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AGENDA ITEM
Idaho Park and Recreation Quarterly Meeting
November 8-9, 2023
McCall, ID 83638

AGENDA ITEM: Gateway Parks, LLC, 2024-2026 Concession Agreement, Eagle Island State Park

ACTION REQUIRED: Board Action Required

PRESENTER: Troy Elmore, Operations Division Administrator

PRESENTATION

BACKGROUND INFORMATION:

In February 2014, Idaho Department of Parks and Recreation entered into a 10-year concession agreement with Gateway Parks, LLC, at Eagle Island State Park. The agreement provides public recreation benefits through a winter sports venue designed for tubing, sledding, skiing, and snowboarding. The snow hill provides a unique winter experience for Park visitors.

The current concession agreement commenced on May 1, 2014, and is set to expire May 1, 2024. The contract specifies that the Concessionaire will pay rent in the amount of seven percent (7%) of the gross receipts annually. Also, in the current agreement, the Concessionaire was given the first right to accept a new concession contract. Currently, in State of Idaho Department of Parks and Recreation Concession Agreement Eagle Island State Park Ada County, Idaho 14-001-EAG-LCA-2024 at Section 9 “Renewal” it provides the Concessionaire a right of acceptance, as follows:

The STATE does not grant CONCESSIONAIRE the right to automatically renew this Agreement for an additional period of time. However, if the STATE, at the expiration of this Agreement, desires to lease the CONCESSION PREMISES again, and if CONCESSIONAIRE is not in default or breach as set forth in Section 17 of this Agreement, the STATE grants CONCESSIONAIRE the first right to accept a new agreement under such terms and conditions as the STATE may then prescribe and under the following conditions:

CONCESSIONAIRE shall first notify the STATE in writing of its desire to renew the agreement sixty (60) days prior to its expiration. If the STATE desires to renew this Agreement, it shall notify the CONCESSIONAIRE in writing of the terms and conditions that the STATE may then desire to prescribe. Mailing to the last known address of CONCESSIONAIRE shall then complete notification to CONCESSIONAIRE. CONCESSIONAIRE shall then have thirty (30) days from the date of that mailing to notify the STATE of its acceptance of the terms and conditions prescribed by the STATE. Acceptance shall be complete only if received by the STATE in writing and within the time prescribed.

The first right to accept a new agreement is subject to the provisions of this Agreement concerning termination.

In 2017, the Board amended its policy on concession leases. The Board's current concession policy does not allow concessionaires a first right of acceptance. IDPR Board Policy #6020 "Concession Leases" at Section 4.2 Types of Concessions and Lease Fees, typically requires that an RFP process be used to select the next concessionaire:

Large Concessions. Concessions expected to gross more than \$100,000 per year are deemed large concessions and require Board approval. Large concessions will be awarded on a competitive basis after publication of a request for proposal (RFP), unless otherwise directed by the Board. Large concessions will be awarded to the responder of the RFP which, in the judgment of the Board, best fulfills the criteria set forth in the RFP and provides the best combination of service to the public and return to the Department. The objective is to obtain the highest possible revenue from each concession lease, but the best responder to an RFP is not necessarily the responder which provides the highest dollar return.

Other Concessions. Concession leases expected to gross \$100,000 per year or less are deemed other concessions and require Director approval. The Director may negotiate directly with interested persons for the operation of concessions likely to gross between \$10,000 and \$100,000 per year, unless the Director determines that an RFP is likely to result in better service to the public or a higher return to the Department. The concession lease fee will be based on a percentage of total annual gross revenues to be negotiated based on the nature of the business, the value of park facilities utilized by the concessionaire, and other relevant factors. In no event will the concession lease fee be less than three percent of the total annual gross revenue without Board approval.

Board policy #6020 – Concession Leases, Section 4.5 Standard Provisions, gives the Board the sole discretion whether to include a first right of acceptance term in a concession contract:

Renewal. Each lease will contain a provision that the Department will not grant the lessee the automatic right to renew the term of the lease for an additional period upon its expiration. However, a concessionaire may be granted a first right to accept a new lease under new terms and conditions as the Department may then prescribe. The Department will retain the option to self-operate a concession at the end of the term of any lease.

During the May 3, 2023 IDPR Board meeting, Chairman Beckley requested fellow board members create a subcommittee for the purpose of drafting contract terms for the next Eagle Island State Park winter sports venue concession agreement for proposal to the Board. Mr. Roach volunteered, and together with Chairman Beckley, agency staff and Lead Deputy Attorney General Joy Vega, worked on the terms and renewal for this next concession agreement.

With the subcommittee's direction and approval, a new concession agreement for Gateway Parks, LLC's winter sports venue operation has been drafted. Changes to the terms of this next contract include:

1. A 2-year duration. By limiting the contract to 2 years, IDPR will come into alignment with Board Policy #6020 "Concession Leases" while enabling the Concessionaire's operation to continue during the RFP process. (Page 4, Section 3.1).
2. No right to renewal or first acceptance. If the Board decides to continue a winter sports venue at Eagle Island State Park, a request for proposal process will be utilized that the Concessionaire can choose to participate in. (Page 4, Section 3.2).

3. An annual rent of 11% of gross receipts up from 7%. Concessionaire's annual rent has always been 7% without increase during the current contract's 10-year duration. Other long-term concessions currently pay between 8%-15%. (Page 4, Section 4.1).
4. The required and optional concession services, listed in Section 5, are expanded with detail to expressly allow, with limitations, the operations that the Concessionaire has developed since 2014. Expectations of the Park related to Concessionaire's post-season repair and replacement of damaged Park resources have also been included. (Pages 5-15, Section 5).
5. Subject to approval by Idaho Department of Water Resources or Water District 63, use of water from the Park's pond for snow making is expressly allowed. The required coordination of efforts between IDPR and the Concessionaire to secure temporary water use is explained in Section 5.6(c) at pages 12-13 of the proposed contract.
6. No off-season storage will be permitted outside of the existing office area. (Section 5.1(c)). Concessionaire has previously stored personal property at the Warden's House during its off-season. However, during the 2-year duration of the next contract, the Park will begin cleanup and deferred maintenance at the Warden's House.
7. No sub-concessions, sub-leases, assignments, or leasehold mortgages are permitted during the 2-year duration of the next contract. (Page 20, Section 9, *see also* §§ 5.2(j) and 5.8(g)).

The enclosed Concession Contract No. 24-001-EAG-LCA-2026 is the lease agreement that the subcommittee has reviewed and approved for submittal, discussion, and use by the Board. If accepted as proposed, or following any Board changes, the contract will be provided to Gateway Parks, LLC, for acceptance or rejection. If accepted by the Concessionaire, the only input required from Gateway Parks, LLC, will be its designated On-Site Manager (*see* Page 8, Section 5.1(ii)) and the name and position of the company's authorized signatory.

STAFF RECOMMENDATIONS:

Staff recommends the Board approve the proposed concession lease agreement 24-001-EAG-LCA-2026 as presented.

Attachments: Concession Contract No. 24-001-EAG-LCA-2026
Concession Contract No. 14-001-EAG-LCA-2024
Addendum 11-18-2015

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**STATE OF IDAHO
IDAHO DEPARTMENT OF PARKS AND RECREATION
CONCESSION CONTRACT NO. 24-001-EAG-LCA-2026**

Lessor Contact Information:	Idaho Park and Recreation Board Attn: IDPR, Operations Administrator PO Box 83720 Boise, Idaho 83720-0065
Concessionaire Contact Information:	Gateway Parks, LLC c/o Ryan Neptune, Managing Member PO Box 2227 Eagle, Idaho 83616 Email: ryanneptune@me.com Phone Number: (208) 890-6029
Concession Location:	Eagle Island State Park Attachments A, A-1, A-2, A-3, A-4.
Use of Leased Premises: (§§ 5.1; 5.2)	Winter Sports Venue
Duration: (§ 3)	Commencement: May 2, 2024 Expiration: May 1, 2026
Rent: (§ 4)	Annual Rent is 11% of gross receipts to be paid in full by May 1.
Normal Season of Operation: (§ 5.3)	Beginning: November, the Monday after the final cross-country race. Ending: April 1
Insurance: (§§ 5.1(c); 6)	Combined single limit per occurrence, not less than \$1,000,000. Each annual aggregate limit shall not be less than \$2,000,000.
Index:	DATA PAGE CONCESSION CONTRACT SIGNATURE PAGES ATTACHS. A, A-1, A-2, A-3, A-4 – PREMISES DESCRIPTION & MAPS ATTACH. B – GROSS RECEIPTS REPORTING FORM ATTACH. C – ACTIVITY REPORTING FORM

***This Data Page merely summarizes provisions of the Contract and is for convenience and ease of review only. The information stated in the Data Page is intended to be accurate and consistent with the Contract. In the event any information stated in the Data Page is inconsistent with the Contract, the Contract will control.**

STATE OF IDAHO
IDAHO DEPARTMENT OF PARKS AND RECREATION
CONCESSION CONTRACT NO. 24-001-EAG-LCA-2026

This Concession Contract No. 24-001-EAG-LCA-2026 (“**Contract**”) is dated and effective as of the last signature of the Parties (“**Effective Date**”), and is made by and between the STATE OF IDAHO, IDAHO PARK AND RECREATION BOARD through its administrative agency the IDAHO DEPARTMENT OF PARKS AND RECREATION whose mailing address is PO Box 83720, Boise, Idaho 83720-0065 (collectively “**Lessor**”), and GATEWAY PARKS, LLC, an Idaho limited liability company whose mailing address is PO Box 2227, Eagle, Idaho 83616 (“**Concessionaire**”). Lessor and Concessionaire are collectively referred to herein as the “**Parties**” and individually as a “**Party**”.

