

Park City Municipal Corporation
REQUEST FOR PROPOSALS (NON-BID) FOR
Park City Library Coffee Shop/Cafe

**NOTICE
REQUEST FOR PROPOSALS (NON-BID)**

Park City Library Coffee Shop / Café

PROPOSALS DUE: By Monday, April 17, 2023, at 5:00 p.m. at the Special Events Office, Attn: Jenny Diersen, located at 445 Marsac Avenue, Third Floor, Park City, UT 84060 or by electronic mail to jenny.diersen@parkcity.org.

PROJECT NAME: Park City Library Coffee Shop

RFP AVAILABLE: Friday, March 31, 2023

PROJECT LOCATION: Park City Library, 1255 Park Avenue, Park City, Utah

PROJECT DESCRIPTION (brief): Park City is soliciting proposals for the operation of a coffee shop/café at the Park City Library. The service would be operated at the Library under a Concessionaire Agreement with the City.

PROJECT DEADLINE: June 30, 2028

OWNER: Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

CONTACT: Jenny Diersen
435.640.5063 or jenny.diersen@parkcity.org
All questions shall be submitted in writing via email to Jenny Diersen by 5:00 p.m. on Monday, April 10, 2023.

Park City reserves the right to reject any or all proposals received for any reason. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

In the absence of the project manager or in the event of difficulty submitting electronically, proposals should be dropped off to the City Recorder, located at 445 Marsac Avenue, Third Floor – Executive Office, Park City, UT 84060.

Respondents or their agents are instructed not to contact City employees, agents or contractors of the City, selection committee members, the Mayor's office or staff, members of the City Council, or attempt to externally manipulate or influence the procurement process in any way, other than through the instructions contained herein, from the date of

release of this RFP to the date of execution of the agreement resulting from this solicitation. City, in its sole discretion, may disqualify Respondents for violation of this provision.

I. Introduction

The Park City Library is a community gathering place. The Library was renovated in 2015, and includes places for people to study, community meeting rooms, a collection of over 70,000 items, a digital media lab, public art, computers for community use, an interactive children's area, and a dynamic teen area. Park City Film Series and the Park City Cooperative Preschool are tenants in the building. The Park City Film Series programs the Santy Auditorium approximately 130 days per year. The City also hosts the Sundance Film Festival in the Santy for 11 days each January. The café will be permitted to operate during Park City Film Series programs, during daytime and evening programming, and during the Sundance Film Festival. The vending for Sundance Film Festival is operated by Sundance Institute and occurs on the third-floor community room and tent in the north field during the Festival. The Institute periodically seeks proposals for the vending service, which would be applied for separately from this proposal through the Sundance Institute.

The goal of the coffee shop/café within this facility is to create a welcoming, multi-use environment that encourages library use, including beverages and food for people to enjoy while holding meetings, using Wi-Fi, getting together for collaborative projects, studying, visiting for programs, social gatherings, or coming for books and other resources. We seek a long-term relationship with a vendor who will be a welcoming part of our community fabric.

The Library is an active community center that brings in more than 148,000 visitors per year. There are private rentals of the facility outside Library hours and flexible community meeting spaces are used throughout the year. People also come to the building daily for numerous activities including morning preschool pick-up and drop-off, and to play with dogs in the dog park outside.

II. Scope of Project

Park City Municipal Corporation (the "City") seeks a qualified coffee shop/café operator to enter into a five (5) year Agreement with the City to provide the Park City Library with a coffee shop/café by offering food and beverage services. The City prefers proposals that closely align with and further the City's goals, specifically surrounding environment and social equity goals.

Additionally, Respondents may choose to include a proposal to provide the City with whole-bean coffee for its City Hall and Public Works facilities. The terms of any successful whole-bean coffee proposal will be incorporated into the Agreement.

The hours of the Library are Monday through Thursday 9:00 a.m. to 8:00 p.m.; Friday and Saturday 9:00 a.m. to 5:00 p.m., and Sunday 1:00 p.m. to 5:00 p.m. It is preferred that the coffee shop/café be open one hour prior to the Library's opening hours. The requested minimum hours of operation for the coffee shop/café are Monday through Friday 8:00 a.m. to 3:00 p.m.; Saturday 9:00 a.m. to 3:00 p.m. and Sunday 12:00 p.m. to 4:00 p.m. However, hours may be negotiated as part of the final Concessionaire Agreement by the Respondent and the City.

The coffee shop/café space is approximately 285 square feet. It is located in the Library's entrance gallery. The gallery's glass doors open onto an outdoor patio that is open to the outside during warm months. Just outside is the Library Field, an open space where people can enjoy being outside with their friends, families, dogs, and the community.

