

RESOLUTION R-2019-73

A RESOLUTION APPROVING A SERVICE AGREEMENT FOR FOOD AND BEVERAGE CONCESSIONAIRE BETWEEN THE CITY OF WHEATON AND CAFÉ ON THE PARK, LLC

WHEREAS, the City of Wheaton and Café on the Park, LLC ("CP, LLC") entered into a service agreement ("Agreement") for food and beverage concession at the Wheaton Public Library dated July 6, 2015; and

WHEREAS, CP, LLC, due to its build out, did not commence operations under the Agreement until April 2016; and

WHEREAS, the Agreement expired three (3) years within the calendar date of execution; and

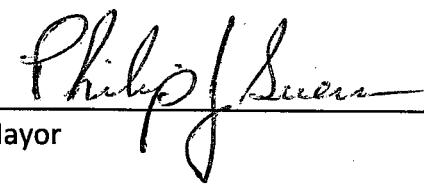
WHEREAS, the Wheaton Library Board recommended, and City Council approved on August 5, 2018 an extension of the Agreement for one (1) year; and

WHEREAS, the Wheaton Library Board has recommended entering into a concessionaire service agreement with CP, LLC for an additional three (3) years; and

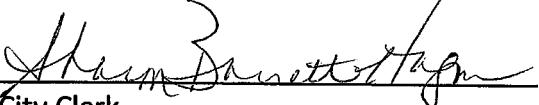
WHEREAS, the Corporate Authorities of the City of Wheaton deem it in the best interests of the City to enter into a three (3) year term concessionaire service agreement with CP, LLC in substantial conformance with the terms and conditions of the July 6, 2015 Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule authority, that the Mayor is hereby authorized to sign and the City Clerk is hereby directed to attest to a concessionaire service agreement between the City of Wheaton and Café on the Park, LLC, Wheaton, Illinois attached hereto and incorporated herein as Exhibit 1.

ADOPTED this 5th day of August 2019.


Philip J. Sauer
Mayor

ATTEST:


Sean Barnett, Mayor
City Clerk

Roll Call Vote:

Ayes: Councilwoman Bray-Parker
Mayor Suess
Councilman Rutledge
Councilman Zaruba
Councilman Barbier

Nays: None

Absent: Councilwoman Fitch

Motion Carried Unanimously

**SERVICE AGREEMENT FOR FOOD AND BEVERAGE CONCESSIONAIRE
BETWEEN THE CITY OF WHEATON AND CAFÉ ON THE PARK, LLC**

This Agreement is made this 6th day of August, 2019 by and between the City of Wheaton, an Illinois home rule municipality ("City") and CAFÉ ON THE PARK, LLC ("Concessionaire").

WHEREAS, the Wheaton Public Library ("Library") is owned by the City of Wheaton; and

WHEREAS, the Library Board of the City of Wheaton ("Board") has proposed making food and beverages available for the use and convenience of its patrons and staff at the Library; and

WHEREAS, in furtherance of the foregoing proposal the Board has authorized certain improvements to allow the dispensing of food and beverages within a designated area of the Library; and

WHEREAS, upon recommendation of the Board, the Corporate Authorities of the City of Wheaton have elected to approve Concessionaire as the exclusive service provider to manage and operate the concession for the sale of food and beverages at the Wheaton Public Library.

NOW THEREFORE, the City of Wheaton and the Concessionaire agree as follows:

I. RECITALS

The foregoing recitals are incorporated herein as if fully set forth as representing the intent of the parties.

II. DEFINITIONS

The following terms as used in this Agreement shall mean the following:

- A. "Concessionaire": shall mean the entity the City has granted the contractual right and privilege to operate an exclusive concession at the Premises strictly subject to the terms, conditions and covenants of this Agreement. The term includes, service providers, agents, and employees.
- B. "Concession": is the contractual right granted, pursuant to this Agreement by the City to the Concessionaire to serve food and beverages to the general public and Library patrons and staff at or from the Premises. Sales from the Premises shall not include off-site catering.
- C. "Library Director" shall mean the executive director of the Wheaton Public Library.
- D. "Premises": shall mean the portion of the Library building depicted on **Exhibit 1**.

