

TO: JAMES L. APP, CITY MANAGER  
FROM: ANN ROBB, INTERIM DIRECTOR, LIBRARY & RECREATION  
SUBJECT: BARNEY SCHWARTZ PARK CONCESSION OPERATIONS  
DATE: MAY 16, 2006

Needs: For the City Council to consider awarding a contract for concessions at Barney Schwartz Park.

Facts:

1. The Barney Schwartz Park concessionaire gave written notice that she would no longer be able to provide concession services because of health reasons.
2. Requests for Proposals were solicited for concession operations at Barney Schwartz Park. One proposal was received by the deadline.
3. Staff has reviewed the proposal and finds it to be responsive.

Analysis  
and

Conclusion: Food and beverage concession is desirable at Barney Schwartz Park. It provides a valuable service for park users during sporting events, tournaments, and other activities at the park. It is also a source of revenue for the city.. The city is currently without a contract concessionaire at Barney Schwartz Park. Paso Robles Lions Club submitted a responsive proposal, and is ready to begin concession services.

Fiscal

Impact: Loss of \$500 per month revenue each month Barney Schwartz Park operates without a contracted concessionaire.

Options:

- a. Award a contract for concession operations at Barney Schwartz Park to Paso Robles Lions Club.
- b. Amend, modify or reject the foregoing option.



# Paso Robles Lions Club

P.O Box 815

Paso Robles, CA 93447

May 5, 2006

President

John S. Boes  
423-2123 Cell  
237-9915 Work

1<sup>st</sup> Vice President

Larry Matthews

2<sup>nd</sup> Vice President

Tom Flynn

3<sup>rd</sup> Vice President

Nick Sherwin

Secretary

Wally Ohles

Treasurer

Darwin Curry

Meetings

2<sup>nd</sup> & 4<sup>th</sup>

Tuesday

@ Elk Lodge

7:00 PM

City of Paso Robles  
Department of Library and Recreation Services  
c/o Ann Robb  
600 Nickerson Drive  
Paso Robles, CA 93446

**RE: Barney Schwartz Park Concession Operation - Proposal**

Dear Ms Robb,


The Paso Robles Lions Club and the recent Lions chartered student Paso Robles High School Leo Club are pleased to submit this proposal to operate the two concession stands at Barney Schwartz Park.


As you are aware, we have operated the stand for the last month mainly on the weekends. The experience gained regarding operations, staffing and volume has been extremely helpful. We are looking forward to continuing and confident that we can handle the operation.

As you know, the Lions Club is a non-profit organization and therefore all the proceeds will return to the community for various club projects. If you have any questions please contact John Boes at 423-2123.

Thank you in advance for the opportunity to serve the community.

Sincerely,

  
John S. Boes  
President  
Paso Robles Lions Club

  
Brandon Van Loon  
President  
PRHS Leo Club



Serving the Community Since 1939

Yes! You can join the Lions!

We Serve!

5/5/2006



**Paso Robles Lions Club**

**P.O. Box 815**

**Paso Robles, CA 93447**

---

**Proposal for  
Barney Schwartz Park  
2970 Union Rd**

**Concession Operations**

**City of Paso Robles  
Department of Library and Recreation  
Services**

**May 5, 2006**



## **Paso Robles Lions Club**

**P.O Box 815**

**Paso Robles, CA 93447**

---

### Proposal

**The following information is in response to section III proposal of the request for proposal.**

#### **1. Organization**

- i. Paso Robles Lions Club is a non-profit organization (W-9 ID# 95-6133553N) governed by the constitution and bylaws of Lions International. The bylaws require that all funds earned from the public must be spent on public activities or projects. Therefore all proceeds from the stand operations will be used for various Lions projects such as student eye care, scholarships and etc. The Lions/Leo Clubs elect new officers each July, the current officers are as follows;**
- ii. Paso Robles Lions Club – Officers**
  - 1. John Boes, President**
  - 2. Larry Matthews, VP**
  - 3. Tom Flynn, VP**
  - 4. Nick Sherwin, VP**
  - 5. Wally Ohles, Secretary**
  - 6. Treasurer, Darwin Curry**
- iii. Paso Robles Leo Club – Officers**
  - 1. Bandon Van Loon, President**
  - 2. Jesse Dabill, VP**
  - 3. Robert Van, Secretary**
  - 4. Liz Lawrence, Treasurer**
- iv. Additional Members**
  - 1. Refer to Attached List**

**Serving the Community Since 1939**

**Yes! You can join the Lions!**

**We Serve!**

**5/5/2006**



## **Paso Robles Lions Club**

**P.O Box 815**

**Paso Robles, CA 93447**

---

### **2. Key Contact Person**

- i. **Primary - John Boes** cell 423-2123, work 237-9915, home 226-7404  
E-mail address; [jboes@rentaldepotca.com](mailto:jboes@rentaldepotca.com)
- ii. **Secondary Brandon Van Loom** – cell 835-8605, home 239-4337

### **3. Key Principles**

- i. **The Paso Robles Lions Club has a long tradition of cooking and serving food for various functions. Several key individual members with extensive food and management experience;**
  1. **John Boes** – 8 yrs concession stand for Little League program in N. Baltimore, Ohio and owner of Rental Depot
  2. **Larry Eastwood** – Owner Vic's Café & catering + 25 yrs
  3. **Tom Moore** – part-time cook and retired
  4. **Del Andrus** – Handyman and cowboy cook

### **4. List of Volunteers**

- i. **Refer to member list, parents and wives may also assist**
- ii. **No paid personal**

### **5. List of Food, Drinks and etc**

- i. **Refer to attached menu – subject to change without notice**
- ii. **Ice cream products will vary based of weather and consumption**

### **6. Similar Concession Experience**

- i. **Refer to number 3 above, currently, no one volunteer operates a concession service as a business**

### **7. Qualifications**

- i. **The Paso Robles Lions Club has 65 years of service tradition performing various volunteer activities and projects. This project has particular interest because of our newly chartered Lions youth group called the Paso Robles High School Leo Club.**

**Serving the Community Since 1939**

**Yes! You can join the Lions!**

**We Serve!**

**5/5/2006**



## Paso Robles Lions Club

P.O Box 815

Paso Robles, CA 93447

---

The addition of the Leo's club provides the Lions the resources required to staff this type of fundraising project. Collectively, the Lions/Leo has a solid staff of 20 plus qualified individuals to operate the stands. We will however, at all time have at least one adult member on site to supervisor, cook and work with the Leo members. We also believe that this project will also enhance our ability to add additional members to our clubs. If necessary, under our supervision we may ask other non-profit service organizations to assist us on staffing and donate a portion of the proceeds for their help back to their respective organizations.