III. Funding

Respondents should include a rental rate proposal and Profit and Loss Statements in their response. Rental rate will be individually negotiated with the successful candidate. There is no funding for the successful candidate associated with this project.

IV. Content of Proposal

Proposals will be evaluated on the criteria listed below. Proposals shall be limited to ten (10) pages. An evaluation criteria and basis for award is attached as Exhibit B.

The proposal must include:

1. Experience & References - A statement detailing your experience in the coffee shop/café business and the financial stability of your business(es). Include information about licensing, including current business licenses. Respondents should include no less than two (2) business references including names and phone numbers.
2. Rental fee proposal – The City will negotiate rental fees with the successful candidate. Proposals must include a rental fee proposal and any proposed terms in lieu of a rental fee, such as a percentage of profits or other incentives.

Price may not be the sole deciding factor.

3. Proposed menu and pricing - Describe both a menu and proposed catering menu, including your ability to provide quality and diverse food and drink

options for people of all ages. Ideally, menus will include a variety of quality hot and cold beverages such as coffee, tea, smoothies, and other like drinks with lids that will be consumed inside and outside the library, as well as a variety of quality pre-prepared food items such as pastries, fruits, or other coffee shop fare. There will be no cooking allowed on site; warming equipment may be considered. Food and drink options for children should be a priority. The service provider shall not offer fresh or bagged popcorn. A renter of the 3rd Floor and Santy Auditorium may prohibit outside food and beverage at their discretion. The respondent must have the ability to provide food and drink service to library room rentals and other library programs.

Optional: Wholesale Coffee Beans - The selected Respondent may propose to provide wholesale coffee beans for the City's Marsac Building (City Hall) and the Public Works Building. If interested in the wholesale beans option, Respondent should provide a price per pound of coffee beans and describe the quality of the beans. The price shall be for the duration of the lease. Proposals should indicate if the price includes equipment such as bean grinders and coffee machines. Currently, the City purchases approximately 1,250 lbs. of beans annually for these two buildings. This opportunity does not include any intellectual or other branding rights, such as being City's "exclusive coffee provider". This wholesale coffee bean service will included in the Agreement.

4. Community Experience and Relationship – Describe the relationship between the coffee shop/café, community, and Library and how your proposal will further a mutually beneficial relationship. The service provider must be a positive representative for the City, as the coffee shop/café is the first impression of the facility when people walk in the door. Customer service must be excellent and meet all standards set by Park City Municipal Corporation and Library management. Describe how you will create a warm and inviting atmosphere.
5. Marketing and advertising – The proposal should include a marketing and advertising plan. A sign is included on the Park City Library marquee sign but must follow the overall look and feel of the approved sign.
6. Timeline - A proposed timeline for moving in, completing tenant improvements, and commencing operations. The service provider will be allowed to lease the premises beginning July 1, 2023. Said Agreement is subject to approval in a public meeting by City Council. This timeline will be negotiated.
7. Improvements - Creation of additional indoor and outdoor seating, in coordination with the Library Director, is important. Service provider will be responsible for providing tables, chairs, and other necessary furniture with approval from the Library Director. If the service provider believes tenant

improvements are needed for either winter/indoor or summer/outdoor service, they should include a budget for such improvements in the proposal.

General Maintenance – Describe how your proposal is compatible with the Library’s operations and how you will represent the City in a positive manner, including the willingness to provide general maintenance duties. Proposals should include describing how you will partner with the City to provide basic maintenance of the leased area including keeping surfaces clean and tidy (tables, chairs, counters, floors), mopping at the end of shifts, and emptying garbage at the end of shifts and when overflowing in the coffee shop area and patio.

8. City Priorities – Proposals should describe how they connect to the City’s priorities, specifically with regard to environmental innovation practices and diversity, equity, and inclusion.

Park City Municipal Corporation reserves the right to reject any and all proposals for any reason. Proposals lacking required information will not be considered. All submittals shall be public records in accordance with government records regulations (“GRAMA”) unless otherwise designated by the applicant pursuant to Utah Code §63G-2-309, as amended. The award of contract is subject to approval by City Council.

Price may not be the sole deciding factor.

V. Selection Process

Proposals will be evaluated on the factors listed in Section IV, Content of Proposal, above. Exhibit A outlines the Evaluation Scoring Criteria.