III. GRANT OF EXCLUSIVE SERVICE CONTRACT

In consideration of the payments provided for herein, the keeping and performance of the covenants, promises, standards and agreements by the Concessionaire as described in this Agreement, and other good and valuable consideration, the City hereby grants to the Concessionaire the contractual authority to operate a food and beverage concession in the Library located at 225 North Cross Street. The specific location for the café operations in the Library are attached hereto and incorporated herein as if fully set forth as **Exhibit 1** (hereinafter the "Premises"). The Concessionaire has reviewed the plans, drawings and other materials related to the Premises, has had access to and negotiated with various Library officials and representatives pertaining to the terms, conditions, covenants and promises of this Agreement and hereby accepts them as set forth herein.

IV. TERM

- A. Term. This Agreement shall become effective upon its execution and remain in effect for three (3) calendar years from the date of execution.
- B. Renewal. Sixty (60) days prior to the expiration of this Agreement, the Concessionaire shall, if it desires to renew this Agreement, provide written notice to the Wheaton City Clerk and the Director of the Wheaton Library of its intent to seek renewal. The Library Board within thirty (30) days thereafter shall make its written recommendation to the City Council as to whether this Agreement should be renewed and for what term. Renewals shall be based on the terms and conditions set forth in this Agreement, with the exception of the monthly based concession fee, which may be renegotiated at the time of renewal. If the parties are unable to mutually agree upon the terms within sixty (60) days, the Wheaton Library Board shall have the right to request proposals for a new Concessionaire at the Premises. Any new concessionaire shall be subject to the approval of the Wheaton City Council.

V. SCOPE OF SERVICES

- A. The Concessionaire shall provide a top-quality retail food and beverage operation from the Premises which will be available to the general public, staff, and patrons of the Library. Concessionaire shall comply with all applicable City, county, state and federal guidelines, requirements, and standards associated with the operation of the Concession.
- B. Concessionaire shall employ, train and manage all personnel required to properly operate and maintain the Concession.

Concessionaire shall also:

- (i) Obtain any and all licenses, permits or certificates required to operate the Concession;

- (ii) Equip the Premises with any and all appurtenances not provided by the Library in a quality and manner fully supportive of the operation of the Concession;
- (iii) Operate the Concession in compliance with Library policies and procedures and directions as may be provided by the Library Director;
- (iv) Promote and market the Concession off site from the Library and Library campus;
- (v) Post signage, advertisements, or other information in the Library only upon written approval of the Library Director, see Section VI (5);
- (vi) Concessionaire will not use in connection with its operation any name that directly or indirectly refers to or contains any part of the City's name or otherwise suggests a connection between the City and Concessionaire or Concessionaire's activities; and
- (vii) Manage the Premises for potential peanut allergies in conformance with food industry standards by posting signs stating whether the Premises is a peanut free area or is an area which may contain peanut or nut tree products.

