”).

B. The rights and privileges granted to Concessionaire pursuant to this Agreement shall not prevail over any activities, events, or affairs scheduled or permitted by Department as part of the operation of Spring Meadow. Department may schedule or permit such activities, events, or affairs without any interference from Concessionaire.

C. The golf course superintendent shall be the sole authority to determine whether or not an area will be closed due to inclement weather. The Department shall not be responsible to Concessionaire for any loss or damage caused by such determination.

D. The golf course may be closed each year from January 1 to February 15 due to weather and conditions on the golf course. Such closing of the golf course will not restrict restaurant or banquet/catering operations at Spring Meadow.

E. Concessionaire shall schedule all deliveries and pickups during the normal operating hours of the Concessions Operations or shall arrange for deliveries and pickups in such a manner that will not interfere with or involve State Park Service personnel.

F. Hours of operation will be prominently displayed at the entrance of the “Restaurant”. Signage must be professional in appearance, neat and made of weatherproof material, if displayed outside.

PRICES

Prices for all food, alcoholic and non-alcoholic beverages, and liquor shall be submitted to and approved by Department in writing before any proposed price can become effective. Proposed prices to be charged must be submitted and approved at least thirty (30) days prior to initial opening of the Concession and on a yearly basis thereafter for the duration of the Agreement. All prices shall be properly displayed in prominent places at all times. Price signage must be professional in appearance, neat, and made of weather-proof materials.

STAFF

A. Concessionaire shall engage a sufficient number of reliable, competent, and qualified staff of legal age for operation and management of each concession location covered by the Agreement, to provide security for the staff, and to meet the needs of the public unless an alternative staffing plan is approved by the superintendent in writing. Said approved alternative staffing plan shall be attached to and made a part of the Agreement. If Department determines that Concessionaire has not provided a sufficient number of reliable, competent, and qualified staff of legal age for the operation and management of the Concession Premises, Concessionaire shall, immediately upon receipt of written notification from Department, correct the staffing deficiencies described in said notice. If the deficiencies described in said notice are not corrected by Concessionaire immediately upon receipt of written notification, Department reserves the right to do the following: (1) suspend Concessionaire's operation of the Concession Premises, pending correction of the deficiencies; (2) obtain the service of reliable, competent, and qualified staff of legal age to operate said concession facility for Concessionaire for the remainder of the then current operating season; or (3) terminate the Agreement. Concessionaire shall compensate any staff obtained by Department for the remainder of the then current operating season and shall reimburse Department for all costs incurred by Department in obtaining appropriate staff. Concessionaire shall not be entitled to any abatement of revenue payment resulting from any suspension or other action taken by Department under this Paragraph, and Department shall not be liable to Concessionaire, or any party claiming through Concessionaire, for any claim, liability, or damages resulting from said action by Department.

B. Concession employees are to wear apparel and name tags to identify and distinguish them as concession employees. The type of apparel and identification shall be pre-approved by Department.

COMPLIANCE AND PERFORMANCE EVALUATION

Mandatory concessionaire evaluation and compliance review meetings shall be conducted annually during three (3) specified periods. The meetings shall review all aspects of the operation, insuring that quality public services are being provided on a continuing basis in accordance with the bid specifications and the Agreement, that operational problems/concerns are addressed on a timely basis, and that all terms and conditions are clearly understood. The meetings shall be held on site with appropriate State Park Service staff, the on-site concession manager, and a management/supervisory representative of the concession firm. An evaluation form shall be utilized to document the evaluation meeting, which will identify any deficiencies and the corrective action required. A copy of the completed evaluation form shall be provided to the on-site concession manager or the management/supervisory representative of the concession firm and shall be attached to and made a part of the Agreement. The mandatory meetings shall be conducted annually during the following periods:

- Meeting #1 - During the month of March.
- Meeting #2 - During the first two (2) weeks of July.
- Meeting #3 - During the two (2) weeks immediately after Labor Day.