The selection process will proceed on the following schedule:

- a. A pre-submission meeting will be held at Park City Library on April 12, 2023, at 12:00 p.m. RSVP is required if you plan to attend. This meeting is optional.
- b. Proposals will be received by Park City by 5:00 pm on Monday, April 17, 2023, at the Special Events Office located at 445 Marsac Avenue (Third Floor) or by electronic mail to jenny.diersen@parkcity.org.
- c. A selection committee comprised of City staff from the Special Events, Library and Budget departments, will review all submitted RFPs on April 19, 2023.
- d. Respondents may be interviewed no later than April 21, 2023.
- e. It is anticipated that City Council will vote on the contract award on May 11, 2023.

Park City Municipal Corporation reserves the right to change any dates or deadlines.

VI. Park City Municipal Standard Coffee Shop/Café Concessionaire Agreement

- a. The successful proposal will be required to enter into Park City's Coffee Shop/Café Lease Agreement, in its current form, with the City. A draft of the agreement is attached to this RFP as **Exhibit "B"** and incorporated herein.
- b. **ANY INQUIRIES RELATED TO INDEMNIFICATION OR INSURANCE PROVISIONS CONTAINED IN PARK CITY MUNICIPAL CORPORATION'S STANDARD AGREEMENT MUST BE SUBMITTED TO PARK CITY MUNICIPAL CORPORATION NO LATER THAN THE PROPOSAL/SUBMITTAL DEADLINE. PARK CITY MAY, IN ITS SOLE DISCRETION, CONSIDER SUCH INQUIRIES. ANY CHANGES TO PARK'S CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISIONS SHALL BE APPROVED IN PARK CITY'S SOLE DISCRETION.**

Any service provider who contracts with Park City is required to have a valid Park City business license if located at an address with an 84060 zip code.

VII. Information to be submitted

To be considered, one (1) copy of the proposal must be received by Monday, April 17, 2023 at 5:00 p.m. at the Special Events Office, Attn: Jenny Diersen, located at 445 Marsac Avenue, Third Floor, Park City, UT 84060 or by electronic mail to jenny.diersen@parkcity.org.

VIII. Preparation of Proposals

- a. Failure to Read. Failure to Read the Request for Proposal and these instructions will be at the Respondent's own risk.
- b. Cost of Developing Proposals. All costs related to the preparation of the proposals and any related activities are the sole responsibility of the Respondent. The City assumes no liability for any costs incurred by Respondents throughout the entire selection process.

IX. Proposal Information

- a. Equal Opportunity. The City will make every effort to ensure that all Respondents are treated fairly and equally throughout the entire advertisement, review and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.
- b. Proposal Ownership. All proposals, including attachments, supplementary materials, addenda, etc., shall become the property of the City and will not be returned to the Respondent. The proposal shall be good for six months after the due date.
- c. Rejection of Proposals. Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFP and/or the project at any time and for any reason preceding contract award and reserves the right to accept or reject any or all proposals submitted pursuant to this Request for Proposals. Park City will provide Respondents written notice of any cancellation and/or modification. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.
- d. No proposal shall be accepted from, or contract awarded to, any person, firm or corporation that is in arrears to the City, upon debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the City, or that may be deemed irresponsible or unreliable by the City. Respondents may be required to submit satisfactory evidence that they have the necessary financial resources to perform and complete the work outlined in this RFP.
- e. Park City Municipal Corporation's policy is, subject to Federal, State, and local procurement laws, to make reasonable attempts to support Park City businesses by purchasing goods and services through local vendors and service providers.
- f. If bidder utilizes third parties for completing RFP requirements, list what portion of the RFP will be completed by third parties and the name, if known, of the third party.

Exhibit A: Evaluation Criteria and Basis for Award

**Request for Proposals
Library Café Coffee Shop Lease**

**Section IV. Content of Proposal
Evaluation Criteria and Basis for Award**

- A. Initially, a review of each proposal will be completed by Special Event, Library and Budget departments to ensure compliance with the terms, conditions and requirements of the RFP. Any proposals that fail to meet all of the Minimum Qualifications listed in Section IV of the RFP may be deemed non-responsive.

Each member of the selection committee shall use the evaluation criteria and percentage weights below to establish their own ranking of the Respondents. The committee shall then use these individual rankings to establish an aggregate ranking of all the acceptable proposals.

1. Experience – (20%)
 - a. Respondent's ability, capacity, and skill to perform or provide the required services.
 - b. Respondent's demonstrated ability with respect to quality, availability, and adaptability of the supplies or contractual services in meeting the Library Café Coffee Shop service requirements.
 - c. Respondent's current business license, organizational structure and financial history (P&L statement).
 - e. Respondent's past business development history, with an emphasis on the past three (3) years.
 - f. Respondent provided at least two references including names and phone numbers.
2. Rental Fee Proposal (10%)
 - a. Respondent should include a rental fee or terms in lieu of a rental fee, such as a percentage of profits or other incentives.
3. Proposed Menu and Pricing - (10%)
 - a. Quality of Respondent's menu for hot and cold beverages.
 - b. Quality of Respondent's menu for pre-prepared food items and warming equipment that may be necessary.