VI. OPERATION STANDARDS

- (1) Maintenance: Concessionaire shall, at its sole expense, keep the Premises neat, clean and in good repair so as to comply with all applicable public health, safety, and welfare laws. Concessionaire shall not be obligated for any maintenance costs other than routine maintenance of existing improvements on the Premises. All costs associated with the maintenance of HVAC systems, plumbing, fixtures, structural elements, and real property installed by the Library on the Premises shall remain the obligation of the Library unless negligently or willfully damaged by the Concessionaire's operations. The Concessionaire shall regularly bus the seating area and immediately clean-up spills or other debris in the Premises created by the operation of the Concession within the Premises. All trash receptacles shall be periodically emptied so they do not become over-filled. This will include trash receptacles in the lobby area when used by patrons of the Concession to dispose of Concession items. Concessionaire will not allow boxes, cartons, barrels or other similar items to remain in view of the public areas of the Library.
- (2) Employee Standards: Concessionaire shall require its employees to be timely, attentive and friendly. Food and beverage orders shall be taken with reasonable expedience and in a courteous manner. Concessionaire shall recruit, train, supervise, direct, and deploy its employees to provide an efficient and commercially reasonable operation. All employees shall be clean, neat, and well-groomed and meet any health requirements of the DuPage County Health Department before employment at the Premises. Employees of the Concessionaire are not employees of the City of Wheaton and have no authority to act on behalf of the City of Wheaton in any manner. Employees shall not represent themselves as employees of the City of Wheaton or as having any authority to act on behalf of the City of Wheaton. For any and all purposes the Concessionaire shall be an independent

contractor providing and managing all aspects of the Concession. The City shall not manage the Concessionaire's employees.

- (3) Menu: Concessionaire shall provide a menu calculated to provide products for sale which are consistent with the operation of this type of concession. Food items shall be selected to maximize Concessionaire's ability to control refuse and other collateral impacts of food and beverage service in the Library and on the Library's campus. The initial approved menu is attached hereto and incorporated herein as **Exhibit 2**. The menu, and any changes in the menu, shall be subject to the reasonable approval of the Library Director.
- (4) Deliveries: The Library Director and the Concessionaire shall cooperate to arrange deliveries in a manner which facilitates the Concession but with minimal impacts on the operation of the Library. In the event the Concessionaire and the Library Director are unable to resolve issues related to deliveries, the Library Board shall resolve the issue within the standard described above and which resolution shall be binding and not appealable.
- (5) On Premise Advertising: Concessionaire shall erect signs and advertisements located on the Premises or Library campus in accordance with applicable law and with approval of the Library Director and such signs and advertisements shall be in keeping with the overall aesthetics and utility of the Library. All signs and advertising shall be in good and attractive condition and shall be maintained at the Concessionaire's expense.
- (6) Recycling: Concessionaire shall recycle all eligible items under the City's recycling program with the City's refuse/recycling contractor. Management and Placement of recyclables for collection shall be coordinated with the Library Director.
- (7) Non-Compliance: The City may terminate this Agreement immediately in the event of any serious health, and/or safety incident caused by the operations of the Concessionaire on the Premises.

VII. SERVICE AGREEMENT

The Concessionaire is granted an exclusive service agreement to operate its Concession in the Premises. This Agreement is not a lease. Any interpretation of this document by a court of competent jurisdiction which finds that this document is a lease shall cause this Agreement to become null and void one hour after the court makes such determination and at such point shall give the City absolute discretion to terminate the Agreement immediately.

VIII. EQUIPMENT PROVIDED BY CONCESSIONAIRE

Concessionaire has proposed to provide, and the City has agreed to allow the equipment listed on **Exhibit 3** for use by the Concessionaire in its operations. This equipment shall be considered the personal property of the Concessionaire and shall not become fixtures. Upon termination of this Agreement the Concessionaire may remove the equipment specified in **Exhibit 3**, or any replacement equipment brought in by the Concessionaire to substitute for equipment set forth in

Exhibit 3, so long as the Concessionaire restores the Premises, excluding normal wear and tear, to the condition it existed prior to the installation of the equipment. Any equipment not identified in **Exhibit 3** shall not be brought to the Premises unless approved by the Library Director.