We plan to operate the stand using best business practices to meet the highest standards of safety, food preparation and service required to maintain customer satisfaction and compliance with Health Department Standards.

8. Valid Statement

- i. Proposal valid for 90 days

9. Conflict of Interest

- i. At this time, we do not believe that any conflicts of interest occur.

10. Term of Contact

- i. We understand that this contact is valid for 2 years ending December 31, 2007. However at this time we do not foresee any reason to default or any penalties thereof.

**The following information is in response to section II concessionaire services of the request for proposal.**

All conditions as specified can be met except the following issues that require clarification;

1. No alcoholic beverage will be sold.
2. Upon acceptance of this proposal the Lions/Leo will pay \$250 fee for each stand per month if the stand is used during the month.

Serving the Community Since 1939

5

Yes! You can join the Lions!

We Serve!

5/5/2006



**Paso Robles Lions Club**  
**P.O Box 815**  
**Paso Robles, CA 93447**

- 
3. As it pertains to insurance requirements we will not operate any vehicle nor will we pay any person a wage. Therefore workers compensation is not applicable. Please refer to the attached correspondence from our insurance carrier regarding specific insurance requirements. An example of additional insured certificate is also attached for your review. Upon acceptance of this proposal we will apply for another certificate specifically for this project.

We look forward to working with the City and appreciate the opportunity that has been given to us already. We plan to continue to operate the stand until further notice. It's been a pleasure working at the stand and we have already earned enough money to meet the Leo's commitment for student scholarships this year.

**John S. Boes**  
**President**  
**Paso Robles Lions Club**

**Brandon Van Loon**  
**President**  
**PRHS Leo Club**

**Attachments**

1. W-9 form
2. List of Lions and Leo members
3. Menu
4. Insurance Correspondence & Certificate of Insurance Example

## Request for Taxpayer Identification Number and Certification

Give form to the  
 requester. Do not  
 send to the IRS.

See Specific Instructions on page 2.

Name <b>PASO ROBLES LIONS CLUB</b>	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Other ▶	
<input type="checkbox"/> Exempt from backup withholding	
Address (number, street, and apt. or suite no.) <b>POST OFFICE BOX 815</b>	Requester's name and address (optional)
City, state, and ZIP code <b>PASO ROBLES CA 93447-0815</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Social security number								

or

**Note:** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number										
<b>95-6123553 N</b>										

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

**Sign Here**

Signature of U.S. person ▶

Date ▶

### Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

**Note:** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Foreign person.** If you are a foreign person, use the appropriate Form W-8 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

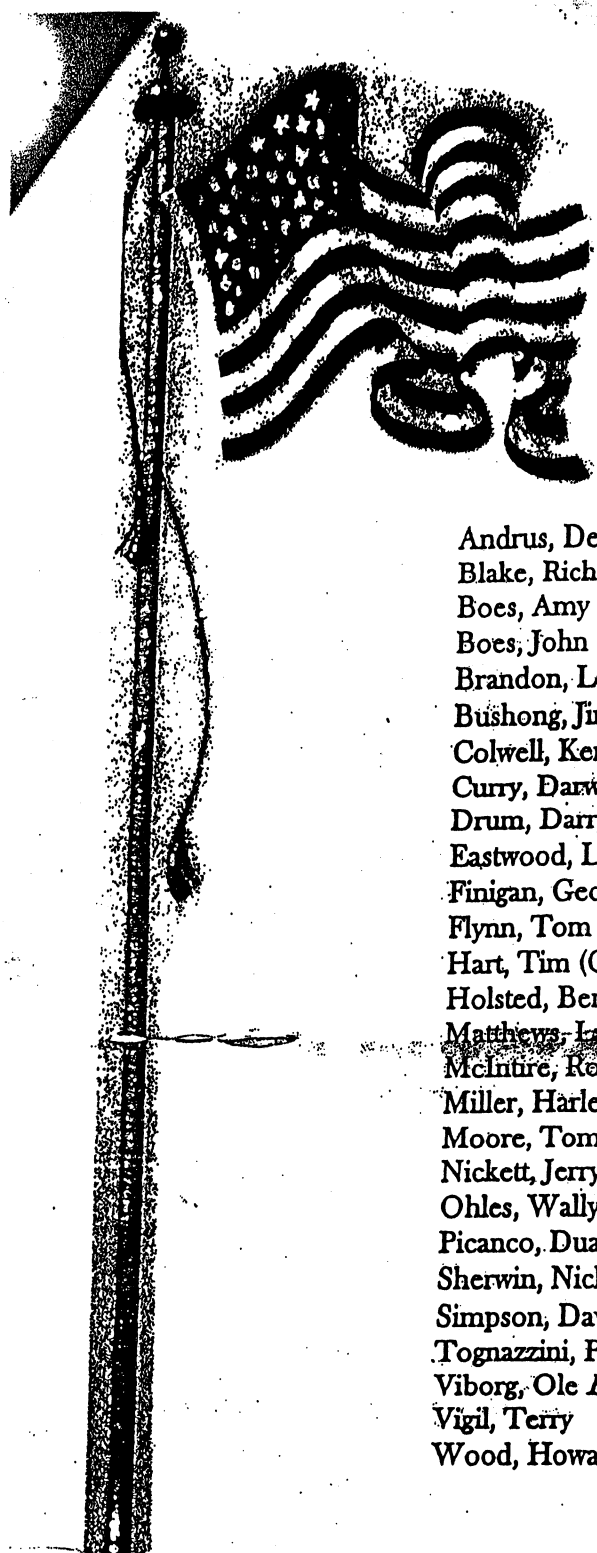
### Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.