Exhibit A: Evaluation Criteria and Basis for Award

- c. Adherence to no fresh or bagged popcorn.
 - d. Food and drink options for children.
 - e. Optional – Wholesale Coffee Beans for City Hall and Public Works Buildings, including price per pound for the duration of the lease, including any necessary equipment.
- 4. Community Experience & Relationship – (20%)
 - a. Describe how the relationship with the coffee shop/café will be mutually beneficial to the community and the Library.
 - b. Describe customer service and how you intend to create an inviting atmosphere.
- 5. Marketing and Advertising – (5%)
 - a. Respondent's marketing and advertising plan, including proposed signage on the Library marquee or café doors.
- 6. Timeline – (5%)
 - a. Respondent's timeline to move into the space and complete tenant improvements.
- 7. Improvements & General Maintenance – (5%)
 - a. Describe indoor and outdoor seating including tables, chairs and other furniture and budget for such improvements.
 - b. Respondent's ability to be compatible with Library operations in a positive manner, including general maintenance such as keeping surface areas clean and tidy, emptying garbage, and mopping at end of shift.
- 8. City Priorities – (25%)
 - a. Respondent's proposals should describe how they connect to the City Council's priorities specifically with regard to environmental innovation and diversity, equity and inclusion.

B. INTERVIEWS

Exhibit A: Evaluation Criteria and Basis for Award

The City reserves the right to conduct interviews with the highest ranked Respondent(s). Interview requirements will be provided to those Respondent(s) selected for further consideration. Respondents are reminded that the selection committee shall look at the reasonableness of all aspects of the proposal and shall, in the selection committee's sole judgment, choose the Respondent with the best overall proposal.



**EXHIBIT B - DRAFT
COFFEE SHOP/CAFE LEASE AGREEMENT
PARK CITY LIBRARY**

This Agreement is made and entered into as of this ___ day of _____, 2023, by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation, (hereinafter the "City") and _____, (hereinafter "Concessionaire").

WITNESSETH:

WHEREAS, the City owns a building known as the Park City Library located at 1255 Park Avenue, Park City, UT 84060, (hereinafter "Library"), which is open and available to the residents and visitors of Park City for public use; and

WHEREAS, the City desires to have at the Library food and beverage refreshments available to the users of the Library and members of the community; and

WHEREAS, Concessionaire desires to sell food and beverage refreshments at the Library; and

WHEREAS, Concessionaire agrees to conduct said food and beverage refreshment business in a professional manner pursuant to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the covenants and agreements of the respective parties herein contained, the parties hereto do hereby agree as follows:

1. **Description of Concession.** During the term of the lease (hereinafter the "Lease Agreement"), the Concessionaire will be granted the right at the Library, in the location described below, to operate a food and beverage concession business, serving food and beverages to patrons of said Library and members of the community. Food preparation shall be done off site. The menu and pricing is subject to review and approval by the Library Director.

(a) Concessionaire is permitted to be open during private Santy rentals.

(b) Any lessee of 3rd floor/ Santy auditorium is allowed to preclude outside food and beverage on the third floor at their discretion during their rentals.

(c) Concessionaire shall not offer fresh or bagged popcorn.

(d) Concessionaire is permitted to be open during private rentals of non-exclusive areas described in Section 2 herein during typical Library hours (M-Th: 9:00 a.m.-8:00 p.m.; Fri-Sat: 9:00 a.m.-5:00 p.m.; Sun: 1:00 p.m.-5:00 p.m.). The Library Director may restrict operation during private rentals of non-exclusive use areas when the Library is typically closed.

(e) Concessionaire hours [shall be _____ Monday to Saturday; _____ Sunday]. Any modifications to this schedule will need to be approved in writing by the Library Director.

(f) Failure to open, failure to open on time, or early closure (more than 15 minutes later than or earlier than approved hours in subsection (e) above) will result in a Fifty Dollar (\$50.00) fine for each occurrence.

(g) The Concessionaire will secure the building before and after Library hours, including setting and turning off the alarm system. A Twenty-Five Dollar (\$25.00) fine may be assessed if the Concessionaire sets off the building alarm., or if the Failure to Open on time causes the alarm to be set off. This fine will be assessed when the Special Event Manager is notified of an occurrence by Library staff.