This Contract is made with reference to and incorporation of the following facts:

WHEREAS, pursuant to the authorities of Title 67, Chapter 42, Idaho Code, including §§ 67-4212(12) and 67-4213, the State of Idaho, Park and Recreation Board does own, and manage through IDPR, Eagle Island State Park located on Hatchery Road in Eagle, Idaho;

WHEREAS, Lessor is authorized by Idaho Code §§ 67-4204 and 67-4223(7) to grant concession leases within state parks to proper and desirable parties; as such, IDAPA 26.01.20.650 provides that: “No person, firm, or corporation may operate any concession, business, or enterprise within lands administered by the department without written permission or permit from the [B]oard”;

WHEREAS, under Concession Agreement 14-001-EAG-LCA-2024, Concessionaire previously operated similar concession services as are authorized in this Contract and indicated its interest in continuing to provide the same or similar concession services under the provisions and conditions stated in this Contract; and

WHEREAS, it is of mutual interest to Lessor and Concessionaire that public recreational services at reasonable rates be provided at Eagle Island State Park through the development and operation of a winter sports venue.

NOW THEREFORE, in consideration of the rent paid and the covenants, conditions, and restrictions to be observed by Concessionaire as set forth in this Contract, including the signature pages and all Attachments, which are incorporated by reference in their entirety, and including the above-stated recitals that are intended to be contractual in nature and not mere recitals, the Parties mutually agree, as follows:

1. DEFINITIONS. The words and phrases defined in this Contract will have the stated meaning, which apply to both the singular and plural forms of each word, whether capitalized or not capitalized.

1.1 “ADA” means the Americans with Disabilities Act, including Architectural Barriers Act of 1968 (“**ABA**”); Section 504 of the Rehabilitation Act of 1973, as amended; 43 Code of Federal Regulations Part 17, Subpart E - Nondiscrimination on the Basis of Handicap in Programs or Activities.

1.2 “Board” means the Idaho Park and Recreation Board or its designee.

1.3 “Concession” and “**concession services**” mean the authorized business activities and commercial transactions of Concessionaire that support and promote appropriate public recreation opportunities and provide improvements, goods, and services for which reasonable fees are collected from the Park visitor.

1.4 “Concessionaire” means the non-State individual or entity, authorized to conduct business in the state of Idaho, to which concession rights are granted by this Contract and all employees, agents, owners, members, or other authorized representatives of the individual or entity.

1.5 “Director” means the Director of IDPR or the Director’s designee.

1.6 “Fixtures” includes all apparatus, machines, appliances, equipment, or items used to supply heat, gas, water, light, power, or ventilation and that are physically attached to an improvement on the Premises.

1.7 “Gross Receipts” means all monies and anything else of value received by Concessionaire from the sale, rental, or provision of goods, services, or facilities, or from any other business activity or commercial transaction whatsoever conducted by Concessionaire on, or utilizing concession services on, the Premises whether such goods, services and activities are required or optional by this Contract; excepting only an allowance of deductions for sales taxes imposed by any governmental entity and collected by Concessionaire.

1.8 “IDPR” means the State of Idaho, Department of Parks and Recreation, an executive department of the State of Idaho, overseen and administered by the Board and acting through the Director, the Park Manager, and other authorized employees.

1.9 “Improvements” includes all buildings, structures, roadways, sidewalks, utility infrastructure and meters, landscaping, signs, and other additions or alterations made to the Premises by Concessionaire, whether permanent, semi-permanent, or short-term.

1.10 “Including” and “**include**” mean including but not limited to.

1.11 “Park” means the Eagle Island State Park.

1.12 “Park Manager” means the person, as designated by the Director, responsible for administering, managing, and supervising the Park or the Park Manager’s designee.

2. DEMISE OF LEASED PREMISES AS AREA OF OPERATION. Lessor hereby leases and permits to Concessionaire the right to use and occupy, for the required and optional concession services stated in this Contract, approximately two (2) acres of land and specified existing improvements and fixtures, as identified and depicted in the description and maps stated at Attachments A, A-1, A-2, A-3 and A-4 (“**Premises**”). Within the Premises, Concessionaire will have the exclusive privilege of providing the required and optional concession services, and constructing, maintaining, and operating all approved improvements and fixtures in accordance with Section 5.

3. DURATION OF CONTRACT.

3.1 Term. This Contract will be for a duration of two (2) years (“**Contract Term**”), beginning May 2, 2024, and ending May 1, 2026.

3.2 No Right to Renewal. Lessor does not grant Concessionaire the right to renew this Contract or extend the Contract Term for any additional period of time. If, at the termination of this Contract due to the ending of the Contract Term, Concessionaire is interested in continuing to operate the concession, Concessionaire must comply with the following process:

(a) Concessionaire must notify IDPR in writing of its interest to continue operating the concession no less than twelve (12) months prior to the end of the Contract Term.

(b) IDPR will notify Concessionaire in writing, within thirty (30) days, whether the concession will continue to be permitted in the Park.

(c) If the concession services will continue to be permitted, the next concession contract will be awarded on a competitive basis after completion of a request for proposal (“RFP”) process.

(d) During the RFP process Concessionaire will have the following options:

(i) Concessionaire may elect to not participate in the RFP process and will be entitled to remove its improvements in accordance with Section 8.4 and vacate the Premises; or

(ii) If Concessionaire is in good standing under this Contract (*i.e.* not in default or breach), Concessionaire may elect to participate in the RFP process to be considered for the next contract.

(e) Any new concession contract will be made on the provisions and conditions determined by the Board.

4. RENT PAID BY CONCESSIONAIRE TO IDPR.

4.1 Rent Amounts. Concessionaire must pay as rent to IDPR eleven percent (11.0%) of Concessionaire’s gross receipts for every season of operation during the Contract Term.

4.2 Payment Date. Payment of each rent of gross receipts due must be received by IDPR on or before May 1, 2025, and May 1, 2026. If any such date falls

after the termination of this Contract, the obligation to pay such rent will survive termination.

4.3 Remitted to IDPR. Every rent payment must be made by a certified cashier's check to the order of IDPR, Eagle Island State Park, and either hand delivered to the Park Manager or mailed to:

Idaho Department of Parks and Recreation
Attn: Park Manager
165 Eagle Island Parkway
Eagle, Idaho 83616

4.4 No Excused Payment. No temporary cessation of operations for any reason will excuse Concessionaire from payment of rent.

4.5 Late Payments. Failure to pay rent by the due date will constitute an event of default of this Contract. Every late payment will accrue interest at the legal rate of interest as set in Idaho Code § 28-22-104(1) until paid. Interest will begin to accrue three (3) business days after payment is due. Such an event of default will be cured only by payment from Concessionaire of all amounts due and owing. Notice of such an event of default may be provided by IDPR retroactively, utilizing the date on which payment was due.

4.6 Reporting of Gross Receipts. Gross Receipts must be reported to IDPR on the attached Concessionaire Gross Receipts Reporting Form at Attachment B and consistent with Sections 1.7 and 5.5. The form must be submitted to IDPR at the time of each rent payment. The form must be accompanied by an authorized representative's certification that all gross receipts during the accounting period have been duly and properly reported to IDPR.

4.7 Revision of Rent. At the end of each season of operations during the Contract Term, IDPR will evaluate the overall success of the concession and determine whether the percentage of gross receipts due will be increased, or if a base payment or other consideration will be added to the rent due from Concessionaire for the next year.

5. CONCESSION SERVICES, OPERATIONS, LIMITATIONS. Concessionaire will provide concession services each year during the Contract Term, and is authorized to design, construct, maintain, and operate improvements, as follows:

5.1 Required Concession Services.

(a) Winter Sports Venue. Creation, maintenance, and operation of a shaped and contoured snow hill and base area on the Premises suitable for tubing, sledding, skiing, and snowboarding.

(i) Concessionaire, at its own expense, will provide all equipment necessary to build out the winter sports venue and create safe access for customers, including a magic carpet, snowmaking and grooming machines, snowblowers and shovels, safety fencing, padding over solid or potentially dangerous objects near the snow hill and base area.

(ii) Concessionaire will provide all equipment necessary to support the day-to-day operation of the concession, including adequate staffing, maintenance of all Premises areas, and trash removal.