Paso Robles Lions Club  
2005-2006

Andrus, Del (Colleen)	2955 So. River Rd, Temp.	238-0792
Blake, Richard	1518 Country Club Dr. PR	238-4806
Boes, Amy (John)	1711 Current Lane PR	226-7404
Boes, John (Amy)	1711 Current Lane PR	226-7404
Brandon, LeRoy (Ruby)	7245 Iverson Place PR	238-4613
Bushong, Jim	2218 Vine Street PR	201-3012
Colwell, Ken (Linda)	221 Hilltop Drive PR	238-3240
Curry, Darwin (Rita)	1215 Mariah Lane PR	237-2269
Drum, Darryl (Millie)	628 Creston Road PR	239-9561
Eastwood, Larry (Jan)	208 Fairview Lane PR	238-3468
Finigan, George (Terry)	4978 Windsor Blvd., Cambria (93428)	
Flynn, Tom (Sharon)	P.O. Box 429 PR 93447	237-1788
Hart, Tim (Carol)	1114 Nanette Drive PR	238-9373
Holsted, Ben (Judie)	1509 Country Club Drive PR	238-2417
Matthews, Larry (Cathy)	402 Fifteenth St., PR	239-1807
McIntire, Roger (Kathy)		
Miller, Harley (Joy)	6935 Chardonnay Place PR	237-9290
Moore, Tom (Roselyn)	5180 North River Rd., PR	238-4943
Nickett, Jerry	4475 Jardine Road	226-8551
Ohles, Wally	1323 Buttercup Lane	275-2377
Picanco, Duane (Rose Marie)	1230 Lana Street	238-1663
Sherwin, Nick (Pat)	6185 Vista de Robles Place	238-7684
Simpson, David (Andrea)	310 Kings Ave., Morro Bay	772-5852
Tognazzini, Paul (Fran)	250 Frontier Way Templeton	434-5519
Viborg, Ole Lifer (Sandy)	2470 El Pomar Rd., Temp.	238-2581
Vigil, Terry	262 Townhouse Terrace	712-6798
Wood, Howard (Patty)	1127 Samantha Drive	238-0924



2005-2006

- President: John S. Boes
- 1<sup>st</sup> Vice President: Larry Matthews
- 2<sup>nd</sup> Vice President: Tom Flynn
- 3<sup>rd</sup> Vice President: Nick Sherwin
- Secretary: Wally Ohles
- Treasurer: Darwin Curry

- 2-Year Director: Harley Miller
- 2-Year Director: Howard Wood
- 1-Year Director: Tim Hart
- 1-Year Director: Roger McIntire



# Paso Robles High School Leo's Club

801 Niblick Rd. Paso Robles, California 93446

President:  
Brandon J. Van Loon  
(805) 674-2889

Vice President:  
Jesse Dabill  
(805) 610-5900

Secretary:  
Robert Van  
(805) 423-9009

Treasurer:  
Liz Lawrence

## LEO CLUB APPLICANTS (January 24, 2006)

Bedell, Will	P.O. Box 130	San Miguel	467-3787
Burke, Wesley	2475 Cielo Vista	Paso Robles	227-6243
Clark, Cody	6360 North River Road	Paso Robles	467-1953
Cornelis, Michael	1101 Alamo Creek Terrace, #4	Paso Robles	591-0391
Dabill, Jesse	P.O. Box 251	San Miguel	610-5900
Krutsinger, Melanie	4960 Estrella Road	Paso Robles	591-0424
Lawrence, Liz	2069 Fallbrook Court	Paso Robles	239-4978
Lee, Daniel	719 Creston Road	Paso Robles	239-4978
Lee, Grace (Enh Hye Lee)	719 Creston Road	Paso Robles	226-7619
Lewis, Daniel	7055 Iverson Place	Paso Robles	286-7831
Long, Carissa	1309 Crown Way	Paso Robles	238-2035
McBride, Jacob	2453 Captain's Walk	Bradley	472-9638
McPartlan, Bryan	5731 Lone Pine Place	Paso Robles	237-9223
Park, Ki	1404 Stoney Creek Road	Paso Robles	239-3382
Reynoso, Dawn	395 Cedarwood Drive	Paso Robles	238-4422
Rookus, Patrick	10125 Creston Road	Paso Robles	238-5366
Van, Robert	8849 Gage Irving Road	Paso Robles	423-9009
Van Loon, Brandon	2630 Geneseo Road	Paso Robles	674-2889
Vaughan, Melissa	2627 Beechwood Drive	Paso Robles	239-0495
Wisniewski, Tasha	5910 Madera Place	Atascadero	461-1279



# Paso Robles High School Leo Club

## Concession Stand Menu

- **Double Cheese Burger** \$4.00
- **Cheese Burger** \$3.50
- **Hamburger** \$2.50
- **Nachos w/Cheese/Meat** \$2.50
- **Hot Dog** \$2.50
- **Pizza Rolls** \$2.00
- **Ice Cream Sandwich** \$1.50
- **Gatorade** \$1.50
- **French Fries** \$1.50
- **Popcorn** \$1.00
- **Soda & Water** \$1.00
  - Pepsi, Diet Pepsi, Root-Beer, Serria Mist
- **Coffee & Hot Chocolate** \$1.00
- **Chips** \$1.00
- **Candy Bars** \$1.00
- **Sunflower Seeds** \$1.00
- **Skittles, Sour Punch Roll** \$.75
- **Candy** \$.25
  - Blow Pops, Pixy Sticks, Nerds
  - Carmel/Apple & Fun Dips
- **Candy** \$.05
  - Lolly Pops, Smarties, Sour Punch Twist
  - Bubble Gum