2. **Property.** The property hereby leased is the main floor coffee shop/café space, located at the Library, 1255 Park Avenue, Park City, Utah, (the “Premises”), including exclusive use of the coffee shop (285 square feet), and non-exclusive use of decks (1,350 square feet) and restrooms (460 square feet), as further described in **Exhibit “A”** attached hereto and made a part hereof.

3. **Term.** The term of this Lease Agreement shall run for the first year until June 30, 2024, and will then continue for four (4) consecutive twelve-month terms, each beginning July 1 and ending on June 30, through June 30, 2028. This Agreement will be reviewed annually by both parties and will automatically renew for each year unless either party provides written notice to its intent not to renew by December 30 of the current term’s expiration (six months’ notice). Each party reserves the right to request renegotiation of any section(s) of this Lease Agreement prior to the automatic renewal, provided sixty (60) days’ written notice is provided to the other party.

Concessionaire shall coordinate with the Special Event Manager to give the City a progress update every six (6) months.

4. Rent. The rent will be [_____].

(a) Security Deposit. Before occupying the Premises, the Concessionaire must make a damage deposit of One Thousand Dollars (\$1,00.00). Concessionaire will leave Premises in same or better condition than the “as-is” condition. Damage deposit may be used for any damages.

(c) Commencement Date. This Lease Agreement shall commence upon execution of this Agreement, and Concessionaire shall open for business no later than [_____, 2023].

(d) Financials. Concessionaire agrees to keep accurate books and records of expenditures related to its operation. The City or its independent auditor reserves the right to conduct its own annual audit of books and records at reasonable times and places during ordinary business hours. Concessionaire agrees to turn in all IRS forms, updated business plans, and other similar financial information by April 1 of each year if requested by City or within sixty (60) days if specifically requested.

(e) Concessionaire is to meet quarterly with the Special Event Manager to review financials and discuss business development and mentoring opportunities.

5. Authorized Use. Concessionaire may sell beer, wine, or any other alcoholic beverage provided that Concessionaire secures proper licenses, permits, or approvals and complies with all federal, State, and municipal laws and ordinances. Sales or service of beer, wine or any other alcoholic beverage requires liquor liability coverage of \$1M/\$2M required, and may also require a Special Event Permit.

6. Payment of Taxes and Other Assessments. Concessionaire shall pay all taxes and other assessments for its business during the term of this Lease Agreement. Concessionaire shall pay all sales or other taxes assessed on the operation of the concession business.

7. Utility Services. City shall be responsible to provide most utilities including, but not limited to, natural gas, electricity, sewer, and water for the Premises. Concessionaire must enter into Agreements with providers for telephone, cable, and internet service. However, City shall

reimburse the cost of these utilities. City shall provide plumbing infrastructure necessary for a dishwasher. City is not responsible to provide any dishwasher appliance.

8. **Use of Premises/Catering/Programming.** The Premises shall be used only for the purpose of a coffee shop. Food service or catering services outside of the Library building are not permitted. The Concessionaire may cater or provide food service in the Library building as allowed herein. Concessionaire may create or host its own programming in the leased property with the goal of driving more community participation and engagement. Concessionaire must request and receive from the Library Director advance, written approval before hosting any non-library programming including events, classes, seminars, promotional ideas, forums, etc. Concessionaire shall not program full length independent, documentary, and foreign films that compete with the Park City Film Series program or Sundance Film Festival. The Library will endeavor to provide informal notice to Concessionaire of its intended programming of non-exclusive areas.

9. **Licensing.** The City and Concessionaire may also participate in other joint marketing efforts with the prior agreement of each. Concessionaire is responsible for obtaining all necessary licenses for its operation, including a Park City business license. Any private use that would close the Premises to the public requires advance, written approval by the Library Director.

10. **Care and Repair of Premises by Concessionaire.** Concessionaire has inspected the Premises and accepts it "AS IS" and as acceptable for the purpose of this Lease Agreement. The Concessionaire will not permit the use of the Premises in violation of any State law or County or municipal ordinance or regulation applicable thereto. Concessionaire, with the exception of a Leader CBK 48" Refrigerated Bakery Display Case, Counter Height, which City is responsible for, may, with the consent of the City but at the Concessionaire's own cost and expense and in good workman like manner, make such alterations or improvements to the Premises, excluding common areas, as Concessionaire may require for the conduct of its business without materially altering the basic character of the structure or improvements, or weakening the structure of the Premises. Any permanent alterations or improvements to the Premises shall become the property of the City upon expiration or termination of this Lease Agreement.