(iii) Concessionaire may not erect any improvements or fixtures in the winter sports venue other than temporary items that are removed by Concessionaire at the end of each operating season. The quality and maintenance of such improvements and all equipment must comply with all applicable laws and regulations.

(b) Waterslide Compound and Walkway. The Premises includes an area at the top of the snow hill, within the Park's fenced waterslide compound. Only within the designated area, Concessionaire will temporarily remove specific sections of the Park's waterslide compound fence, as identified in Attachments A-1 and A-3.

(i) Concessionaire may use either of the following methods to enclose the waterslide compound during the normal operating season:

(1) Existing fence may be attached to where the new post locations are installed; or

(2) Existing fence may be rolled back and attached to existing posts. The resulting gap must be closed with temporary fence panels no less than 10 (ten) feet high, installed next to the West side of the walkway; and

(3) Regardless of the method used, all fencing must be installed to ensure that no public may enter the waterslide compound at any time before, during, or after temporary removal and end-of-season replacement.

(ii) Walkway Posts and Rope. Concessionaire will remove the 4" x 4" steel powder coated posts with top caps and rope from their locations fastened to the existing concrete walkway.

(iii) All removed fence sections, posts and rope must be organized and stored within the waterslide compound as identified on Attachment A-3, or as instructed by the Park Manager. Concessionaire is responsible for the repair or replacement of any component of the fence, posts, or rope necessitated by loss or damage during removal, storage, or reinstallation.

(iv) All removed sections of fence, posts with top caps and rope must be securely reattached to their original location by April 1 each year.

(v) At all times, the Park Manager will have final approval authority over the sufficiency of Concessionaire's alterations, repair, or replacement of the fencing, posts and rope.

(c) Office and Mobilization Area. Concessionaire's previously installed 14' x 28' building and fenced storage area will be utilized as part of the Premises, as identified on Attachments A-1 and A-4. Pre-season and post-season mobilization may only be staged at the three (3) locations specified on Attachment A-1. No other location within the Park may be used for storage of Concessionaire's personal property.

(i) At all times, any personal property stored within the office and storage area, or any mobilization area must be kept in a clean and organized manner. Any related complaints from Park visitors or instructions from the Park Manager will be immediately attended to by Concessionaire.

(ii) Concessionaire is solely responsible for the security and placement of its personal property. No responsibility or liability exists with, or may be placed on, the Board, IDPR, or any IDPR employee for the safekeeping of Concessionaire's personal property.

(iii) Concessionaire must retain and maintain adequate insurance coverage for any damage, destruction, or theft of its personal property while within the Park. Concessionaire is solely and completely responsible for its personal property.

(d) Management of Premises. Concessionaire must always keep the Premises in a clean and sanitary condition. If, at any time, the condition of the Premises is deemed unsatisfactory by the Park Manager, IDPR will charge Concessionaire for all costs, including employee time, incurred to keep the Premises clean and sanitary.

(i) IDPR will keep the Park's East restrooms open during the operating season for use by Concessionaire's employees and customers, and Park visitors. The Park will provide cleaning supplies and toilet paper. Concessionaire must have its employees regularly clean and maintain the restrooms to Park standards. Any related complaints from Park visitors or instructions from the Park Manager will be immediately attended to by Concessionaire.

(ii) During pre-season mobilization, Concessionaire must cover all sprinkler heads within the Premises with sprinkler head cover plates. During post-season demobilization, Concessionaire must remove all sprinkler head cover plates from the sprinkler heads. Concessionaire will be responsible for replacing any damaged sprinkler head and repairing any part of the Park's irrigation system that is damaged as a result of the concession services, as identified in the Park Manager's sole discretion.

(iii) Following post-season demobilization, Concessionaire must repair or replace any portion of the Premises or resource within the Premises that was damaged, destroyed, or removed as a result of the concession services, including reseeding turf, replacing or patching the asphalt walkway, replacing pavers at the Kestrel Shelter, repairing the roof or gutters of the Kestrel Shelter, replacing trees damaged by manmade snow load or equipment, or as otherwise identified by the Park Manager.

(iv) Concessionaire may not modify including limbing, removal, or replacement of any tree within the Park without prior written approval from the Park Manager. Any such modification to any tree will be deemed a material violation of this Contract and cause for immediate termination.

(e) No signs or advertisements without approval. Concessionaire may not install or display any signs on the Premises or in the vicinity thereof without obtaining prior written approval of the Park Manager. No signs containing brand names or products sold at the concession are to be displayed without prior written approval of the Park Manager.

(f) Supervision of Employees. Concessionaire must provide daily management and supervision over the Premises and Concessionaire's employees and representatives.

(i) All employees of Concessionaire must be clean and presentable, and always wear a uniform with a logo clearly identifying them as employees of Concessionaire and of a color and design distinguishing them from employees of IDPR.

(ii) At all times, Concessionaire through its employees and representatives must conduct themselves in such a manner as to serve the public courteously and efficiently, provide accurate information about the Park and its outdoor recreation and resource opportunities and services, and promote a positive public image for the Park, IDPR, and Concessionaire.

(iii) Concessionaire will not employ or retain in its services, or permit to remain upon the Premises, any person declared by IDPR to be unfit for such employment or otherwise objectionable.

(g) Valid Parking Pass Required. All of Concessionaire's vehicles, employee vehicles, and customer vehicles must display a current Idaho State Parks Passport, an annual Motor Vehicle Entrance Fee ("MVEF") pass, or a daily MVEF pass.

(h) Assumed Business Name. Any assumed or fictional business name used by Concessionaire in conjunction with the concession services will be subject to the prior written approval of the Park Manager.

(i) Concessionaire's On-Site Manager. Concessionaire designates *Full name* whose phone number is *correct number*, as the on-site manager over the Premises and employees. *Full name* is authorized by Concessionaire to make immediate decisions regarding the concession services or circumstances of the Premises. Should this designee change, Concessionaire must promptly provide the Park Manager with written notice of another authorized representative.

5.2 Authorized Optional Concession Services.

(a) Rentals. The rental of winter sports equipment to Park visitors only for use in the winter sports venue, including tubes, sleds, skis and boots, snowboards and boots. The rental of such equipment may occur from the office identified in Section 5.1(c) or an appropriate location within the base area of the Premises, as approved by the Park Manager.

(b) Other snow play. Concessionaire may designate an area of the winter sports venue for creating other snow play features, including snow castles or a beginner's training area. Such construction may only occur if space within the snow hill and base area ensures sufficient separation between activities, with customer safety being of the utmost importance.

(c) Food and Non-Alcoholic Beverages. Concessionaire may provide limited food service of prepared food and non-alcoholic beverages. No glass containers are permitted for any purpose. The sale or service of alcoholic beverages by Concessionaire is strictly prohibited.

(i) The sale of food and non-alcoholic beverages may occur from one food truck placed near the Park's Kestrel Shelter, as identified on Attachments A-1 and A-2. Concessionaire must appropriately dispose of trash and is responsible for the proper handling and disposal of all garbage and litter generated at the food truck and at the Kestrel Shelter. No storage of any items may occur outside the food truck.

(ii) The sale of food and non-alcoholic beverages must be made available to all Park visitors. This aspect of the concession services may not be limited to Concessionaire's customers utilizing the winter sports venue. The food truck area and the Kestrel Shelter must be open and available to all Park visitors.

(iii) All food items and food service must comply with the requirements of the Idaho Department of Health and Welfare governing food safety and sanitation standards for food establishments, set forth in IDAPA 16.02.19, as may be amended. A copy of any required permit, license, or inspection report must be displayed in an appropriate place in the food truck, and made available to IDPR upon request.

(iv) IDPR may prohibit the sale of any item, or order the improvement of any service or equipment not satisfying food safety requirements or sanitation standards.

(d) Kestrel Shelter Table Reservations. Up to six (6) of the Park's eight (8) tables within the Kestrel Shelter may be offered for table reservation services for a fee as part of the concession services. The remaining tables and space within the shelter will be open and available to all Park visitors without charge.

(e) Free Standing Fire Pit. Concessionaire may place one free standing fire pit at the Northwest side of the Kestrel Shelter. The placement may not be within 10 feet of any part of the shelter's structure. The fire pit must be set on level pavers provided and maintained by Concessionaire. The fire pit must be enclosed with a spark arrester. Concessionaire must designate authorized employees who are trained to correctly and safely build a wood structure, ignite, maintain, and extinguish any fire in the fire pit. Every fire must be kept small and controlled at all times.

(i) All wood must be brought onto the Premises from outside the Park. Wood may only be stored inside the office area identified in Section 5.1(c) and accessed by Concessionaire's authorized employees. Only seasoned wood may be used to reduce smoke and make ignition easier. Only clean ignition materials may be used, including matches, grill lighter, and paper. No chemicals, gasoline, or other combustibles may be utilized to ignite any fire. A five (5) gallon container filled with liquid water must be kept by the fire pit any time a fire is burning. An operable fire extinguisher must be kept in the food truck.