IX. USE OF PREMISES

- A. Concessionaire shall have the privilege of using the Premises for the sole purpose of the sale of food and beverages or other activities approved in writing by the Library Director.
- B. Concessionaire shall not:
 - (i) Permit any unlawful practice to be carried on or committed on the Premises;
 - (ii) Make any use or allow the Premises to be used in any manner for purposes that might invalidate or increase the cost of insurance maintained by the City and or Library, including the storage of or use of the Premises for keeping flammable fluids, toxic materials, or any substance deemed unreasonably dangerous by the Library Director or the Library's insurance carriers, without obtaining the written consent of the Library Director, except for reasonable quantities of cleaning products to be used by the Concessionaire on the Premises only;
 - (iii) Use of the Premises for any purpose that creates a nuisance or injures the reputation of the Premises or the Library;
 - (iv) Permit odors to emanate from storage that would be disruptive to Library services. Ordinary odors associated with beverages and food shall not be considered improper;
 - (v) Permit tobacco products to be used by any person in or at the Premises; or
 - (vi) Conduct gambling or allow gambling to be conducted on the Premises.

X. IMPROVEMENT

City of Wheaton maintains the right to modify or alter the improvements on the Premises at any time and in any manner. Except in cases of emergency, the City shall provide the Concessionaire with thirty (30) days advance notice of any modification or alterations to the Premises. If the alterations or improvements materially interfere with the Concession, the Concessionaire may discontinue the operations of the Concession until the improvements or alterations are completed. No fees shall be payable by the Concessionaire during a period of discontinuance and the term of this agreement shall be extended at the Concessionaire's request for a period of time equal to the period of the discontinuance. Upon a renewal of operations, the monthly fee shall be prorated on a per diem basis. Concessionaire shall make no improvements or alterations to the Premises unless approved by the City. Concessionaire however may make corrections necessary to prevent imminent injury to persons or property.

XI. MAINTENANCE

All maintenance and repairs to the Premises, including plumbing, water lines, and sewer lines shall be the responsibility of the City; provided, however, that any maintenance and repairs, regardless of cost, necessitated by the negligent or intentional acts of the Concessionaire, including the acts of its employees, shall be the sole financial responsibility of the Concessionaire. The City shall contract to make necessary repairs to the Library caused by the Concessionaire's negligent or intentional acts or omissions and the Concessionaire or its insurance carrier shall reimburse the costs of repairs to the City. Concessionaire shall be solely responsible for the maintenance of all equipment and other items provided by the Concessionaire.

XII. UTILITIES

All utilities provided to the Premises shall be at no cost to the Concessionaire with the exception of telephone service. The Concessionaire shall implement operating methodologies and strategies calculated to keep utility costs reasonable.

XIII. OTHER OPERATIONS AND ACTIVITIES

Concessionaire shall conduct its Concession without infringing or interfering with the operation of the Library. It shall not engage in any business to sell any commodity upon, in or around the Premises other than as expressly set out in this Agreement.

XIV. HOURS OF OPERATION

The Concessionaire shall provide its intended hours of operations to the Library Director and shall maintain those hours as regular hours until the Library Director approves alternative hours.

XV. PERMITS, LICENSES, AND TAXES

Concessionaire shall procure, supply, and post, at its sole expense, all permits and licenses necessary for the operation of the Concession. Concessionaire shall pay, at its own expense, any and all taxes assessed or levied as a result of the operation of the Concession including all taxes and charges that may become due and payable after expiration or termination of this Agreement.

XVI. PERFORMANCE BOND

Concessionaire shall deposit with the City a cash bond guaranteeing performance of the terms and conditions of this Agreement in the sum of \$1,000.00. The City may draw on this cash bond for any purpose associated with the operation of the Premises as a food and beverage service, including payment of taxes, if the Concessionaire materially breaches the terms and conditions of this Agreement or abandons the Premises.

XVII. FAILURE TO MEET STANDARDS AND GUIDELINES

If the services performed by the Concessionaire do not, in the opinion of the Library Director, meet the standards and guidelines as set forth in this Agreement, the Library Director shall notify the Concessionaire of any such violations in writing. Failure to cure the violations within fourteen (14) days of mailing shall be deemed a material default of this Agreement.