Concessionaire shall have sole responsibility for maintaining and repairing all restaurant and kitchen equipment and facilities, including all sinks, microwaves, freezers, and

refrigerators. All coffee shop/café equipment that the City owns maybe used by the Concessionaire on an “AS IS” basis and the City makes no claim of its condition or life span.

11. **Maintenance.** The City shall be responsible for all structural maintenance of the Premises, including the roof, foundation, structural members, and exterior wall surfaces. Concessionaire shall be responsible for all interior maintenance, including mechanical and electrical fixtures, lighting fixtures, janitorial service including trash and mopping resulting from the Concessionaire’s use, and glass maintenance (both cleaning and replacement in the event of damage) which is within the exclusive and non-exclusive use areas of Premises or solely serves the Premises, excluding the rest rooms and utility closet. The City shall be responsible for mechanical systems which serve portions of the building other than, or in addition to the Concessionaire’s space, as reasonably necessary to maintain the structure and to service common utility facilities.

12. **Access to other space.** Concessionaire shall not interfere with the access to other spaces within the building or obstruct the entrances to those spaces in any way. The City shall have access through Concessionaire’s space as reasonably necessary to maintain the structure and to service common utility facilities. The City shall have the right to inspect the Premises at any time, with or without notice.

13. **Signs.** All exterior signs require affirmation from City Council prior to final approval. All signs must meet criteria of the City’s Sign Code. The following restrictions apply to exterior building signs:

- (a) Patio Window Signs - No window signs on patio windows or any other part of the patio or patio furniture.
- (b) Front Door Window Signs– Concessionaire may replace existing front door window vinyl signs for coffee vendor and customize the signs with specific hours. No other sizes or font allowed. Concessionaire may state either their business name or website in 1” letters. Concessionaire may add their logo below their name or website. Logo Sign not to exceed 4.25”x 5.5”.

- (c) Monument Sign on Park Avenue – If signage is allowed to be placed or continue on the Monument Sign, then Sign and the signage must conform to the Sign Code and any City Council approval must be received.

14. **Insurance and Indemnity.** The Concessionaire shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Lease Agreement and/or the Concessionaire's defective performance or failure to perform any aspect of this Lease Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Concessionaire; and provided further, that nothing herein shall require the Concessionaire to hold harmless or defend the City, its agents, employees, and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Concessionaire expressly agrees that the indemnification provided herein constitutes the Concessionaire's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Concessionaire claims or recovers compensation from the City for a loss or injury that Concessionaire would be obligated to indemnify the City for under this Lease Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Lease Agreement. The provisions of this section shall survive the expiration or termination of this Lease Agreement. No liability shall attach to the City by reason of entering into this Lease Agreement except as expressly provided herein.

The Concessionaire shall provide a Certificate of Insurance evidencing:

- A. The Concessionaire shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Concessionaire, their agents, representatives, employees, or subcontractors. The Concessionaire shall provide a Certificate of Insurance evidencing:

- I. General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage.
The Concessionaire shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.
- II. Automobile Liability insurance with a combined single limit of not less than Two Million Dollars (\$2,000,000) each accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.
- III. Workers Compensation insurance and Employers Liability coverage with Workers Compensation limits complying with statutory requirements, and Employer's Liability Insurance limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for bodily injury by accident, and One Million Dollars (\$1,000,000) each employee for injury by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Entity for all work performed by the Concessionaire, its employees, agents, and subcontractors.
- IV. Liquor Liability insurance as applicable with limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate.
- V. Park City Municipal Corporation, its officers, officials, employees, and volunteers are to be covered as additional insureds on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Concessionaire including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Concessionaire and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. For any claims of

this Agreement, the Concessionaire's insurance coverage shall be primary insurance coverage as respects to PCMC, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by PCMC, its officers, employees, or volunteers shall be in excess of the Concessionaire's insurance and shall not contribute with it.

15. **City Liable Only for Negligence and Intentional Acts.** Except where caused by City's negligence or intentional act, City shall not be liable for any failure of water supply, natural gas supply, or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms or disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains, or any subsurface area or from any part of the building or buildings or for an interference with light.

16. **Nondiscrimination.** Concessionaire will not discriminate against any recipient of any services or benefits provided for in this Lease Agreement on the grounds of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions.

17. **Waiver of Covenants.** It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein contained.