(ii) Prior to each day's close of business, any fire must be fully extinguished, with no visible smoke, and the ashes stirred and cool to the touch. Concessionaire is responsible for the removal of ash from the fire pit and from the Park, or to an authorized disposal area designated by the Park Manager. The Park's ash receptacles may not be utilized for disposal of ash from the fire pit.

(iii) Concessionaire is solely responsible for maintaining a fire-safe area and controlled fires. No responsibility or liability exists with, or may be placed on, the Board, IDPR, or any IDPR employee for the operation, maintenance and use of the fire pit, or any damage or injury that may result from Concessionaire's fire pit.

(f) Music. Typically, amplified sounds are prohibited in the Park under IDAPA 26.01.20.175.04. Concessionaire may play music through its speaker system during hours of operation when the winter sports venue is open to the public. The speaker system may not be used during opening, closing, or snowmaking operations.

(i) The volume of the speaker system must be set at a level so music is only heard inside the winter sports venue, which consists of the snow hill and base area. At all times the music must be family friendly without explicit lyrics or overt references to mature subject matter.

(ii) Any related complaints from Park visitors or instructions from the Park Manager will be immediately attended to by Concessionaire.

(g) Lighting. Concessionaire may affix lights to trees within the Premises. Only straps may be used. No screws, nails, or other hardware that would puncture any part of the tree may be used.

(i) Lights must be turned off at the close of each business day, except the minimum lights necessary for snowmaking operations. Lights used during snowmaking operations must be controlled separately from all other lights, dimmed if possible, and turned off each day when snowmaking operations are done.

(ii) Every light must be removed at the end of each operating season. Concessionaire will be responsible for replacing any such tree that is damaged, killed or dying, as identified in the Park Manager's sole discretion.

(h) Recreational Vehicle. Concessionaire may place one recreational vehicle ("RV") near the Park's Osprey Shelter, as identified on Attachments A-1 and A-2. Use of the RV is for the limited purposes of providing a safe space for Concessionaire's designated employees during snowmaking operations, and for employee breaks during normal hours of operation.

(i) The RV may not be utilized as a residence. The RV may not be used for any type of social gathering and may not be offered as an accommodation to Concessionaire's customers. No other vehicle may be parked at or near the RV at any time.

(ii) No item of any sort may be stored outside of the RV. Concessionaire must appropriately dispose of trash and is responsible for the proper handling and disposal of all garbage and litter generated at and around the RV.

(iii) The Osprey Shelter will be open and available to all Park visitors without charge by Concessionaire. Concessionaire must make the placement of the RV as minimally intrusive, visually and physically, as possible.

(iv) Any related complaints from Park visitors or instructions from the Park Manager will be immediately attended to by Concessionaire.

(i) Group Use Permit. For any special event or group use, including one that would result in any part of the concession services being unavailable to all Park visitors during normal hours of operation; occur outside of normal hours of operation; or have additional providers of food, beverages (alcoholic or non-alcoholic), or other goods or services being brought onto the Premises Concessionaire must coordinate with the event or group contact person(s) to submit the appropriate IDPR form along with the associated fee, and the Park Manager may issue a group use permit consistent with IDPR policy.

(j) Other Temporary Concession Services. If, in coordination with Concessionaire, any other person or entity provides any good or service within the Premises, that person or entity must first apply for and enter into a temporary concession agreement with Lessor.

5.3 Season of Operations and Operating Hours.

(a) Normal Season of Operations. The normal season of operations will begin in November, the Monday after the final cross-country race, and end on April 1 each year of the Contract Term. Pre-season mobilization may not begin prior to or during the race. If a cross-country race does not occur in November, pre-season mobilization and set-up will begin the second Monday of November.

(b) Normal Hours of Operation. The concession services normal hours of operation will be from 9:00 a.m. to 9:00 p.m. (Mountain Standard Time), seven days a week. Concessionaire's employees may conduct opening and closing duties one hour before and one hour after the normal hours of operation. Operating hours may only be adjusted with prior written approval of the Park Manager.

(c) Snowmaking Hours. As needed, Concessionaire may operate snowmaking and grooming equipment within the winter sports venue area of the Premises outside the normal hours of operation.

(d) Conditions on Normal Operations Schedule.

(i) At least ninety (90) days before the beginning of each normal season of operations, Concessionaire will provide the Park Manager with an operations schedule indicating expected dates and hours of operations, and any special circumstances or known events that may result in deviations from the annual operations schedule.

(ii) IDPR reserves the right to require changes in the dates and times of any normal season's operations schedule, or to the required concession services to ensure adequate service to the public and avoid conflict with other authorized uses occurring within the Park.

(iii) In the event of an emergency or circumstance of short duration that necessitates immediate action, the Park Manager may require, upon reasonable notice under the circumstances, or permit the temporary cessation or

other changes to Concessionaire's operations when, in the Park Manager's discretion, such changes are necessary to protect Park resources; to protect the health, safety, and welfare of Park visitors; to avoid conflict with other authorized uses occurring within the Park; or in the event of adverse weather conditions.

(e) Annual Maintenance Plan. At least ninety (90) days before the beginning of each normal season of operations, Concessionaire must prepare and submit to the Park Manager for approval, an annual maintenance plan for the concession, improvements, facilities, and utility systems.

(f) Licenses and Permits. At its own cost, Concessionaire must obtain and maintain all permits and licenses that may be required for operation of the concession. If Lessor, in its sole discretion, determines additional regulatory compliance or third party training or safety certification is needed related to the concession services, Lessor will provide written notice to Concessionaire. Non-compliance within the timeframe designated in the written notice will be an event of default under Section 8.1.

(g) No New or Expanded Concession Services. No new or expanded concession services, improvements, or fixtures in addition to those authorized under this Contract, will be approved during the Contract Term.

5.4 Accessibility Requirements. Every required and optional concession service will be open to the public and must meet Federal accessibility standards and comply with requirements of the ADA and the ABA, including the general obligation to provide an equal opportunity to individuals with disabilities to enjoy the concession services.

5.5 Annual Review and Recording of Rates for Concession Services.

(a) Control of Rates. Concessionaire agrees that all fees and prices charged by Concessionaire for winter sports venue access, rentals, beverages, food, or other concession services furnished or sold on or utilizing the Premises are subject to review and approval by the Park Manager, which approval will not be unreasonably withheld if such fees and prices are consistent with similarly situated activity prices in Idaho.

(b) IDPR Review of Rate Schedule. At least ninety (90) days before the beginning of each normal season of operations, Concessionaire must provide the Park Manager with a list of all fees, rates, and prices proposed for the upcoming operating season.

(i) Such submission must include all information necessary to determine the quality and quantity of equipment, goods, beverages, food, and services to be furnished, rented, or sold. Any increase to fees or prices charged by Concessionaire must be reasonably related to the quality and quantity of the item(s) and consistent with prices charged by private businesses in Idaho providing comparable services and merchandise.

(ii) If IDPR determines that any price is not so related, IDPR may order that the price be modified. But IDPR may not require a modification in price that would prevent Concessionaire from realizing a reasonable profit on items or services sold.

(iii) Concessionaire must keep a schedule for all fees, rates, and prices posted at all times in a conspicuous place on the Premises.

(c) Point of Sale System. Concessionaire must install and maintain such cash register equipment or software as will provide a continuous registering tape and show sales breakdown of the categories of concession services and items or services sold.

(d) Record-Keeping. Concessionaire must keep true and accurate books and records showing all business transactions in separate records of account, including a sales journal, cash disbursement journal, and general ledger for the concession.

(i) Concessionaire must install and maintain inventory, bookkeeping, accounting methods, and methods of collection of monies that permit Lessor to accurately compute the gross revenue of all concession services.

(ii) Upon reasonable notice, Lessor will have the right to examine daily sales records of the concession. Lessor will have the right to examine all other books and records, including inventory records and certified State of Idaho Sales Tax Return Records; provided that Lessor will treat such records as confidential and not divulge them to third parties except as may be required by law.

(iii) Lessor will have the right to examine all related books and records at any time within two (2) years of termination of this Contract, or until such time that a final audit is concluded as to Concessionaire's business under this Contract, whichever event occurs first.

5.6 Utilities. Concessionaire will, at its own expense, be responsible for all extensions, connections, metering, invoiced rates, and other related costs, including all municipal connection fees and any necessary construction permits for all utilities used in connection with the Premises. Neither the Park nor IDPR will be responsible for Concessionaire's utility usage.

(a) Electricity. Concessionaire will be responsible for the initiation, accrual, and payment of all electricity charges during each season of operations, including the Idaho Power account for Meter # 77038474 and any other electricity utilized for the Premises. Concessionaire will place the applicable meter(s) into its name at least seven (7) days prior to pre-season mobilization each November through post-season demobilization each April.

(i) All power cords servicing any part of the Premises must be affixed to the ground or other solid surface to avoid or diminish tripping hazards.

(b) Waste Disposal. Concessionaire will be responsible for the collection, removal and off-site disposal of all garbage, litter, and other solid waste associated with all aspects of the concession services.