EQUIPMENT

The State-owned equipment (“Equipment”) has been installed on the Concession Premises for use by Concessionaire to provide full, complete, and efficient service to the public. A list of the State-owned equipment shall be attached to and made part of the Agreement. Concessionaire shall be responsible for providing any and all additional equipment. However, Concessionaire shall first submit a written request to and obtain the written approval of Department for the installation and use of said equipment.

MAINTENANCE OF CONCESSION PREMISES & EQUIPMENT

A. Concessionaire shall preserve and maintain in good and clean condition, reasonable wear and tear excepted, the Concession Premises and all Equipment. Concessionaire is solely responsible for the maintenance and cleanliness of the Concession Premises and Equipment.

B. Regular maintenance and repair costs associated with the Concession Premises and Equipment shall be the sole responsibility of the Concessionaire.

C. Concessionaire shall be solely responsible for the following:

- (i) Interior maintenance of all structures and cleanliness of the entire Concession Premises;
- (ii) Regular cleaning and degreasing of the blacktop area, shipping/receiving area, and trash container area, all in rear of the Restaurant;
- (iii) Snow removal from the front entrance area, sidewalk from the front entrance to the parking lot and back door area of Restaurant;
- (iv) Cleaning and trash pickup from the front and rear of Restaurant and all areas around the Halfway House;
- (v) Cleaning and replacement, as needed, of all window trim, drapes, shades, screens, blinds, etc.;
- (vi) Daily sweeping, maintenance, and quarterly professional cleaning of all carpeted areas, as well as replacement of same, as needed, with spike proof carpeting;
- (vii) Daily bathroom maintenance and upkeep as well as repair of all fixtures, floors, and walls as needed;
- (viii) Annual refinishing of all woodwork;
- (ix) Bi-annual inspection, service and/or repair of Ansul fire protection system

after discharge or as required. A copy of the inspection report must be provided to the Superintendent;

- (x) Annual painting of kitchen and Restaurant interior;
- (xi) Bi-annual degreasing and deep cleaning of kitchen. Concessionaire shall service and complete bi-annual cleaning of the exhaust systems, including the roof vent, on an annual basis and shall post a notice of said cleaning, as provided by the cleaning service obtained. A copy of the cleaning report must be provided to the Superintendent;
- (xii) Quarterly service/cleaning of main grease trap and drains. Septic and grease tanks must be pumped bi-annually (during the months of April and October) and proof of the pumping completion must be provided to the Superintendent; and
- (xiii) Maintenance (including emergency repair) and annual inspection of:
 - (a) Plumbing systems
 - (b) Heating units
 - (c) Hot water heater
 - (d) Air conditioning units
 - (e) Walk-in refrigerator and freezer, reach-in refrigerator and freezer and refrigerated sandwich units.
 - (f) Beer tap delivery system
 - (g) Ice Machine
 - (h) Fire monitoring system. A copy of the annual inspection report must be provided to the Superintendent.

D. Upon expiration or termination of the Agreement, Concessionaire shall deliver up peaceable possession of the Concession Premises to Department in as good and clean condition as the Concession Premises was made available at the commencement of the Agreement, reasonable wear and tear excepted. In the event that Concessionaire does not deliver up possession as herein provided, Department may restore the Concession Premises to such condition, and the cost thereof shall be paid by Concessionaire to Department within fifteen (15) days of Department's demand for payment.

GARBAGE DISPOSAL, RECYCLING, AND BIODEGRADABLE MATERIALS

A. Concessionaire shall be responsible for maintaining the cleanliness of the Concession Premises. Concessionaire shall ensure placement of all garbage and trash generated by the Concession Operation in designated containers and that said containers are emptied daily, or as more frequently required by the Department, at a location within Spring Meadow designated by the Department. Disposal costs from this location shall be borne by the Concessionaire. Concessionaire shall provide such additional trash containers as may be required to keep the

immediate Concession Premises clean at all times. The type of trash containers provided by the Concessionaire shall be approved by the Department prior to installation.