18. **Type of Operation.** Concessionaire agrees to maintain and operate the coffee shop/cafe in a first-class manner and will keep the Premises in a safe, clean, orderly, and inviting condition at all times. All surfaces shall be regularly wiped down and be kept clean. The coffee shop/cafe is to be operated as a convenience to the Library patrons; therefore, all food, drinks, beverages, confections, and other items sold or kept for sale at the coffee shop/cafe will be of high quality. All food and merchandise kept for sale will be subject to inspection by the City. The service will be prompt, sanitary, courteous, and efficient.

19. **Concessionaire's Employees.**

(a). Concessionaire shall offer job interviews to any interested employees of the existing concessionaire at the Library who are displaced as a result of the _____, 2023

Park City Library Coffee Shop / Café RFP, and give good faith consideration to hiring such employees, if they are qualified for job openings in the Concessionaire's businesses. Current employees are presumed to be qualified for the positions they currently hold.

(b). During hours of operation, the Concessionaire agrees to retain an active, qualified, competent, and experienced employee at the coffee shop/cafe to supervise the concession operations. The Concessionaire agrees to be an equal opportunity employer. The employees must be authorized to represent and act on behalf of the Concessionaire.

20. **Laws, Ordinances, Etc.** The Concessionaire will obey all the laws, ordinances, regulations, and rules of the federal, State, County, and municipal governments which may be applicable to its operations. The Concessionaire will further agree to follow recommendations of the County Board of Health.

21. **Garbage Disposal and Recycling.** The City will provide and the Concessionaire shall use suitable covered receptacles for all garbage, trash, and other refuse on or in connection with the coffee shop/cafe. Piling of boxes, cartons, barrels, or other similar items in an unsightly or unsafe manner, on or about the Library or surrounding premises, will not be permitted and must be removed daily to a designated dumpster. When public trash receptacles become full, Concessionaire will empty these into designated dumpsters. City shall provide receptacles for recycling and Concessionaire shall dispose of the items appropriately.

22. **Political Activity Prohibited.** None of the funds, materials, property, or services provided directly or indirectly under the Lease Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

23. **Improvements.** The City will provide infrastructure to operate a coffee concession including but not limited to counters, millwork, storage, sink, plumbing, garbage cans, electrical, and other utility connections. City will provide locks and door hardware for the cabinets. City will provide a water line for a dishwasher. City will not provide specialty equipment or machines such as refrigerators or coffee machines, with the exception of a Leader CBK 48" Refrigerated Bakery Display Case, Counter Height. The café will not have a commercial kitchen. There is not a drain line, floor drain, or running water at or under the front counter tops. Running water and a sink can be found in the back of house/storage area. Immediate drainage to an espresso

machine will need to be held in a temporary catch basin prior to being disposed of in the back sink. City will provide a one-time budget of Ten Thousand Dollars (\$10,000.00) for furniture and other fixtures and equipment. The Library Director must approve all purchases as negotiated. Any furniture, fixtures, and equipment will remain property of the City. The budget shall not be used for any advertising or marketing, paint, signage, or special flooring, other than outlined above.

24. **Termination.** Either party may terminate this Lease Agreement with sixty (60) days written notice to the other for any reason. However, notice may not be given before four (4) months from the execution of this Lease Agreement.

25. **Party at Fault.** In the event either party shall enforce the terms of this Lease Agreement by suit or otherwise, the party found to be at fault by a court of competent jurisdiction shall pay the costs and expenses of the prevailing party, including reasonable attorney's fees.

26. **Failure to Perform Covenant.** Any failure on the part of either party to this Lease Agreement to perform any obligation hereunder, and any delay in doing an act required hereby shall be excused if such failure or delay is caused by any strike, lockout, governmental restriction, or act of God, or any similar cause beyond the control of the parties so failing to perform.

27. **No Assignment or Sublet.** The covenants and agreements contained within this Lease Agreement shall apply to the benefit of and be binding upon the parties hereto and shall not be assigned.

28. **Sublease.** Concessionaire shall not sublease Premises.

29. **Time.** Time is of the essence of this Lease Agreement and every term, covenant, and condition herein contained.

30. **Paragraph Headings.** The paragraph headings as to the contents of particular paragraphs herein are inset only for convenience and are in no way to be construed as part of such paragraphs or as a limitation in the scope of the particular paragraph to which they refer.

31. **Notices.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing by United States mail, postage prepaid and registered and addressed to the below-listed address of the party or to such other address as the parties may from time to time designate in writing.

As to City:

Park City Municipal Corp.
City Attorney
P O Box 1480
Park City UT 84060

As to Concessionaire:

32. **Independent Contractor Relationship.**

A. The parties intend that an independent Concessionaire/City relationship will be created by this Lease Agreement. No agent, employee, or representative of the Concessionaire shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Concessionaire are not entitled to any of the benefits the City provides for its employees. The Concessionaire will be solely and entirely responsible for its acts and for the acts of its agents, employees, or representatives during the performance of this Lease Agreement.