**Deal Meal .....cheeseburger, chips & soda or water.....\$5.00**

**\*\*\*Thank You for Supporting our Club Fundraiser\*\*\***



## Paso Robles Lions Club

P.O Box 815

Paso Robles, CA 93447

President

John S. Boes  
423-2123 Cell  
237-9915 Work

1<sup>st</sup> Vice President

Larry Matthews

2<sup>nd</sup> Vice President

Tom Flynn

3<sup>rd</sup> Vice President

Nick Sherwin

Secretary

Wally Ohles

Treasurer

Darwin Curry

Meetings

2<sup>nd</sup> & 4<sup>th</sup>

Tuesday

@ Elk Lodge

7:00 PM

April 11, 2006

T.J. Adams Group/HRH Chicago  
333 East Butterfield Road  
Lombard, IL 60148

Legal Division,

Our Lions Club (Lions & Leo members) would like to respond to the request for proposal (RFP) to operate a concession stand for the City of Paso Robles. Please review the attached RFP and advise of any condition that is outside Lions International insurance policy.

Please note that we will not operate any City vehicles. In addition, since we are all volunteers no one will receive payroll compensation. Our general purpose will be to cook, prepare and serve food to the public. We do not plan to sell any alcohol beverages. See attached menu.

Please note that the deadline for submitting the proposal is May 5, 2006. If you have any questions please call me at 805-423-2123 or fax 805-237-9926.

Please forward your response to me by fax 805-237-9926 or e-mail [jboes@rentaldepotca.com](mailto:jboes@rentaldepotca.com).

Your Friend in Lionism,

John S. Boes

President

Paso Robles Lions Club

Attachments;      Request for Proposal  
                                 Proposed Menu

Sent by fax on April 11, 2006 - six pages    fax # 630-324-2501



Serving the Community Since 1939

Yes! You can join the Lions!

We Serve!



hilb rog al &amp; hobbs™

TJ Adams Group

**FACSIMILE MESSAGE**

**TO:** John S. Boes  
**Date:** 4/13/2006  
**Company:** Paso Robles Lions  
**Phone:**  
**Fax:** 805-237-9926

**FROM:** John Adams  
**Phone:** 630-324-2502  
**Fax:** 630-324-2503  
**Email:** John.adams@hrh.com  
**Pages:** 1

**Subject:** City of Paso Robles RFP

---

Dear, Mr. Boes,

We have reviewed the insurance requirements included within the City of Paso Robles RFP. Your club can comply with the required provisions through Lions International's general liability program with the exception of one requirement found in the last sentence of item 10 in Section II. To paraphrase, this section requires that the additional insured coverage afforded to the City apply on a **primary and non-contributory basis**. Unfortunately, while the City and other parties listed are automatically included as additional insured's for your club's use of their premises or the issuance of permits by the City, the protection afforded to them by Lions International's policy does not apply on a primary and non-contributory basis. If the City would be willing to strike the last sentence of this paragraph your club will comply with the other insurance provisions in the RFP.

Because Lions International's program is so far reaching, insuring clubs in 197 countries, we are unable to endorse the policy to fit the needs of specific club requirements as in this case. If the City is unwilling to amend the contract your club will need to place satisfactory coverage locally in order to comply.

Please let me know if you have any questions.

John Adams

*Privileged/Confidential information may be contained in this transmission. If you are not the addressee indicated (or responsible for delivery of the message to such person), you may not copy or deliver this communication to anyone else. In such case, you should destroy this and kindly notify the sender immediately. Thank you.*

333 East Butterfield, 5<sup>th</sup> Floor, Lombard Illinois 60148  
Telephone: (630) 324-2500 Fax: (630) 324-2501

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
April 25, 2006

PRODUCER (630)324-2500 FAX (630)324-2501  
T. J. Adams Group, a Hilb Rogal & Hobbs Company  
333 E. Butterfield Rd., Suite 500  
Lombard, IL 60148

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED  
Paso Robles Lions Club  
California

INSURER A: ACE American Insurance Company  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	HDOG21731936	09/01/2005	09/01/2006	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 1,000,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	OWNED AUTOS NOT COVERED	HDOG21731936	09/01/2005	09/01/2006
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	NOT COVERED			AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ DEDUCTIBLE RETENTION \$	NOT COVERED			EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	NOT COVERED			WC STATUTORY LIMITS OTHER E L. EACH ACCIDENT \$ E L. DISEASE - EA EMPLOYEE \$ E L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Provisions of the policy apply to the Paso Robles Lions Club for their participation in a Pancake Breakfast any dates during the policy period.

The City of Paso Robles is an additional insured, but only as respects liability arising out of the use of premises by the Paso Robles Lions Club and not out of the sole negligence of said additional insured.

**CERTIFICATE HOLDER**

**ADDITIONAL INSURED; INSURER LETTER**

**CANCELLATION**

City of Paso Robles  
J Spring Street  
Paso Robles, CA 93446

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

**AUTHORIZED REPRESENTATIVE**

John E. Adams, C.P.C.U. *John E. Adams*

# **REQUEST FOR PROPOSALS CONCESSION OPERATIONS BARNEY SCHWARTZ PARK**

## **I. INTRODUCTION**

The City of Paso Robles is requesting proposals for the development and operation of concession services at Barney Schwartz Park, located at 2970 Union Rd. Concession operations will be provided primarily in conjunction with league and tournament sports activities at the park athletic facilities. Leagues and tournaments include, but may not be limited to, adult and youth softball, youth baseball, adult and youth soccer and youth football.