(c) Water. As approved by the Idaho Department of Water Resources, the Committee of Water District No. 63, or other governing entity Concessionaire may use water from the Park's pond for snowmaking operations.

(i) At least ninety (90) days before the beginning of each normal season of operations, Concessionaire must provide the Park Manager with a visual depiction of the preferred placement of the dock, pump, waterline(s), and snowmaking machines.

(ii) IDPR will submit the requisite form and any associate application fee to the governing entity. If any payment for the approved quantity of water is due at the time of application, IDPR will submit that payment to the governing entity. IDPR will notify Concessionaire of those amounts paid or any amount due and owing to the governing entity. Within thirty (30) days of the notification, Concessionaire must reimburse IDPR for every amount paid. Any other amount due and owing to the governing entity must be timely paid by Concessionaire.

(iii) Concessionaire will be responsible for installing and utilizing a pump with a flow meter that correctly measured and recorded the water used for snowmaking.

5.7 Taxes. Lessor is not liable for any taxable event related to the concession. Concessionaire must pay when due all taxes lawfully assessed and levied upon Concessionaire's interest in the Premises, upon improvements constructed or maintained by Concessionaire on the Premises, and upon goods and services sold or rented on the Premises. Concessionaire must provide IDPR with a valid tax identification number.

5.8 Limitations.

(a) No Concessions Outside Premises. No provision in this Contract may be construed as granting to Concessionaire the privilege of providing concession services on any Park lands outside the Premises.

(b) No Unauthorized Concession. Concessionaire is prohibited from providing additional concession services not identified in this Contract.

(c) No Right of Exclusion. All concession services provided by Concessionaire must be made available to the public. No private exclusive recreational uses of the Premises or improvements is allowed.

(i) Concessionaire acknowledges that the Premises is Park land open to public use.

(ii) Exclusive use is any use that excludes other public recreation use or users for a period of time not approved in advance by the Park Manager.

(iii) Concessionaire acknowledges that Lessor reserves the right to authorize others to use the Premises; excepting any exclusion that is necessary for the public health or safety, or that will unreasonably interfere with Concessionaire's business operations. Lessor will provide Concessionaire with advance notice of any such proposed use, to allow for Concessionaire's reasonable evaluation of whether and to what extent such proposed use might interfere with Concessionaire's operations.

(iv) All activities related to the Concession will be conducted in a manner that does not disrupt the normal public use of any campground, day use area, picnic shelter, trail, walkway, parking lot, or roadway. If a conflict between normal public use of such Park facilities and the concession is detected, immediate corrective action will be taken by the Concessionaire or when notified by Park staff of the conflict.

(d) No Discrimination.

(i) Concessionaire and its employees may not discriminate against any person because of race, color, religion, sex, national origin, or disability by refusing to furnish such person any accommodation, facilities, services, or privileges offered to or enjoyed by the general public. Nor may Concessionaire or its employees publicize the accommodations, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability or the patronage of any person because of race, color, religion, sex, national origin, or disability.

(ii) In the performance of this Contract, Concessionaire may not discriminate against any employee or applicant for employment because race, color, religion, sex, national origin, age, disability, or genetic information. Concessionaire must take action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, age, disability, or genetic information. Such actions include the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(iii) Concessionaire will permit access to its records of employment, employment advertisement, application forms and other pertinent data and records by any agency of the State of Idaho designated for the purpose of investigation to ascertain compliance with Title 67, Chapter 59, Idaho Code.

(e) As-Is. Concessionaire accepts the Premises and all improvements, fixtures, utilities, and equipment existing at the beginning of this Contract in its present condition with all faults or hazards, whether patent or latent, and without warranties or covenants, express or implied, regarding the suitability of the Premises for Concessionaire's uses. Concessionaire acknowledges that Lessor will have no duty to maintain, repair, or improve the Premises or otherwise make them suitable for Concessionaire's use. If any portion of the Premises is destroyed, Lessor will have no obligation to replace or restore such portion of the Premises.

(f) No Other Enterprises. Industrial and manufacturing enterprises are strictly prohibited.

(g) No Unapproved Subconcession. Any subcontract tiered off this Contract is prohibited and void.

6. INSURANCE. Concessionaire must obtain at its own expense insurance coverage that complies with all limits, terms, and conditions set forth in this Contract. Concessionaire must not provide required or optional concession services, construct improvements or fixtures, or transact business on the Premises until satisfactory evidence of all required insurance is provided to IDPR.

6.1 Required Limits. For the duration of the Contract Term, Concessionaire must maintain insurance in amounts that are not less than the following:

(a) Commercial General Liability (“CGL”) with a limit of not less than \$1,000,000 each occurrence, and \$1,000,000 annual aggregate, if defense is outside the limits. If defense is inside the limits, the limit must be \$2,000,000 each occurrence, and \$2,000,000 aggregate. If necessary, a commercial umbrella or excess policy may be used to meet the limits required, providing the CGL is listed on the underlying insurance in the umbrella or excess policy, and the umbrella or excess policy meets the qualifications for an acceptable carrier.

(b) Automobile Liability, including owned, non-owned, and hired liability with a limit of not less than \$1,000,000 each occurrence, and \$1,000,000 aggregate. If necessary, a commercial umbrella or excess policy may be used to meet the limits required, providing the Automobile Liability is listed on the underlying insurance in the umbrella or excess policy, and the umbrella or excess policy meets the qualifications for an acceptable carrier.

(c) Business property insurance covering all improvements and personal property of Concessionaire in, on, or at the Premises. Policy limits must be sufficient to cover the value of all Concessionaire-owned property in, on, or at the Premises, and must cover all risks to such property.

(d) Workers Compensation Insurance in amounts as required by Idaho law, and Employer’s Liability with a limit of \$100,000 Bodily Injury by Accident-each Accident, \$100,000 Bodily Injury by disease-each employee, \$500,000 Bodily Injury by Disease-policy limit.

6.2 Additional Insureds Endorsement; No Right of Subrogation. All insurance, except for Workers Compensation, must be endorsed to name the “State of Idaho, the Idaho Department of Parks and Recreation” as an additional insured. Concessionaire will provide IDPR with a certified endorsement naming all additional insureds. The certified endorsement must also provide that the insurer has no right of subrogation against the State. None of the foregoing additional insureds will be liable for the payment of premiums or deductibles of any policy.

6.3 Subject to Approval; Notice. The required insurance is subject to IDPR’s approval, but any acceptance of insurance by IDPR will in no way limit or relieve Concessionaire of the duties and responsibilities stipulated in this Contract. Concessionaire must provide IDPR with a correct copy of all certificates of insurance; certified endorsements applicable to the insurance required; and all notices relating to insurance coverage, including notices of cancellation, renewal, amendments, potential exhaustion of aggregate limits, and denials of coverage.

6.4 Primary Basis. The coverage provided by the required policies must be issued on a primary basis, non-contributory with other insurance coverages. Policies may contain deductibles, but such deductibles may not be deducted from any rent due to IDPR.

6.5 Insurer's Qualifications. Any insurance carrier must have an AM Best's Rating of A-VII, or better, and be licensed and authorized to transact business in Idaho.

7. INDEMNIFICATION.

7.1 Concessionaire shall indemnify, defend, and save harmless Lessor and its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys fees, and suits whatsoever caused by, arising out of, or in connection with acts or omissions by Concessionaire and its employees, agents, contractors, and sub-contractors under this Contract, or any failure to comply with any State or Federal law, regulation, or rule or any local ordinance.

7.2 Upon receipt of a tender of indemnity and defense, Concessionaire shall immediately take all reasonable actions necessary, including providing a legal defense for Lessor, to begin fulfilling its obligation to indemnify, defend, and save harmless. Concessionaire's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of Lessor under this Contract. However, if it is determined by a final judgment that Lessor's negligent act or omission is the sole proximate cause of a suit or claim, it shall not be entitled to indemnification from Concessionaire with respect to such suit or claim; and Lessor, in its discretion, may reimburse Concessionaire for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General, for Lessor, appointed pursuant to Section 7.3.

7.3 Any legal defense provided by Concessionaire to Lessor under this Section must be free of any conflicts of interest, even if retention of separate legal counsel for Lessor is necessary. Any attorney appointed to represent Lessor must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code §§ 67-1401(13) and 67-1409(1).

8. TERMINATION.

8.1 Termination by Lessor. Each provision and condition of this Contract is material, and uncured default will be a breach by Concessionaire and will be grounds for termination of the entire Contract by Lessor. Any material violation by Concessionaire of any law, rule, or regulation now in force, or as may be amended, will be grounds for termination of this Contract. The determination of

whether a violation constitutes a material violation subjecting this Contract to immediate termination will rest solely in the discretion of the Director.

(a) Notice of Default. IDPR will provide written notice to Concessionaire of any default and will allow Concessionaire at least thirty (30) days from service of the notice to cure the default. The Director's determination that the Concessionaire's manner and operation of the concession does not satisfy the requirements of the notice of default will be grounds for termination.