B. In the performance of the services herein contemplated, the Concessionaire is an independent contractor with the authority to control and direct the performance of the details of the coffee shop/cafe; however, the service and products contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory fulfillment thereof.

33. **Prohibited Interest.** No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

34. **Severability.**

A. If, for any reason, any part, term, or provision of this Lease Agreement is held by a court of the United States or any State thereof to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Lease Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

35. **Entire Agreement.** This Lease Agreement constitutes the entire and only agreement between the parties with respect to this concession and it cannot be altered except by written instrument, signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement on the day and year first above-written.

**PARK CITY MUNICIPAL CORPORATION, a
Utah municipal corporation**

By: _____
NANN WOREL, Mayor

Attest:

Michelle Kellogg, City Recorder

Approved as to form:

City Attorney

By: _____

Name: _____

Title: _____

STATE OF UTAH)

) ss.

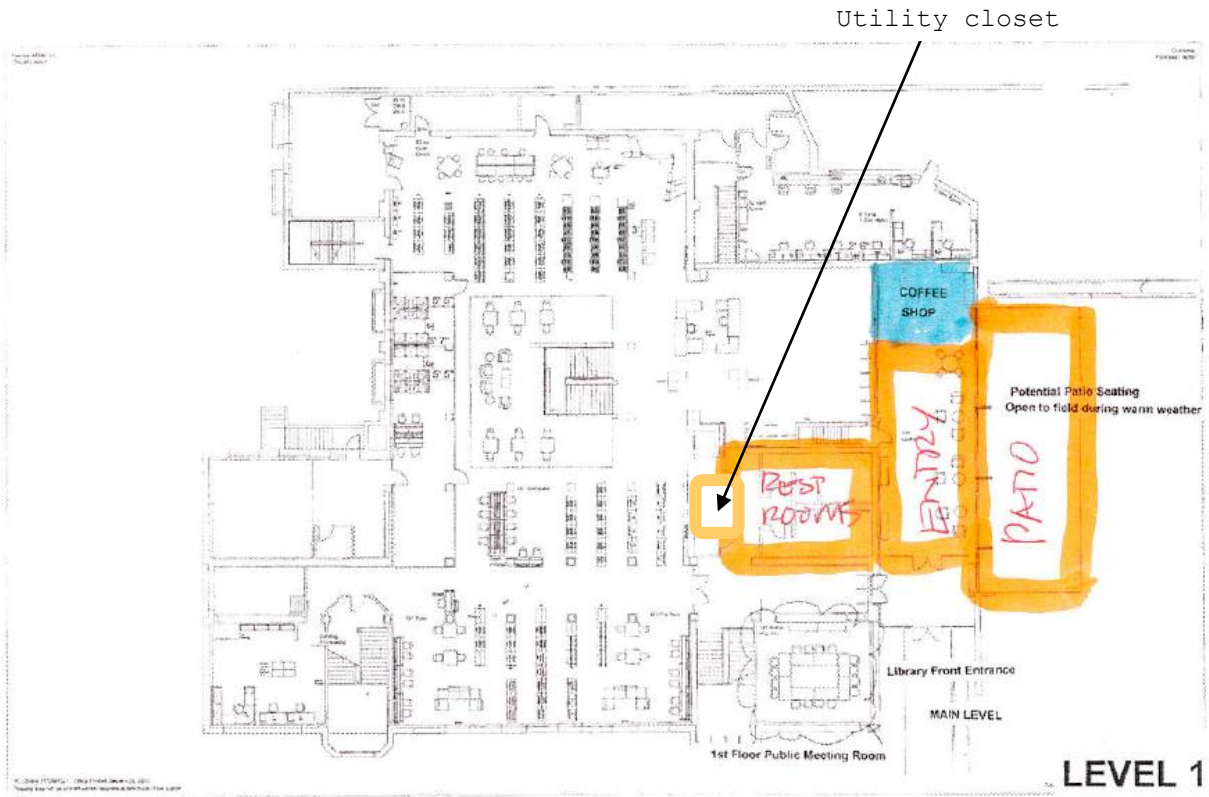
COUNTY OF SUMMIT)

On this _____ day of _____ 2018 before me, the undersigned notary public, personally appeared _____, as _____ of _____, personally known to me/proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same on behalf of _____.

Notary Public

My commission expires:

Exhibit A – Leased Spaces



 - EXCLUSIVE

 - Non EXCLUSIVE