## **II. CONCESSIONAIRE SERVICES**

Concessionaire will be responsible for the operation of two (2) concession stands at Barney Schwartz Park under the following conditions:

1. Concession stands shall be used for the purpose of selling over the counter items such as hot/cold food and beverages, candy, snacks, clothing and novelties. All items sold shall be approved by the Director of Library and Recreation Services, and conform to the City of Paso Robles' contractual agreement with Pepsi-Cola Company. A copy of the contract between the City and Pepsi-Cola is available for review. Concessionaire may opt to sell alcoholic beverages (beer/wine) if the following conditions are satisfied: proof of liability insurance specific to alcohol sales; securing all necessary permits/licenses for the sale of alcohol; provision of security during events when alcohol is sold; restricting alcohol consumption to designated areas; no alcohol sales during youth events; endorsement by the Paso Robles Softball Association, Paso Robles Youth Sports Council, the Parks & Recreation Advisory Committee, and City Council.
2. Concession stands may be operated individually depending on athletic facility in use. Concessionaire will be required to operate both stands simultaneously if there are scheduled sports activities at the same time at both the softball/baseball facility and the soccer/football facility.
3. Minimum operation of concession stands shall be during all regular scheduled sporting events, including adult and youth league play, and adult and youth tournaments sponsored or co-sponsored by the City as well as independent tournaments hosted by the City. Stands shall be open during the first league/tournament game of any day of play as described above, and shall remain open through the completion of the last league/tournament game of any day of play as described above, without closure. Independent tournament promoters may sub-contract through prime Concessionaire for concession operations during their events with permission of concessionaire and the City.
4. Concessionaire shall furnish, install, repair and maintain, at its sole expense, all equipment necessary to provide the above listed food and beverage service to the public, including soda dispensing machines under a separate contract with Pepsi (exception- City owned equipment: commercial refrigerator, microwave, popcorn maker, ice machine [stand #1 only]).

5. The City shall acquire, at their cost, all necessary permits and licenses from the County of San Luis Obispo Environmental Health Department for the purpose of concession operations (exception – permits/licenses for alcohol sales). Concessionaire shall operate stands to the standards set forth by Environmental Health Department codes and permit specifications.
6. Concessionaire shall maintain and clean the interior/exterior of concession stands to the standards set forth by Environmental Health Department codes and permit specifications.
7. The City shall pay for the cost of existing utilities, including electricity, water and waste disposal. Telephone service shall be provided by and paid for by Concessionaire.
8. The Concessionaire agrees to pay City a flat monthly fee of \$250 per stand for each month that the stand is in operation. If concessionaire sells alcohol, an additional per cup fee will be charged.
9. Concessionaire shall obtain, and maintain for the entire term of any Contract, workers compensation and commercial general public liability insurance, from companies acceptable to the City authorized to issue such insurance in the State of California.
10. Concessionaire shall maintain in full force and effect for the period covered by any Contract bodily and personal injury, including death resulting therefrom, and property damage insurance. This liability shall include, but not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property, resulting from any act or occurrence arising out of Concessionaires operations in the performance of this Contract, including, without limitation, acts involving vehicles. The amount of insurance shall not be less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000.00. The carrier must be admitted in California and have a Best's Rating of A-VII or better. The City of Paso Robles, their officers, employees and agents shall be named insured under the policy, and the policy shall provide that the insurance will operate as primary insurance and that no other insurance effected by the City will be called upon to contribute to a loss hereunder.
11. In accordance with the provisions of Section 3700 of the Labor Code, Concessionaire is required to be insured against liability for worker's compensation or to undertake self-insurance. Concessionaire agrees to comply with such provisions before commencing the performance of the work of any Contract.

### **III. PROPOSAL**

There is no maximum proposal length. Proposals should be kept to the minimum length required to address the requirements of the RFP. Proposals shall include a signature line, with name and title of signatory, with three (3) copies submitted in 8 ½" x 11" format with the following elements:

1. Organization name, address, telephone number and e-mail address (if available).
2. Name and telephone number of a contact person.
3. A list of the organization's principals with their respective experience and background as it pertains to concession operations.



4. List of paid/volunteer personnel with a description of how staffing will be organized.
5. Proposed types of food, drink and/or any other products to be sold at the concession stands, including or excluding alcohol sales.
6. Description of similar concessions operations that the Concessionaire and personnel have conducted previously. For each project listed, please include location, description of work, client and time period of operation.
7. Provide a statement of what especially qualifies your organization to perform concession operations.
8. Include a statement that the proposal shall remain valid for a period no less than sixty (60) days.
9. Include a statement that no conflicts of interest exist in the provision of the proposed services.

#### **IV. DEADLINE FOR RESPONSE**

Responses to the Request for Proposals are to be received by the Department of Library and Recreation Services by **5:00 PM on Friday, May 5, 2006**. Responses received after the specified time and date may not be considered, and Request for Proposals will be extended to other interested parties. Respond to:

City of Paso Robles  
Department of Library and Recreation Services  
c/o Ann Robb  
600 Nickerson Drive  
Paso Robles, Ca. 93446

On the envelope/package, please clearly label:

**Barney Schwartz Park Concession Operations – Proposal**

#### **V. TERM OF AGREEMENT**

Contract for concessions shall be for a term of two calendar years from date of award of said Contract.

#### **VI. SELECTION PROCESS**

The City of Paso Robles will establish a screening committee to review and rank all proposals. The City may decide to interview potential concessionaires. Key criteria to be used by the City in selecting a Concessionaire includes the following:

1. Demonstrated experience in concession operations.
2. Concessionaire's understanding of the City of Paso Robles' desires and general approach to the service request.
3. Proposal requirements established in this RFP are included in the proposal.
4. Qualifications of the Concessionaire assigned to this service.
5. Demonstrated ability of the Concessionaire to provide quality service and meet on site requirements.

6. Ability to work effectively with City staff.

The City reserves the right to reject any and all proposals, and to negotiate modifications or acceptance of parts of a proposal. Other terms and conditions will be negotiated at the time of selection and the final form of the agreement will be subject to the approval of the City Attorney. All proposals submitted shall become the property of the City of Paso Robles.

## **VII. FURTHER INFORMATION**

Please contact the City of Paso Robles Department of Library and Recreation Services with any questions or further clarification:

Ann Robb, Interim Director (805) 237-3993

Chad Dawson, Recreation Coordinator (805) 237-3990

## CONCESSION AGREEMENT

This agreement ("Agreement") entered into this \_\_\_ day \_\_\_\_, is between the City of El Paso de Robles, a municipal corporation ("CITY") and \_\_\_\_\_ ("CONCESSIONAIRE") (individually, "Party"; collectively, "the Parties").