(b) Violation of Land and Water Conservation Fund Act. Concessionaire must comply with the provisions of the Land and Water Conservation Fund Act ("LWCF") and implementing guidelines published at 36 Code of Federal Regulations 59, including provisions requiring the Premises to be maintained as a public outdoor recreation facility, not as a private area; provisions requiring fees to be competitive with fees for similar private facilities; and compliance with all civil rights and accessibility legislation, including Title VI of Civil Rights Act, the ADA and ABA. Noncompliance with LWCF requirements will be deemed a material violation of this Contract and cause for immediate termination.

(c) Notice of Termination. Any default that has not been cured within the timeframe stated in the notice of default, or any event warranting immediate termination as identified in this Contract, will subject this Contract to termination for cause at the sole discretion of the Director. Notice of termination will be in writing and will be effective upon service.

(d) Immediate Termination; No Opportunity to Cure. If, in the Director's sole discretion, it is determined that Concessionaire has acted in a way that endangers public safety or could result in an immediate public crisis, this Contract may be immediately terminated without advance written notice or an opportunity to cure.

(e) Reinstatement. Not later than thirty (30) days following the termination of this Contract for cause, the Concessionaire may submit to the Director a written request for reinstatement setting forth good cause why the Contract should be reinstated. At the Director's sole discretion, this Contract may be reinstated upon Concessionaire's payment of a reinstatement fee of Four Hundred Dollars (\$400.00), payment of IDPR's administrative costs associated with the reason for termination or enforcing this Contract which is hereby designated to be Fifty Dollars (\$50.00) per day from the date of notice of default until the default is cured, and upon such other terms and conditions as Lessor deems appropriate.

8.2 Termination by Concessionaire. Concessionaire may terminate this Contract by giving one (1) year written notice to IDPR of its intent to terminate.

8.3 Holding Over.

(a) If Concessionaire holds over after the termination of this Contract with the express or implied consent of Lessor, such holding over will be deemed to be a month-to-month tenancy of the Premises and will otherwise be subject to the terms of this Contract.

(b) During such month-to-month tenancy, Concessionaire must pay a monthly rent amount equal to one-fourth (1/4) of the prior normal season of operation's rent, as calculated pursuant to Section 4. Payment must be made on or before the first day of each month in the manner set forth in Section 4.

8.4 Transition Upon Termination.

(a) Payment of Rent Due. Upon termination, the annual rent for the year in which termination occurs (i.e., the specified percentage of gross receipts received through the date of termination) and any other amount due will be considered at once due and payable by Concessionaire without notice by IDPR. Concessionaire's obligation to pay all rent and other amounts due under this Contract will survive termination of this Contract until all amounts are paid in full.

(b) Personal Property. At the termination of this Contract, Concessionaire must, weather permitting, remove from the Premises or otherwise dispose of in a manner satisfactory to IDPR all personal property belonging to Concessionaire, and restore the Premises to as good a condition as the same were in on the Effective Date by not later than the thirty (30) days after the termination of this Contract (the "Removal Deadline"). If removal and restoration is not completed by the Removal Deadline, IDPR may, at its election, perform the work and bill Concessionaire for the costs incurred. Concessionaire must pay such bill within thirty (30) days of receipt.

(c) Improvements and Fixtures. Concessionaire's sole right upon termination is to remove non-utility related improvements and fixtures and restore the Premises to the conditions existing on the Effective Date. Unless the Parties agree otherwise in writing prior to the Removal Deadline, if Concessionaire does not act on the right of removal all improvements and fixtures constructed or installed by Concessionaire during the Contract Term will be considered the property of IDPR, with no further compensation due to Concessionaire, regardless of whether Lessor intends to allow similar business operations upon the Premises.

(i) At the termination of this Contract for any reason, Concessionaire will not be reimbursed for its capital or maintenance costs on the Premises for any improvements and related fixtures, including any public facilities; additional or improved utility lines or metering devices; or other use and site amenities.

(d) Bankruptcy. A material breach of this Contract will be deemed to occur if Concessionaire files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or if involuntary proceedings under any bankruptcy act or insolvency act be instituted against Concessionaire or if a trustee or receiver is appointed of any property of Concessionaire.

(i) If, upon bankruptcy or insolvency of Concessionaire, Lessor does not elect to terminate this Contract pursuant to Section 8.1, any use, assignment, or disposition of improvements, fixtures, and appurtenances existing upon the Premises by a trustee or receiver must be subject to the terms of this Contract.

(e) Going Concern. Blue Sky, Business Values. Since the concession services are dependent upon a valid lease from Lessor and derive the majority of their value from their location within the Park, Lessor does not recognize going-concern, goodwill, blue sky, business values, trade name, or other intangible property upon termination of this Contract, regardless of whether Lessor intends to continue similar business operations upon the Premises or offer an opportunity to a successor concessionaire to operate a similar business upon the Premises.

9. NO SUBLEASE; NO LIENS; NO ASSIGNMENT; NO MORTGAGE ON LEASEHOLD INTEREST.

9.1 No Sublease. No part of Concessionaire's interest may be sublet, transferred, or parceled out, including Concessionaire-owned improvements or facilities.

9.2 No Liens. Concessionaire may not allow or suffer any liens of any kind to be effected on or enforced against the Premises, including any mechanics' liens or material suppliers' liens for any work done or materials furnished on the Premises at Concessionaire's instance or request. Concessionaire must ensure that full payment is made for all materials joined or affixed to the Premises pursuant to this Contract and to all persons who perform labor on the Premises.

9.3 No Assignment. This Contract may not be assigned, sold, or transferred to any other person or entity. Any person or entity that owns a controlling interest in Concessionaire may not assign or otherwise sell or transfer any rights or responsibilities under this Contract, nor sell or otherwise assign or transfer (including mergers, consolidations, reorganizations or other business combinations) a controlling interest in such operations, this Contract, or controlling interest in Concessionaire's ownership, without the prior written consent and approval of the Board.

9.4 No Leasehold Mortgage. Concessionaire may not mortgage, pledge, hypothecate or otherwise transfer Concessionaire's interest in this Contract, or any portion of this Contract, including any Concessionaire-owned improvements on the Premises.

9.5 Limited Consent. Any approval by the Board, the Director, or IDPR will be held to apply only to the specific transaction. That approval will not be construed as a waiver of any duty of Concessionaire, including Concessionaire's obligation to obtain prior written approvals as required under this Contract.

10. RIGHTS RESERVED BY LESSOR. Lessor expressly reserves to itself all rights not expressly granted to Concessionaire under this Contract. Such reserved rights include the following:

10.1 Property Rights Retained. This Contract does not convey any fee simple property rights either in real or personal property to Concessionaire.

10.2 Rights of Access. Lessor retains rights of ingress, egress, and access over, under, and across the Premises, at all times, for IDPR and its employees, contractors, and other authorized representatives. Further, Lessor will have access

to every part of the Premises for the purpose of inspecting the Premises, and during normal operating hours to inspect daily sales records.

10.3 Emergency Repairs. In the event of any emergency including vandalism, fire, wind, flooding, hail, or other event that threatens damage to the Premises or harm to the public, IDPR may immediately act to respond to such emergency and mitigate any potential damage to the Premises. IDPR will notify Concessionaire of any emergency circumstances, action, or repair, and will request that Concessionaire make further repairs necessitated by such emergency. Concessionaire must reimburse IDPR for all reasonable repairs made pursuant to this emergency provision.

10.4 Right to Grant Other Concessions. Lessor reserves the right to grant concession privileges to other persons or entities on any portion of the Park that is outside the Premises, whether or not those concession services are similar to that of Concessionaire. Lessor reserves the right to grant concession privileges consistent with Section 5.2(j).

11. COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES.

11.1 Administration by IDPR. This Contract will be administered by IDPR in accordance with its policies and with Board rules and policies, as may be amended; and applicable Idaho Code statutes, as may be amended.

11.2 Compliance by Concessionaire. Concessionaire, in exercising the privileges granted by this Contract, must comply with all applicable IDPR policies and Board rules and policies, as may be amended, including IDAPA 26.01.20 – *Rules governing the Administration of Park and Recreation Areas and Facilities*; and all other applicable state laws, and local ordinances and regulations.

12. Notice. Notices required or contemplated under this Contract must be in writing. Notices will be deemed given and served when hand-delivered or deposited in the United States Mail by regular or certified mail, postage prepaid, and correctly addressed to the other Party. Notice may, in the alternative, be given and served by electronic transmission to a below-designated email address, or to such other email address as may, by notice, be designated by the Party. If any type of “undeliverable” message is received by the Party transmitting an email, service will be presumed to not have occurred. If a Party shows that the person assigned to an email address was no longer employed by the Party at the time of transmittal, service will be presumed to not have occurred.