XVIII. ACCESS AND INSPECTION

The Library Director or her designee may enter the Premises including in any back areas of the Premises, at any reasonable time for the purpose of inspecting the same. Entry for inspection shall not constitute interference with the operations of the Concession and no abatement of any payments due under this Agreement shall be allowed.

XIX. PAYMENTS

- A. Monthly Base Concession. Concessionaire shall pay to the City a monthly concession fee \$500.00 to the Finance Department of the City commencing on the first day of operation under this Agreement and on the first day of every month thereafter for the duration of this Agreement. The fee shall be paid without notice or demand and without deduction or offset at City of Wheaton, attn. Finance Department, 303 W Wesley, Wheaton, IL 60187.
- B. Books and Records. Concessionaire shall keep permanent and accurate records of all gross sales derived from the conduct of the Concession including point of sales derived from the conduct of the Concession and copies of all tax reports filed with any governmental authority that reflect in any manner sales, income or revenue generated in connection with the concessions as may be reasonable in order to ascertain, document or substantiate gross monthly sales. All such records shall be retained for a period of three (3) years after the end of the calendar year for which they relate. The City finance director shall have reasonable access to and the right to inspect such books and records during regular business hours or as otherwise agreed between the City and the Concessionaire. The records shall be considered proprietary and subject to a claimed exemption for proprietary records under the Freedom of Information Act. The City shall not disclose any of the records based upon an FOIA request except as ordered by a court of competent jurisdiction or the Public Access Bureau of the Attorney General's office.
- C. Late Payment. Late payment of any sums due under this Agreement shall be considered a material breach of this Agreement and sufficient grounds to justify its termination. If the City elects, it may accept a late payment, but said late payment shall include a late fee equal to 2% of the sum of the monthly base concession fee imposed per diem from the date of the failure to pay to the date of payment.

XX. AUTHORITY OF DOCUMENTS

To the extent that this Agreement is in conflict with any term contained in the City's original RFP or the response to that RFP, the language, terms, and conditions of this Agreement shall control. All prior proposals, understandings, agreements between the parties shall be considered merged into this Agreement.

XXI. OTHER PAYMENT OBLIGATIONS

Concessionaire shall make prompt payment of all social security, unemployment compensation, and any other taxes and fees due and payable in consequence of the Concession. Upon request the Concessionaire shall furnish to the Library duplicate records or receipts establishing payments of these sums. The Concessionaire shall pay promptly when due all bills, debts, and obligations or other costs or expenses related to the operation of the Concession. The Concessionaire shall not mortgage or use this Agreement as security in applying for taking any loan. The obligation of the Concessionaire to pay the concession fee shall be superior to any loan or other monetary obligation arising after the execution of this Agreement. Failure of the Concessionaire to comply with this condition shall be a material breach of this Agreement justifying the City's termination of the Agreement.

XXII. INDEMNIFICATION

Concessionaire agrees to defend indemnify and hold harmless the City of Wheaton, the Wheaton Public Library, their officers, employees, insurers, trustees, successors and assigns from any and all liability, claims, demands, actions, causes of actions, costs, and expenses (including reasonable attorney's fees), loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever arising out of the Concessionaire's negligent acts or omissions in the operation of the Concession. Concessionaire agrees to investigate and respond to and provide a defense for and defend with legal counsel approved by the City of Wheaton any such liability, claims or demands, at the sole expense of the Concessionaire and agrees to bear all other costs and expenses related thereto including court costs and attorney's fees whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. The City retains the right in its sole discretion to use defense counsel of its own choosing at Concessionaire's reasonable cost.

Nothing in this indemnification shall be interpreted to waive or release any and all statutory or common law privileges and immunities applicable to the City of Wheaton. There are no third party beneficiaries of this Agreement.