### RECITALS

WHEREAS, CONCESSIONAIRE represents that it is an experienced retail vendor of prepared food and related items and is competent to operate two (2) concession stands (the "Concession Stands") at Barney Schwartz Park, 2970 Union Road, Paso Robles, California (the "Park"); and

WHEREAS, CITY controls the Concession Stands at the Park and is willing to grant CONCESSIONAIRE the right to operate such Concession Stands in strict accordance with the terms and conditions in this Agreement;

NOW, THEREFORE, IT IS AGREED by and between CITY and CONCESSIONAIRE as follows:

### AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above and the introductory paragraph preceding the recitals are hereby incorporated into this Agreement as if set forth herein in full.

2. TERM OF AGREEMENT. The term of this Agreement shall commence on the date of its execution by both parties and shall continue for an initial term of two (2) years. Within the sole discretion of the City, this term may be extended at its expiration for two additional two year periods; provided that the total extended term does not exceed six (6) years.

3. CONCESSION GRANTED. CITY grants to CONCESSIONAIRE an exclusive revocable license to operate the Concession Stands at the Park (the "Concession"). CONCESSIONAIRE agrees to operate the Concession Stands in a professional and businesslike manner and in strict compliance with this Agreement's terms and conditions.

4. LOCATION OF CONCESSIONAIRE'S FACILITIES.

(a) Concession Stands. The Concession Stands are located at Barney Schwartz Park in approximately the locations indicated on Exhibit A, attached hereto and incorporated herein. One of the Concession Stands is located adjacent to the Park's

baseball/softball facility and the other is located adjacent to the Park's soccer/football facility. Utilities include access to electricity and water.

(b) Alterations Prohibited. CONCESSIONAIRE shall make no substantial alterations of Concession Stands without the prior written consent of CITY.

(c) Signage. All signage exhibited or used at Concession Stands by CONCESSIONAIRE shall receive written approval from CITY prior to display.

5. DAYS AND HOURS OF OPERATION. CONCESSIONAIRE shall operate the Concession Stands, at a minimum, during all regularly scheduled sporting events at the Park, including but not limited to all adult and youth athletic league games, and all adult and youth tournaments, whether independently sponsored, sponsored or co-sponsored by CITY. The Concession Stands shall open no later than the start of the first regularly scheduled game on the day scheduled for athletic league games or tournament and shall not close until the completion of the final game scheduled for the same day. CITY shall provide CONCESSIONAIRE with a schedule of regularly scheduled sporting events at the Park upon the execution of this Agreement. CITY shall provide CONCESSIONAIRE with new schedules of sporting events at the Park from time to time as necessary to give CONCESSIONAIRE reasonable notice of all regularly scheduled sporting events.

6. OPERATION OF CONCESSION STANDS. In the event sporting events are scheduled at the same time on both the baseball/softball facility and the soccer/football facility, CONCESSIONAIRE shall operate both Concession Stands simultaneously. However, in the event that only one of the two athletic facilities (either the baseball/softball facility or the soccer/football facility) is in use for a regularly scheduled sporting event at a given time, CONCESSIONAIRE has the option of operating only the Concession Stand located closest to the athletic facility in use during the time that the single athletic facility is in use.

7. UTILITIES. CONCESSIONAIRE shall pay the full cost of installation and the monthly charges associated with providing telephone service to the Concession Stands. CITY shall be responsible for the cost of all other utilities furnished to the Concession Stands. Any and all utility installation requires the prior written consent of CITY.

8. PERMITTED MERCHANDISE. Concessionaire's merchandise may consist of hot and cold food and beverages (including beer/wine), candy, snacks, clothing and novelties. All beer and wine sales must be provided in cups that shall be provided by the City for a fee separate from the monthly fee charged, and adhere to the following conditions: proof of liability insurance specific to alcohol sales; securing all necessary permits/licenses for the sale of alcohol; provision of security during events

when alcohol is sold; restricting alcohol consumption to designated areas; no alcohol sales during youth events, endorsement by the Paso Robles Softball Association, Paso Robles Youth Sports Council, the Parks & Recreation Advisory Committee, and City Council. The CONCESSIONAIRE may additionally contract with independent tournament organizers for the sale of merchandise associated with the tournament. All items sold, including but not limited to items provided by independent tournament organizers, shall be approved by the CITY's Director of Library and Recreation Services, which approval shall not be unreasonably withheld, and shall conform to CITY's contractual agreement with Pepsi-Cola Company, which is incorporated herein by reference.

9. EQUIPMENT. CITY has furnished each Concession Stand with commercial refrigeration, soda dispensing machines, microwave oven, popcorn maker and hot dog steamer (the "City Equipment"). City has furnished the softball area concession stand with an ice maker. CITY shall, at its sole expense, maintain and repair the City Equipment subject to normal use by CONCESSIONAIRE (exception - soda dispensing machines which shall be serviced under a separate contract with concessionaire/Pepsi). Upon CITY's reasonable determination that CONCESSIONAIRE has negligently or willfully misused or damaged City Equipment, CONCESSIONAIRE shall, at its sole expense, repair or replace such City Equipment. CONCESSIONAIRE shall furnish, install, maintain and repair, at its sole expense, all other equipment necessary to provide the permitted merchandise to the public.

10. PERMITS AND APPLICABLE LAWS. CITY shall acquire, at its sole cost all necessary permits and licenses from the County of San Luis Obispo Department of Environmental Health (the "DEH") for the purpose of operation of the Concession. CONCESSIONAIRE shall acquire at its sole cost all necessary permits for the sale of alcohol. CONCESSIONAIRE shall operate the Concession in accordance with standards set forth for concession operations by the DEH. Concessionaire shall obtain and maintain a City of Paso Robles business license.

"Applicable Laws" shall include all City, County, State and Federal ordinances, regulations and statutes now in force or which may hereafter be in force during the time of its performance with regard to the subject of this Agreement.