Notices must be mailed to the following respective addresses, or such other addresses as a Party may, by notice to the other Party, designate. Notice of any change in address is the sole duty of that Party. If no notice of change in address is provided, notice will be deemed given and served to the address stated in this Contract. Either Party may change the place for giving notice by written notice to the other Party. Notices must be sent, as follows:

Lessor

Idaho Department of Parks and Recreation
Attn: Park Manager
165 Eagle Island Parkway
Eagle, Idaho 83616

Concessionaire

Gateway Parks, LLC
c/o Ryan Neptune, Member
PO Box 2227
Boise, ID 83616
Email: ryanneptune@me.com

13. ADDITIONAL CONTRACT PROVISIONS.

13.1 Authority and Indemnification of Authority. The Parties each represent and warrant that they possess full and complete authority to covenant and agree as provided in this Contract.

(a) Lessor. The signatory for Lessor represents and warrants that such signatory possesses the authority to covenant and agree as provided in this Contract.

(b) Concessionaire. The signatory for Concessionaire represents and warrants that such signatory possesses the authority and has been authorized by the members of the limited liability company, and by any parent–entity or umbrella–entity that Concessionaire is a subsidiary of, to enter into this Contract, whether by resolution of a governing board, upon the instruction by an authorized officer, managing member, as authorized in the operating agreement of the company or other entity on whose behalf the signatory is executing this Contract. In the event any person or entity asserts any interest in or the right to pursue any of the Concessionaire’s privileges or claims released in this Contract, the Concessionaire must promptly and fully defend and indemnify Lessor against any and all such claims.

13.2 Audits and Monitoring. Concessionaire must permit Lessor or any duly authorized agent of Lessor to audit, inspect, examine, excerpt, copy, or transcribe Concessionaire’s financial records during the Contract Term and for a period of five (5) years following termination of this Contract to assure compliance with the terms of this Contract or to evaluate Concessionaire’s performance under this Contract. Concessionaire must also permit Lessor or its agent to monitor all activities conducted by it pursuant to this Contract. As Lessor may determine in its sole discretion, such monitoring may include internal evaluation procedures, examination of data, special analysis, on-site checks, or other procedures.

13.3 Proof of Registration and Good Standing. Concessionaire must register its business entity and assumed name, if applicable, with the Idaho Secretary of State and remain in good standing during the term of this Contract. For each year of the Contract Term, Concessionaire must provide proof of

registration and good standing to IDPR at least thirty (30) days prior to the beginning of the normal operating season.

13.4 Time of Essence. Time is expressly declared to be of the essence of each and every provision, covenant, condition, duty, and obligation of this Contract.

13.5 Force Majeure. If Concessionaire is delayed, hindered, or prevented from performing any act required under this Contract by reason of any act of God; failure of electricity or any utility; fires; floods; drought; unusually severe weather; poor water quality or other pollution; restrictive government laws or regulations, including government actions related to any epidemics, pandemics, or quarantines; strikes; lockout; labor trouble; inability to procure materials; freight embargoes; war; riot; insurrection; escalation of hostilities; or any other reason beyond the Concessionaire's control making performance impossible, then performance of that act, and that act only, will be excused for the reasonable period of the delay upon proper and satisfactory proof presented to IDPR. IDPR must be notified within five (5) days of any force majeure event. In that event, the period for the performance of the act may be extended for a reasonable period equivalent to the period of the delay. Concessionaire must work diligently to eliminate the delay and immediately notify IDPR when the reason for the force majeure event has ceased. Neither Concessionaire's financial condition nor the failure of any third party with whom Concessionaire contracts will be an event of force majeure excusing the performance of any act required by this Contract. Lessor will have no liability for any damages Concessionaire incurs as a result of any force majeure event.

13.6 Public Records. Pursuant to Idaho Code §§ 74-101 *et seq.*, information or documents received from Concessionaire may be open to public inspection and copying unless specifically exempt from disclosure. Concessionaire must clearly designate individual documents as "exempt" on each page of such documents and must indicate the statutory basis for such exemption. Lessor will not accept the marking of an entire document as exempt. In addition, Lessor will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. Concessionaire must indemnify and defend Lessor against all liability, claims, damages, losses, expenses, actions, attorney fees, and suits whatsoever for honoring any designation by Concessionaire, or for Concessionaire's failure to designate individual documents as exempt. Concessionaire's failure to designate as exempt any document or portion of a document that is released by Lessor will constitute a complete waiver of any and all claims for damages caused by any such release.

13.7 Survival. Any provision of this Contract that expressly or by implication comes into or remains in force following the termination of this Contract (for any reason) will survive the termination of this Contract for the period set forth in such provision, or if no period is set forth in such provision, for the period that is coextensive with the applicable statute of limitations. Notwithstanding anything to

the contrary in this Contract, any indemnification obligations will survive the termination of this Contract.

13.8 Governing Law and Forum. This Contract will be construed in accordance with and governed by the laws of the State of Idaho. The Parties consent to the jurisdiction and venue of the Idaho State District Court located in Ada County in the event of any dispute with respect to this Contract or the Premises.

13.9 Legal Fees. In the event either Party initiates a legal proceeding under this Contract, the prevailing party in that legal proceeding will be entitled to such additional sums as the court may award for reasonable attorney fees (including fees from the Office of the Attorney General of the State of Idaho) and costs (including appraisal fees and expert fees) incurred in such proceeding.

13.10 Cumulative Remedies. Arising from this Contract, Lessor will have all rights and remedies which this Contract and the laws of the State of Idaho may provide, in law or in equity. All rights and remedies accruing to Lessor will be cumulative; that is, Lessor may pursue all rights that the law and this Contract afford to it, in whatever order Lessor desires and the law permits, without being compelled to resort to any one remedy in advance of any other.

13.11 No Waiver. A waiver by the Board, the Director, or an IDPR employee of any breach of any term, covenant, or condition of this Contract shall not be deemed to be a waiver of any past, present, or future breach of the same or any other term, covenant, or condition of this Contract. The acceptance of rent by IDPR hereunder will not be construed to be a waiver of any violation of any terms or conditions of this Contract. No payment by Concessionaire of a lesser amount than is due according to the terms of this Contract may be deemed or construed to be anything other than a partial payment on account of the most recent rent payment due, nor may any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

13.12 Joint Liability. If Concessionaire consists of more than one person or entity, such persons and entities will be jointly and severally liable for each provision, condition, covenant, duty and obligation of this Contract.

13.13 Relationship of Parties. Nothing contained in this Contract may be construed as creating any relationship between the Parties other than that of landlord and tenant; and nothing contained in this Contract may be construed to create any other relationship between the Parties, including any relationship of principal-agent, master-servant, employer-employee, partnership or joint venture.

13.14 Promotion. Except as allowed with IDPR's prior written approval, Concessionaire must not use the name of Lessor, the Park, or the State of Idaho; or the fact that any of Concessionaire's operations are conducted in whole, or in part, on the Premises in any advertisement or prospectus promoting the sale of stock. The reflection of this Contract as an asset of Concessionaire on the accountings, financial records and statements will not constitute a breach of this provision.

13.15 Entire Agreement. This Contract, including all Attachments, as may be amended, contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this Contract has not been induced by either Party, or any agent of either Party, by representations, promises, or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements, or undertakings whatsoever between the respective parties concerning this Contract except those which are expressly contained herein.

13.16 Written Modifications. Except as provided herein, no modification, extension, assignment, release, discharge, change, or waiver of any provision of this Contract will be of any force, effect, or value unless signed in writing by the Parties.

13.17 Severability. In the event any provision of this Contract is held invalid or unenforceable under applicable Idaho law, the validity, legality, or enforceability of the remaining provisions, and the application thereof, will not in any way be affected or impaired. In such event, the remaining provisions of this Contract must be interpreted as closely as possible to provisions held invalid or unenforceable.

13.18 Headings. Headings in this Contract are for convenience and reference only and may not be used to interpret or construe any provision of this Contract.

13.19 Counterparts. This Contract may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute but one and the same instrument.

[The remainder of this page is intentionally left blank.]

In Witness Whereof, the Parties hereto have caused this Contract to be duly executed on the day and year last written below.

**STATE OF IDAHO, IDAHO PARK AND
RECREATION BOARD by and through the IDAHO
DEPARTMENT OF PARKS AND RECREATION**

DRAFT DRAFT DRAFT

Date: _____

TROY ELMORE, OPERATIONS ADMINISTRATOR

STATE OF IDAHO)
)ss.
County of Ada)

On this _____ day of _____, 2023, before me, a Notary Public in and for said State, personally appeared Troy Elmore, known to me to be the IDPR Operations Administrator, that executed the within instrument, and acknowledged to me that the Idaho Department of Parks and Recreation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

Notary Public
Residing at: _____
My Commission Expires: _____

GATEWAY PARKS, LLC, an Idaho limited liability company, whose Idaho mailing address is PO Box 2227, Boise, ID 83616.

GATEWAY PARKS, LLC,
an Idaho limited liability company

DRAFT DRAFT DRAFT

Date: _____

By: _____

Its: _____

STATE OF IDAHO)
)ss.
County of _____)

On this ____ day of _____, 2023, before me a notary public in and for said State, personally appeared _____, known or identified to me to be the _____ of GATEWAY PARKS, LLC, an Idaho limited liability company, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year first above written.