XXIII. ATTORNEY'S FEES

If the City brings any action to recover any monies on account of any event of default or other breach of this Agreement, or for the recovery of possession of the Premises, or otherwise, it shall be entitled if it prevails to recover from the Concessionaire reasonable attorney's fees and litigation related costs.

XXIV. CONCESSIONAIRE'S PERSONAL PROPERTY

Concessionaire shall be solely responsible for securing and maintaining its personal property used in operation of the Concession and the City shall bear no liability to the Concessionaire for personal property lost in consequence of causality or theft. Concessionaire shall carry business and personal property insurance on an all risk basis, including theft, covering all equipment and inventory. This insurance shall waive its right of subrogation against the City.

XXV. INSURANCE

Concessionaire shall secure and maintain during the life of this Agreement the following insurance coverages. The policies shall be occurrence policies. Claims made policies are unacceptable. The insurance required is as follows:

- A. General liability coverage with limits no less than \$1 million for each occurrence and \$2 million aggregate naming the City, Library, its elected officials, agents, trustees, employees, successors and assigns as additional insured on a primary and non-contributory basis. A waiver of subrogation shall be included in favor of the City, its elected officials, agents, trustees, employees, successors and assigns.
- B. Business and personal property insurance in those amounts deemed sufficient by the Concessionaire to cover loss of its business and personal property.
- C. Worker's compensation insurance in those amounts required by Illinois law. This policy shall also be subject to a waiver of subrogation claims against City entities.
- D. Business automobile insurance with limits no less than \$1 million for each accident for any owned, hired, or non-owned units. If the Concessionaire does not have any owned vehicles a minimum of hired and non-owned automobile liability shall be provided with the same limits as above.
- E. Umbrella liability insurance with a limit of no less than \$2 million for each occurrence and \$2 million aggregate.

Concessionaire shall provide the certificates of insurance to the City's Finance Director prior to occupying the Premises.

All of the Concessionaire's insurance must be AM best rated "A- or better." All policies of insurance shall provide thirty (30) days notice of termination to the City. All insurance provided by the Concessionaire shall be primary and not require contribution from the City's insurance

XXVI. NON-DISCRIMINATION

Concessionaire shall abide by all federal and state laws prohibiting discrimination on the basis of race, color, religion, age, sex, disability, pregnancy and national origin. Failure to comply with this paragraph shall be deemed an event of material default.

XXVII. TERMINATION NOTICE

The following shall justify termination notices:

- A. Any material breach of the terms and conditions of this Agreement or the occurrence of an event of default not containing a shorter termination period; or
- B. Concessionaire while in possession of the Premises files a petition for bankruptcy or insolvency or for reorganization under the Bankruptcy Act or voluntarily takes advantage of such Act by answer or otherwise makes an assignment for the benefit of creditors; or
- C. If proceedings are instituted against the Concessionaire under any bankruptcy or insolvency law or if a receiver or trustee is appointed for all or substantially all of the Concessionaire's property and such proceedings or receivership or trusteeship are not vacated or dismissed within thirty (30) days after the institution or appointment; or
- D. Without cause upon forty-five (45) days notice by either the City or Concessionaire.

XXVIII. DELIVERY UPON TERMINATION

Concessionaire shall deliver the Premises and all City-owned equipment thereon, if any, to the City at the termination of this Agreement in as good of a condition or state of repair as when received, except for ordinary wear and tear or loss or damage otherwise caused by the Concessionaire.

XXIX. CUMULATIVE RIGHTS

No right or remedy described herein is exclusive of any other right or remedy and the City shall have all rights or remedies available at law or equity whether specified herein or not. No delay or assertion of any delay in enforcement or failure to assert any right under this Agreement shall be considered a waiver of this or any provision of this Agreement unless expressed in writing and signed by such party.

XXX. VENUE AND GOVERNING LAW

Exclusive venue and jurisdiction for any litigation associated with this matter will be in the Eighteenth Judicial Circuit Court, Wheaton, Illinois. This Agreement shall be governed by the laws of the State of Illinois.