11. SANITATION. CONCESSIONAIRE shall maintain and clean the interior and exterior of the Concession in accordance with the standards set forth by the DEH and the California Health and Safety Code (Articles #7, #8), including routine daily janitorial service. In maintaining the Concession Stands, CONCESSIONAIRE shall use biodegradable materials and cleaning supplies that are suitable for disposal into a septic system. A copy of the Material Safety Data Sheet (MSDS) for all cleaning materials shall be submitted to CITY for approval prior to use on the interior or exterior of the Concession Stands. A copy of the MSDS for such cleaning materials must additionally

be kept on the site of each Concession Stand, and at the location where such cleaning materials are stored. The City shall be responsible for routine building maintenance. "Routine building maintenance" shall include, but not be limited to, structural repairs, plumbing and electrical repairs.

12. COMPENSATION TO CITY. In consideration of the Concession granted by this Agreement, CONCESSIONAIRE hereby agrees to pay to CITY a monthly fee for use of the Concession Stands for each month that the CONCESSIONAIRE is entitled to operate the Concession Stands pursuant to this Agreement (the "Monthly Fee"). The Monthly Fee shall be Five Hundred Dollars (\$500) each month for the first twelve months after this Agreement is executed. The Monthly Fee shall thereafter be adjusted annually based upon the increase in the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area for Urban Wage Earners and Clerical Workers. In no event shall the annual fee adjustment for CPI exceed eight percent (8%). Should this CPI index no longer be published, a similar index shall be substituted by the CITY. CONCESSIONAIRE shall pay the Monthly Fee to CITY's Finance Department by the 10th day of each month for each month that CONCESSIONAIRE operates the Concession Stands. Failure to pay the Monthly Fee by the 25th day of the month in which it is due shall be grounds for termination as a violation of this Agreement pursuant to Section 13. An additional per cup fee, separate from the monthly fee, shall be paid the City if alcohol is sold. That fee shall be \$0.75 per cup. Cups will be provided by the City.

13. TERMINATION. Both Parties shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon the other Party sixty (60) days advance written notice of termination. This notice of termination shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, postage prepaid, addressed to the other Party at the address indicated in Section 24. However, if CONCESSIONAIRE operates the Concession in violation of this Agreement or in a manner which creates a hazard or nuisance, CITY may immediately terminate this Agreement by personally serving written notice of termination upon CONCESSIONAIRE at the address indicated in Section 24.

14. NO COMPENSATION FOR LOSS OF PROFITS OR GOODWILL. The Parties expressly agree that CONCESSIONAIRE shall be deemed not to have acquired any goodwill in the operation of the Concession granted by this Agreement. The Parties therefore expressly agree that CONCESSIONAIRE shall not be entitled to recover for the loss of any goodwill or profits upon the termination of this Agreement for any reason at any time. In addition, the Parties expressly agree that goodwill shall not be considered a factor in any agreement between CONCESSIONAIRE and any subsequent concessionaire of CITY regarding the transfer of equipment or fixtures either during or after the term of this Agreement.

15. CITY NOT LIABLE FOR LOSS OF BUSINESS. If for any reason it becomes necessary to close the Park or to restrict access near or around Concession Stands, CITY shall not incur any liability for damages due to CONCESSIONAIRE's loss of business.

16. ASSIGNMENT PROHIBITED. CONCESSIONAIRE shall not assign or otherwise transfer this Agreement, or any interest or portion of this Agreement without the express prior written consent of CITY. Any such attempt at assignment or transfer shall be null and void.

17. INDEMNITY. The CONCESSIONAIRE shall be solely responsible for, and shall indemnify, defend (by counsel reasonably acceptable to the City Attorney) and hold the CITY, its members, officers, directors, agents, employees, volunteers and any other person acting for or on behalf of the CITY (collectively, the "Indemnified Parties") harmless from and against any and all costs, claims, losses, damages, causes of action and liability which may arise by reason of any occurrence attributable to or arising out of the CONCESSIONAIRE's use of the Concessions of this Agreement, including but not limited to failures to observe or perform any obligation of the CONCESSIONAIRE's under this Agreement or the CONCESSIONAIRE's presence, activities, equipment, property and maintenance of the Concessions, including without limitation any claim or cause of action for injury to or death of any person or damage to any property arising out of any such occurrence occurring from and after the date hereof. CONCESSIONAIRE'S obligations under this section 17 shall extend to claims arising after the termination of this Agreement for any reason.

The CITY shall have no liability to the CONCESSIONAIRE, and the CONCESSIONAIRE waives all claims against the CITY, arising from, or in any way related to, occurrences within the scope of the indemnity set forth in this Section 17, except to the extent caused by the sole negligence or willful misconduct of the CITY or its employees.

CONCESSIONAIRE waives any right of recovery against the City, its officers, employees and agents for indemnification, contribution or declaratory relief arising from or in any way connected with the Concession even if the City, its officers, employees or agents seek recovery against Concessionaire.

18. INSURANCE. The CONCESSIONAIRE shall, at its sole cost and expense, obtain and keep in force during the term hereof: commercial general liability insurance insuring the CONCESSIONAIRE and endorsed to name the CITY, its officers, agents, employees, and volunteers as additional insured against claims for bodily injury, personal injury and property damage, providing coverage in an amount not less than One Million Dollars (\$1,000,000) per occurrence, covering the operation and maintenance of the Concessions, with the general aggregate coverage limit applying separately to the CITY for the duration of this Agreement. If the aggregate limit does

not apply separately to the CITY for the duration of this Agreement, the minimum general aggregate limit shall be Two Million Dollars (\$2,000,000).

Upon execution of this Agreement, the CONCESSIONAIRE shall deliver to the CITY current certificates evidencing the existence and amounts of this insurance, with the additional insured required under this Section 18. Each policy shall contain an endorsement providing that it cannot be cancelled or subject to non-renewal or reduction in coverage except after thirty (30) days' prior written notice from the insurance company to the CITY. Proof of liability insurance in compliance with the terms and conditions of this Section shall be provided to the CITY by the CONCESSIONAIRE annually, prior to expiration of the previous insurance certification, or by January 1, whichever occurs first.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONCESSIONAIRE warrants that it is aware of the provisions of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONCESSIONAIRE further agrees that it will comply with such provisions.