B. Concessionaire shall comply with any and all recycling requirements and regulations promulgated by the Department's Office of Recycling. Disposal costs from this location shall be paid in full by the Concessionaire.

C. Any wrappings, containers, bowls, plates, carton, or cups that are not intended for reuse must be composed of biodegradable material. Biodegradable material is defined as follows: MATERIAL CAPABLE OF BEING BROKEN DOWN FROM A COMPLEX MOLECULAR STRUCTURE INTO SIMPLER GASSES AND ORGANIC COMPOUNDS BY LIVING MICROORGANISMS.

D. No glass containers of any kind shall be used in the dispensing of food or beverages, except for food and beverages consumed inside the Restaurant. Glass containers for food or beverages shall be prohibited outside of the Restaurant.

UTILITY AND SERVICE EXPENSES

A. Concessionaire is responsible for the payment of any and all utility and service charges related to the Concession Operation for the duration of the Agreement, except to the extent that said charges are attributable to the Department's use of the Concession Premises. Said charges may include, but are not limited to, the following: electric; propane; telephone; security system monitoring; septic system pumping; grease trap cleaning; annual exhaust hood cleaning; and beer tap system line cleaning, as needed.

B. Concessionaire shall be responsible for the payment of all utility and service charges related to the following:

- (i) Electrical service to the Restaurant and Restaurant Bar (Meter #S07019386);
- (ii) Electrical service to the lighted sign at entrance of Restaurant (Meter #A833466541);
- (iii) Propane gas supplies (under State contract);
- (v) Electrical service to Halfway House (Meter to be installed);
- (vi) Security system monitoring of the Restaurant (under State Contract);

C. Upon termination of the Agreement, the Concessionaire agrees to refill the propane tank to maximum capacity.

TAXES

All taxes and assessments, if any, arising out of the use and operation of the Concession Premises shall be paid by Concessionaire. If any tax or assessment may be legally paid in installments, Concessionaire shall have the option to pay such tax or assessment in installments, except that each installment thereof and all interest thereon must be paid by the final date fixed for the payment thereof, and in the event that the whole amount thereof is not paid prior to the expiration of the Agreement, payment shall remain a continuing obligation of Concessionaire after the expiration or termination of the Agreement. Concessionaire shall furnish to Department, within ten (10) days of demand therefor, proof of the payment of any such tax or assessment.

RULES AND REGULATIONS

Concessionaire shall comply with all rules and regulations promulgated by the Department and all applicable rules and regulations promulgated by the New Jersey State Department of Health and Senior Services.

ADVERTISEMENT AND PROMOTION

A. Concessionaire shall not advertise in any manner or form on or about the Concession Premises or any other part of Spring Meadow, except by means of such signs or forms of advertising as first shall be approved by the Department.

B. Concessionaire shall, in all promotion and advertisement of the Concession Premises and any scheduled event(s) at or pertaining thereto, provide that the Concession Premises is administered by the State of New Jersey, Department of Environmental Protection, Division of Parks and Forestry, as part of Spring Meadow Golf Course.

C. Prior to the implementation of any and all promotion and advertisement of the Concession Premises and any scheduled event(s) at or pertaining thereto, Concessionaire shall submit, and obtain Department's written approval of, all plans for promotion and advertisement of the Concession Premises. Such approval shall not be unreasonably withheld. In the event that Department does not approve or disapprove an advertisement or promotion plan within fifteen (15) days of receipt thereof, said plan shall be deemed as approved.

INDEPENDENT PRINCIPAL

Concessionaire's status shall be that of an independent principal and not as an agent or employee of the Department.