XXXI. SERVICE AGREEMENT

The City and Concessionaire agree that this is a service agreement and not a lease, notwithstanding any terms, conditions, restrictions or covenants contained herein that may appear to the contrary. Nothing in this Agreement shall be interpreted or deemed to result in the conclusion that the City is engaged in a partnership or joint venture with the Concessionaire. Concessionaire understands

and agrees that the Concessionaire, including its employees, are not entitled to receive any Library benefits, including vacation, workman's compensation, sick pay or other benefits.

XXXII. ASSIGNMENT and SUBCONTRACTING PROHIBITED

Concessionaire may not assign this Agreement or subcontract to any other person or legal entity without the express written consent of the City.

XXXIII. LLC

Concessionaire shall provide the City with the names, addresses, and telephone numbers of all of Concessionaire's LLC members and managers. Concessionaire shall update this list within five (5) days of the entry of new members or managers to the LLC.

XXXIV. MODIFICATION/MERGER

All representations and obligations of the parties are contained in this Agreement and all prior negotiations, discussions, and agreements are merged herein. No modification, waiver, or amendment of this Agreement or any of its terms shall be binding upon the City unless such is in writing approved by the City's Corporate Authorities.

XXXV. NOTICES

All notices, demands and communications hereunder shall be personally served or given by certified or registered mail or via traceable overnight courier as follows:

- A. To the City: City Clerk, 303 West Wesley Street, Wheaton, Illinois 60187
- B. To the Library: Betsy Adamowski, Library Director
225 N. Cross Street, Wheaton, Illinois 60187
- C. Concessionaire: CAFÉ ON THE PARK
Peter Leonard
118 W. Franklin St.
Wheaton, IL 60187

Any notice given by mail shall be deemed delivered when sent by certified mail or traceable overnight courier addressed as above with postage pre-paid or in the case of personal service when personally served at the applicable address.

XXXVI. CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings in this Agreement are for convenience only and are not to be used for any other purpose.

XXXVII. ADDITIONAL OPERATIONAL DETAILS

Concessionaire may have Library access to the Premises during non-Library hours so long as prior approval is granted by the Library Director which may be limited by conditions set forth by the Library Director.

Except as to the provision stating that this Agreement is not a lease, if any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement it is the intention of the parties hereto that the remainder of the Agreement shall not be effected thereby unless the clause or provision of this Agreement is so essential to the operation of the Concession that its invalidity or unenforceability would be reasonably anticipated to result in commercial failure, the remainder of this Agreement shall not be effected thereby. If the provision stating that this Agreement is not a lease is declared illegal or void it shall render this Agreement voidable by the City in its sole discretion. Upon termination or expiration of this Agreement for any reason, the parties shall cooperate reasonably with one another in promptly wrapping up the Concessionaire's business.

IN WITNESS WHEREOF the Parties hereto have set their hands and seals this 6th day of August, 2019

City of Wheaton, an Illinois municipal corporation

By Philip J. Suess date 8/6/19
Philip J. Suess, Mayor

Attest:

Sharon Barrett-Hagen
Sharon Barrett-Hagen, City Clerk

CAFÉ ON THE PARK, LLC

By Peter Leonard date 8/12/19
Peter Leonard

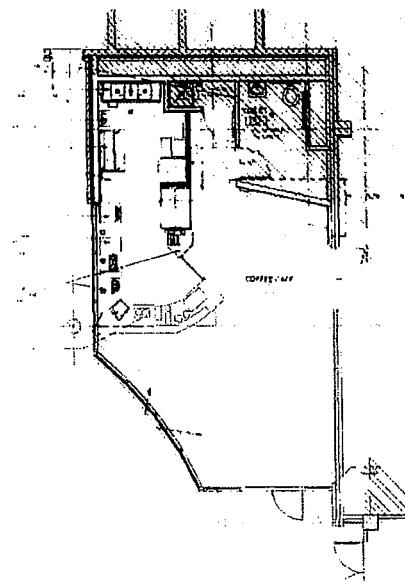
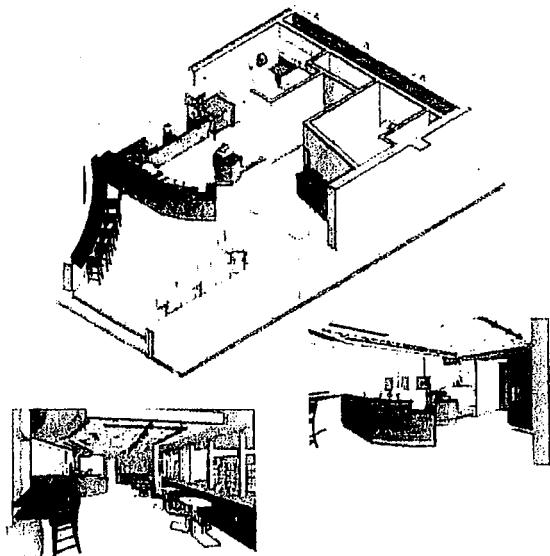
Attest:

Joanne Arrigo

EXHIBIT 1

Coffee Cafe Renovation Wheaton Public Library

225 N. Cross St., Wheaton IL 60187



COFFEE CAFE
RENOVATION

For
Wheaton Public
Library

At
225 N. Cross St.
Wheaton IL 60187

FILE SHELF

T1.00

EXHIBIT 2

MENU (Initial, proposed)

Drink Items	Small	Medium	Large	Food Items	
Coffee	\$1.99	\$2.49	\$2.99	Tuna Salad Croissant	\$5.49
Espresso		\$1.30	\$2.50	Chicken Salad Croissant	\$5.49
Cappuccino		\$2.49		Steel Cut Oatmeal	\$2.99
Americano		\$2.49	\$2.99	Breakfast Sandwich	\$3.49
Latte	\$3.00	\$3.75	\$4.25	Hot Dog Croissant	\$3.49
Mocha Latte	\$3.50	\$4.25	\$4.75	Regular Donuts	\$1.38
Hot Chocolate	\$3.35	\$3.85	\$4.35	Fancy Donuts	\$1.80
Frappés	\$4.00	\$5.00		Special Donuts	\$2.50
Teas - (Steep it Real)	\$1.99	\$2.99	\$3.99	Pastries	\$1.80
Chai Latte	\$3.79	\$4.29	\$4.79	Bagels	\$1.80
Sodas		\$1.79		Snack Items	
Juices		\$1.89		Chips	\$1.00
Milk	\$1.79	\$3.75	\$4.75	Candies	\$1.00
Smoothies					

EXHIBIT 3

EQUIPMENT

As referenced in the RFP we agree to provide at least the following into the space. There may be other items purchased pending space availability for them. The Operator agrees that should other items become necessary they will be at the expense of the Operator.

Operator will provide

Furniture and furnishings (antic date seating for 20	\$ 4,000.00
Prep tables (Stainless Steel)	\$ 400.00
Microwave Turbo Oven	\$ 350.00
Coffee brewer espresso machine coffee grinder tea brewer	\$15,000.00
Storage racks pastry racks	\$ 250.00
Reach in refrigerator freezer	\$ 6,600.00
Under counter refrigerators	\$ 1,200.00
Ice machine	\$ 1,200.00
Bagel toaster	\$ 350.00
POS system	\$ 1,000.00
Soft drink refrigerator	70
Frappe (Granita) machine (if space permits)	\$ 800.00
Wireless sound system	\$ 600.00
Trays / kitchen implements	\$ 750.00
Opening Inventory (consumable)	\$ 4,200.00
Opening Inventory (non-consumable)	\$ 3,500.00
Total	\$40,200.00