(b) Waiver of Subrogation. CONCESSIONAIRE and CONCESSIONAIRE's insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONCESSIONAIRE's workers' compensation insurance policy.

20. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both Parties. Any purported modification or alteration which is not in writing and executed by both Parties shall have no effect on this Agreement.

21. INDEPENDENT CONTRACTOR. In the operation of the Concession granted by this Agreement, CONCESSIONAIRE is an independent contractor and is not an agent or employee of CITY. CONCESSIONAIRE, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CITY to any decision or course of action, and shall not represent to any person or business that they have such power. CONCESSIONAIRE has and shall retain the right to exercise full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONCESSIONAIRE in the performance of the Concession. CONCESSIONAIRE shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.



22. NONDISCRIMINATION. During the term of this Agreement, CONCESSIONAIRE agrees as follows:

a. CONCESSIONAIRE shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, age, handicap, medical condition, sexual preference, marital status, ancestry or national origin. CONCESSIONAIRE shall, in all solicitations or advertisements for employees placed by or on behalf of CONCESSIONAIRE, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, medical condition, sexual preference, marital status, ancestry or national origin.

b. There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, handicap, medical condition, sexual preference, marital status, ancestry or national origin in the use, occupancy, tenure or enjoyment of the Concessions, or any part thereof.

23. HAZARDOUS SUBSTANCES. CONCESSIONAIRE and those acting by, through or under CONCESSIONAIRE, shall not improperly store, handle, treat, use release, dispose of, discharge or produce any hazardous substances or hazardous waste, or any pollutant, contaminant or toxic substance as those terms are defined in or as may be regulated or governed by any federal, state or local laws or ordinances intended to protect health, safety or the environment. CONCESSIONAIRE shall be responsible to remediate and clean up any and all such hazardous substances, pollutants, contaminants or toxins. CONCESSIONAIRE agrees to release, to defend with counsel acceptable to CITY, indemnify and to hold CITY harmless of, from and against any and all claims, expense, loss or liability suffered by CITY by reason of CONCESSIONAIRE's breach of any of the provisions of this Section 23 or any claims by CONCESSIONAIRE's employees, agents, contractors, visitors or assigns, if permitted under this Agreement, caused by, related, to, or arising from such breach. The indemnity contained in this Section 23 shall survive the expiration or earlier termination of this Agreement.

24. NOTICE. Any notices or other communications to be given to either Party pursuant to this Agreement shall be in writing and delivered personally or by U.S. mail, postage prepaid, addressed to the Party at the address set forth below. Either Party may change its address for notices by complying with the notice procedures in this Section 24. Notice so mailed shall be deemed effective as of the date of mailing and deemed delivered three (3) business days after deposit in the U.S. mail. Nothing shall preclude the giving of notice by facsimile machine provided, however, that notice by facsimile machine shall be followed by notice deposited in the U.S. mail as discussed above.

CITY

CITY OF PASO ROBLES  
1000 Spring Street  
Paso Robles, California 93447  
Attention: City Manager

CONCESSIONAIRE

25. RECORDS AND AUDIT. Concessionaire shall establish and maintain records pertaining to this Agreement. Concessionaire accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this Agreement, including properly executed payrolls, time records, utility bills, invoices and vouchers.

Concessionaire shall permit City and its authorized representatives to inspect and examine Concessionaire's books, records, accounts, and any and all data relevant to this Agreement at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Concessionaire pursuant to this Agreement and shall provide such assistance as may be reasonably required in the course of such inspection. City further reserves the right to examine and re-examine said books, records, accounts, and data during the three (3) year period following the termination of this Agreement; and Concessionaire shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for three (3) years after the termination of this Agreement.

Pursuant to California Government Code Section 10527, the parties to this Agreement shall be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the Agreement. The examination and audit shall be confined to those matters connected with the performance of this Agreement including, but not limited to, the cost of administering the Agreement

26. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both Parties. Any litigation arising from this Agreement shall be brought in the Superior Court of San Luis Obispo County.

27. COSTS AND ATTORNEYS' FEES. If either Party commences any legal action against the other Party arising out of this Agreement or the performance thereof,

the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

28. CAPTIONS. The captions of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

28. CONCESSIONAIRE'S LIABILITY FOR PROPERTY TAX. The Parties expressly agree that they are creating a revocable license to use property and not a possessory interest in land. If, however, the County Assessor or other taxing entity finds that this Agreement creates a possessory interest subject to property taxation, CONCESSIONAIRE expressly agrees to pay any property tax levied on the premises as a result of such finding.

29. BINDING EFFECT. The provisions of this Agreement shall inure to the benefit of and be binding upon the CITY and the CONCESSIONAIRE and their respective successors.

30. WAIVER.

(a) Effect of Waiver. Waiver by either Party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the right to require such performance at a later time.

31. FORCE MAJEURE. Except as otherwise provided in this Agreement, if the performance of any act required by the Agreement to be performed by either CITY or CONCESSIONAIRE is prevented or delayed by reason of any act of God, strike, act of terrorism, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

32. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement

unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

33. INTEGRATION. This Agreement, including Exhibit A, represents the entire understanding of CITY and CONCESSIONAIRE as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 20.

Executed by CITY and CONCESSIONAIRE on the date shown next to their respective signatures. The effective date of this Agreement shall be the date of execution by CITY as shown below.

DATED: \_\_\_\_\_

\_\_\_\_\_

CONCESSIONAIRE

DATED: \_\_\_\_\_

\_\_\_\_\_

CITY MANAGER  
CITY OF EL PASO DE ROBLES

APPROVED AS TO FORM

\_\_\_\_\_  
CITY ATTORNEY

ATTEST:

\_\_\_\_\_  
CITY CLERK

**EXHIBIT A**  
**Map of Locations of Concessions**

**[Attached]**