INDEMNIFICATION

A. Concessionaire shall, for itself, its successors, and assigns, assume all risk and liabilities arising out of the management, maintenance, and operation of the Concession and covenants to defend, protect, indemnify, and save harmless Department and each and every of its officers, agents, employees, successors, and assignees and hereby releases Department and each and

every of its officers, agents, employees, successors, and assignees from and against any and all such liabilities, losses, damages, costs, expenses (including reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of any nature arising from the following:

- (i) any injury to, or the death of, any person in or on or any damage to property which occurs in, on, or about the Concession Premises or upon any sidewalk, walkway, or patio within the Concession Premises or in any manner growing out of or connected with the use, non-use, condition, or occupancy of the Concession Premises or the construction or repair of any improvements of the Concession Premises;
- (ii) any act, error, or omission of Concessionaire, its agents, servants, employees, contractors, invitees, and anyone claiming by or through Concessionaire in the performance of the Agreement; and
- (iii) violation of any agreement or condition of the Agreement by Concessionaire, its agents, employees, contractors, invitees, and anyone claiming through Concessionaire of any contracts and agreements of record concerning the Concession Premises and restrictions of record or any law, ordinance, or regulation affecting the Concession Premises or any part thereof or the ownership, occupancy, or use thereof.

B. Department shall, as soon as practicable after a claim has been made against it, give written notice thereof to Concessionaire, along with full and complete particulars of the claim. If suit is brought against Department or any of its agents, servants, and/or employees, Department shall expeditiously forward or have forwarded to Concessionaire every demand, complaint, notice, summons, pleading, or other document received by or then in the possession of Department or its representatives.

C. It is expressly agreed and understood that any approval by Department of Concessionaire's operation of Concession Premises shall not operate to limit the obligations of Concessionaire assumed pursuant to the Agreement.

D. Concessionaire's liability pursuant to this Paragraph shall continue after the termination or expiration of the Agreement with respect to any liability, loss, expense, or damage resulting from acts occurring prior to such termination or expiration.

E. Concessionaire's indemnification obligations are not limited by, but are in addition to, the insurance obligations contained in the Agreement.

INSURANCE

A. Concessionaire shall, for each Concession Operation described in the Agreement, secure and maintain, in full force and effect on or before the date that Concessionaire is required to commence annual operation of each concession facility under the Agreement and throughout the

term of Concessionaire's annual occupancy thereof, the following types and amounts of insurance coverage:

1. Public liability as broad as the standard coverage forms currently in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall be endorsed to include the following:

- (a) Broad Form Comprehensive General Liability;
- (b) Premises/Operations;
- (c) Products/Completed Operations;
- (d) Protection and Indemnity; and
- (e) Concessionaire owned, operated, or non-owned motor vehicles.

The limits of liability for Bodily Injury and Property Damage shall not be less than One Million Dollars (\$1,000,000.00) per occurrence combined single limits for each location covered by the Agreement.

2. Worker's Compensation insurance applicable to the laws of the State of New Jersey and Employers' Liability insurance with the limits of not less than:

- (a) \$100,000.00 Bodily Injury Each Occurrence
- (b) \$100,000.00 Disease Each Employee
- (c) \$500,000.00 Disease Aggregate Limit

3. Property insurance to cover loss or damage on an "All Risk" of physical loss form of coverage against fire, loss, theft, and damage on the contents of the Concession Premises owned by Concessionaire. Said insurance shall be in an amount not less than the appraised value of those contents. Concessionaire shall obtain and provide, at its own expense, an appraisal of the contents owned by Concessionaire for the purpose of obtaining and maintaining the aforementioned insurance.

4. Such other insurance, and in such amounts as may from time to time be reasonably required by Department, in consultation with Concessionaire, against other insurable hazards which at the time are commonly insured against in the case of concession operations similarly situated with due regard to the type of building, its construction, and the type of concession operation.

5. The limits of liability described in (1) through (4) above shall be increased from time to time to meet changed circumstances, including by not limited to changes in the purchasing power of the dollar, as measured by changes in the United States Consumer Price Index and changes indicated by plaintiffs' verdicts in personal injury actions.

B. All insurance policies providing the coverage required under the Agreement shall be obtained from an insurance company authorized to do business in the State of New Jersey and shall, except for Worker's Compensation Insurance under the Agreement, name the State of New Jersey, Department of Environmental Protection as an "Additional Insured." Prior to the date that

Concessionaire is required to commence annual operation of the Concession Premises, Concessionaire shall provide Department with a current certificate of insurance, in form and substance satisfactory to the Department, showing that Concessionaire has obtained the insurance coverages required in the Agreement for the Concession Operation. The certificate shall provide that the insurance coverages shall not be canceled for any reason, except after thirty (30) days' written notice to:

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF PARKS AND FORESTRY
OFFICE OF CONCESSIONS
501 EAST STATE STREET, 4TH FLOOR
P.O. BOX 404
TRENTON, NEW JERSEY 08625-0404

The certificate of insurance shall also provide for thirty (30) days' notice, in writing, to Department prior to any expiration or non-renewal during the term the insurance is required to be maintained in accordance with the Agreement. Concessionaire shall further be required to provide Department with valid certificates of renewal of the insurance upon expiration of the policies, except where otherwise provided in this Paragraph. Concessionaire also shall, upon request, provide Department with copies of each policy required under the Agreement certificate by the agency or underwriter to be true copies of the policies provided to Concessionaire.

C. In the event that Concessionaire fails or refuses to renew any of its insurance policies to the extent required by the Agreement, or if any policy is canceled, terminated, or modified so that the insurance does not meet the requirements of the Agreement, Department may immediately suspend all of Concessionaire's operations on the Concession Premises until Concessionaire obtains insurance coverage in satisfactory form and in compliance with the Agreement or may proceed to default Concessionaire and terminate the Agreement.

D. Concessionaire expressly understands and agrees that any insurance protection required by the Agreement shall in no way limit Concessionaire's obligations under the Agreement and shall not be construed to relieve Concessionaire from liability in excess of such coverage, nor shall it preclude Department from taking such other actions as are available to it under any provisions of the Agreement or otherwise in law or equity.

COMPLIANCE WITH LAWS, LICENSES, PERMITS, AND INSURANCE POLICIES

A. For the duration of the Agreement, Concessionaire shall obtain, pay for, maintain, and comply with all licenses, permits, authorizations, or any other documents required by any applicable government agency having jurisdiction over the Concession Premises or the conduct of Concessionaire's operations thereon. Concessionaire shall provide Department with written evidence that such applicable licenses, permits, authorizations, or other required documents have been obtained no later than ten (10) days prior to commencement of the activity or operation covered by the license, permit, authorization, or other documentation as shall be required by the Agreement.

B. Concessionaire shall, at its sole cost and expense, comply with all duly promulgated and applicable federal and State laws, rules, ordinances, and orders affecting the conduct of the Concession Operation described in the Agreement.

C. Concessionaire shall comply with the requirements of all insurance policies required by the Agreement.

D. If Concessionaire:

- (i) receives a notice of failure to comply with the insurance required by the Agreement;
- (ii) is issued a summons or any notice of violation of any license, permit, certification, authorization, approval, or any similar instruments required by any governmental authority having jurisdiction necessary to maintain and operate the Concession in accordance with the provisions of the Agreement; or
- (iii) is issued a summons for violation of any duly promulgated and applicable federal, State, county, municipal, and other governmental laws, rules, ordinances, or orders affecting the Concession Operation or any part thereof,

Concessionaire shall immediately forward a copy of the notice of non-compliance, summons, or notice of violation to Department, and Concessionaire shall have such amount of time to correct said violation as is prescribed in the notice or summons. If such violation is not cured within the prescribed period or any extension thereof, it shall be deemed a material breach of the Agreement, and Department, in addition to declaring a default of the Agreement by Concessionaire, may suspend Concessionaire's operation of all or the affected portion of the Concession Premises.

E. Concessionaire shall indemnify Department against all liability, claim, loss, or payment of any kind arising from Concessionaire's failure or omission to comply with any such insurance policy, license, permit, certification, authorization, approval, or any applicable federal or State law, rule, ordinance, or order.

INSPECTION

Concessionaire shall make each area of the Concession Premises available for inspection at any time by any authorized representative of Department to assure compliance with the terms and conditions of this Agreement.

PUBLIC USE

Concessionaire shall not be construed as to affect the privileges accorded to the public's use of the area or to restrain or prevent individual persons or groups of persons from bringing their own food, drink, and recreational equipment into Spring Meadow.

NO DISCRIMINATION

A. Concessionaire shall comply, in the performance of the Agreement, with all applicable State, federal, and local statutes, rules, and regulations relating to discrimination and affirmative action, including but not limited to N.J.S.A. 10:2-4, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and Title IV of the Civil Rights Act of 1984 (P.L. 88-352).

B. Concessionaire shall not discriminate on the basis of age, national origin, race, creed, color, sexual orientation, or sex in the use of the Concession Premises by the public.

PAYMENT ABATEMENT

A. In the event that Concessionaire is unable to operate the Concession as a direct result of the performance, failure to perform, or negligent performance of the Department, its officers, agents, and employees of any act under the control or responsibility of Department, Concessionaire may be considered for an abatement of revenue payment for the period that the Concession cannot be operated. Circumstances for consideration of abatement shall include but not be limited to disruption caused by construction activities in or around the Concession Premises and interruption of utility service.

B. To be eligible for consideration for payment abatement, Concessionaire must submit to Department a written abatement request signed by the superintendent setting forth specific details and circumstances comprising grounds for abatement and the amount of abatement requested. Said request must be submitted to Department within twenty (20) days of any cause for which abatement is claimed.

C. All abatement awards shall be adjusted, disbursed, or credited after all final reports and payments are received.

REVOCACTION CLAUSES

A. Concessionaire covenants that the decision of the Commissioner of the Department, relative to the performance of the terms of the Agreement, shall be final and conclusive.

B. In the event of default of the successful bidder or his refusal to enter into a contract with Department, the Department reserves the right to accept any other qualified bidder.

REJECTION OF PROPOSAL

The Department reserves the right to waive any informality in or to reject any or all bids.

CORPORATION

A. For any Concessionaire that presents itself or represents itself as a corporation operating or doing business in the State of New Jersey, all papers of incorporation shall be provided

to Department, along with renewals, changes, or any other documents that in any way affect the current or future status of Concessionaire as a legal corporation.

B. Concessionaire shall adopt a resolution authorizing the execution of the Agreement by Concessionaire. Concessionaire shall submit a copy of said resolution to Department prior to execution of the Agreement by Department.

ASSIGNMENT OF AGREEMENT OR SALE OF INTERESTS

Concessionaire shall not assign the Agreement or sell controlling interest in the Concession without first obtaining the express written approval of Department.

PAY TO PLAY

A. Bid applications are subject to the provisions of N.J.S.A. 19:44A-20.13 et seq. and N.J.S.A. 19:44A-20.26 et seq. (P.L. 2005 c.51 and P.L. 2005 c.271) (collectively “Pay to Play”). Compliance with these acts shall be a material term and condition of the bid application and will be binding upon the parties thereto upon entering the Agreement. All bidders must complete the following enclosed forms in accordance with their instructions and submit them with their applications: (1) Ownership Disclosure Form; (2) Contractor Certification and Disclosure of Political Contributions Form; and (3) Vendor Certification and Political Contribution Disclosure Form.

B. Bidders are advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, section 3) if the contractor receives contracts in excess of Fifty Thousand (\$50,000) dollars from a public entity in a calendar year. It is the contractor’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

MANDATORY ON-SITE BID MEETING

A. A mandatory on-site bid meeting will be scheduled for all qualified bidders prior to the acceptance of final bids. The meeting will include the following: clarification of major Agreement requirements; an inspection/walk-through of the Concession Premises; and Department responses to questions from prospective bidders.

B. Any prospective bidder not present at the mandatory on-site bid meeting will be disqualified from this bid process.