(seal)

Notary Public
Residing at: _____
My Commission Expires: _____

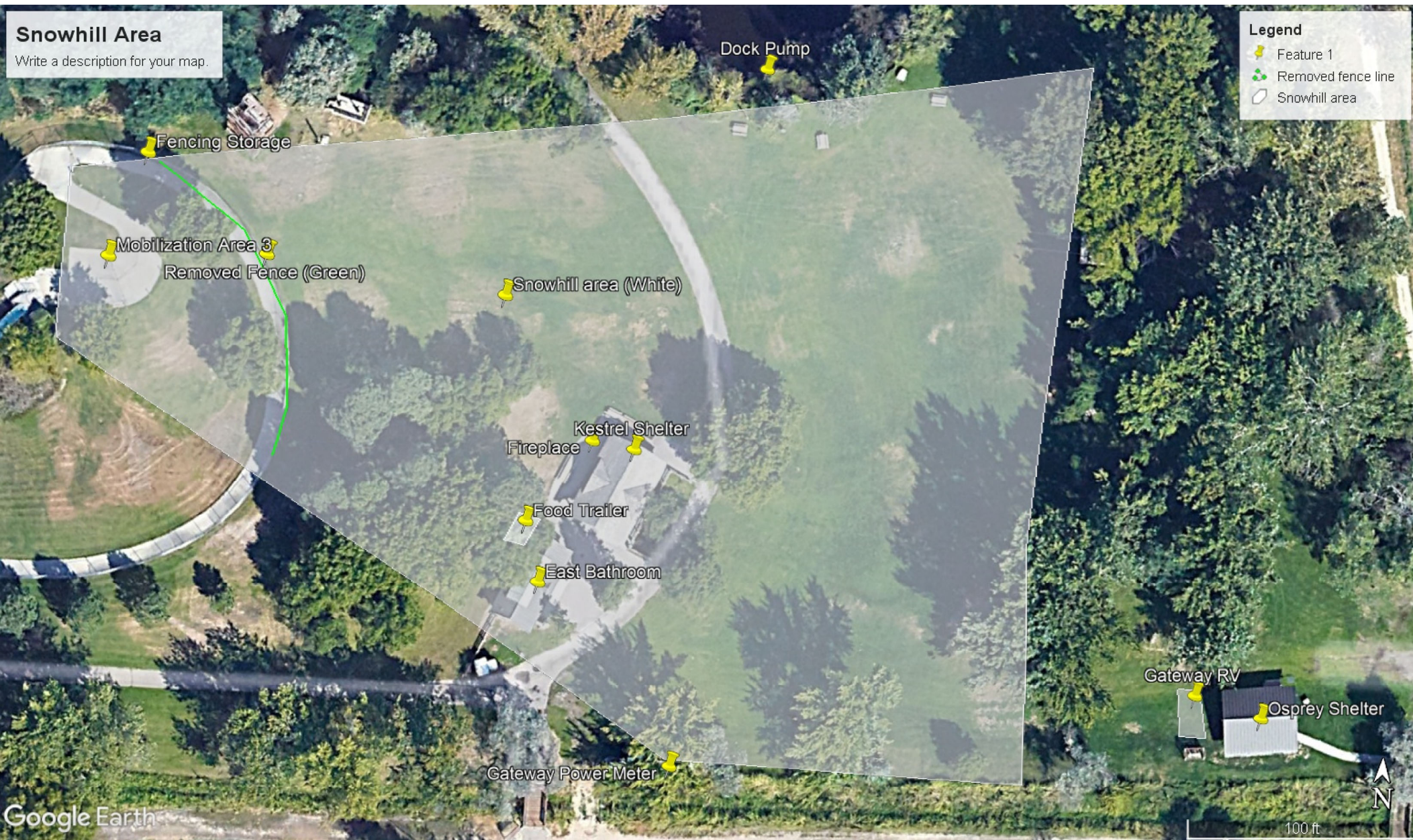
ATTACHMENT A
Concession Premises
Description and Map

The Premises includes approximately two (2) acres of land that make up the winter sports venue snow hill and base area, the East bathrooms, the food truck location next to the Park's Kestrel Shelter, limited uses of the Kestrel Shelter, the RV location next to the Park's Osprey Shelter, and the Office and Storage area as identified and incorporated by reference throughout this Contract, and depicted in the following maps identified as Attachments A-1, A-2, A-3 and A-4:

Attachment A-1



Attachment A-2



Attachment A-3



Attachment A-4



Attachment B
Gross Receipts Reporting Form

Date: _____

Concession Number: 24-001-EAG-LCA-2026

Park: Eagle Island State Park

Park Unit, if applicable: _____

Concessionaire Name: _____

dba: _____

Company Address: _____

City State Zip: _____

Contact Name: _____

Contact Phone Number: _____

SSN or
Tax ID # _____ Date From: _____ Date To: _____

Attach a Copy of W-9 form

A. Income

(1)	Annual Rent (Ref: Data Page)	\$
(2)	Food and Beverage	\$
(3)	Table Reservations	\$
(4)	Winter Sports Venue	\$
(5)	Special or Group Use Events	\$
(6)	Outdoor Equipment Rental	\$
(7)	Other (specify)	\$

B. Total Gross Income - add amounts from lines **A(2) - A(7)** \$

C. Sales and Excise Taxes \$(-)

D. Net Income - subtract line C from amount on line B \$

E. Total Gross Income (from above) \$

F. Lessor's Share Line E x 11 % = \$

SEND THIS AMOUNT \$

Attach cashier's check and mail to:

Idaho Dept. of Parks and Recreation
Attn: Park Manager
165 Eagle Island Parkway
Eagle, Idaho 83616

IDPR Only

Ck \$:
Ck #:
PCA:
Fund:
Grant #:
S/O code:
2735

*contact OPS for #

OPS to Accounting; cc: Park Manager

Attachment C
Activity Reporting for Previous Year's Season – 20____-20____

Concessionaire Name:				(expiration date:)	
	Week Dates	Total # of Customers	Type of Activity	Equipment Rented / Sales Items	Gross Receipts
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
21.					
22.					
23.					
24.					
* Make additional page copies as necessary or attach Concession documentation				Total Revenue	

STATE OF IDAHO DEPARTMENT OF PARKS & RECREATION
CONCESSION AGREEMENT
EAGLE ISLAND STATE PARK
ADA COUNTY, IDAHO
14-001-EAG-LCA-2024

THIS AGREEMENT is made on the 25 day of FEBRUARY, 2014, BETWEEN THE STATE OF IDAHO, acting through the DEPARTMENT OF PARKS AND RECREATION, P.O. Box 83720, Boise, Idaho 83720-0065, herein referred to as STATE, and Ryan Neptune, dba Gateway Parks, herein referred to as CONCESSIONAIRE. The STATE manages Eagle Island State Park, herein referred to as PARK. The STATE desires to enter into an agreement with CONCESSIONAIRE to provide for the creation and operation of a winter sports venue at the PARK, pursuant to the authority of IDAPA 26.01.20.650, which provides that no "person, firm, or corporation may operate any concession, business, or enterprise within lands administered by the department without written permission or permit from the [Park and Recreation Board]. CONCESSIONAIRE desires to secure such concession rights in the PARK shown in Exhibit A (Park Map), attached and incorporated by reference into this Agreement. In consideration of the mutual covenants herein contained, the parties agree as follows.

1. GRANT AND DESCRIPTION OF CONCESSION PREMISES

The STATE, pursuant to the authority of, and in accordance with, Idaho Code, Title 67, Chapter 42, grants to CONCESSIONAIRE and CONCESSIONAIRE accepts from the STATE, the privilege to provide the required and optional services and facilities as set forth below and in Exhibit B (Required and Optional Services). CONCESSIONAIRE's operations shall be limited to the premises marked as "concession area" in Exhibit C (Concession Operation Premises) attached, and incorporated by reference into this Agreement, and hereinafter referred to as CONCESSION PREMISES. CONCESSIONAIRE shall have the first right to accept an agreement to provide additional services at the PARK under such terms and conditions as the STATE may then prescribe. CONCESSIONAIRE recognizes that, within the Eagle Island State Park, it does not have the exclusive right for concessions other than those set forth in Exhibit B (Required and Optional Services).

A. Required services and facilities:

1. The creation, maintenance, and operation of a winter sports venue of approximately 2 acres in size, suitable for tubing, sledding, skiing, and snowboarding.

B. Optional services:

1. The rental of winter sports equipment required for the use and enjoyment of the venue, e.g., sledding tubes, and snowboards.
2. The sale of prepared food and beverages.

C. Activities specifically prohibited:

1. The sale of alcoholic beverages.
2. The sale of beverages in glass bottles.

2. **TERM**

The terms of this Agreement shall be for ten (10) years and shall commence on May 1, 2014 and end on May 1, 2024, these dates inclusive. The term of this Agreement is subject to the STATE'S option to renew and to early termination as provided below.

3. **HOLDOVER**

If CONCESSIONAIRE holds over after the expiration of the term of this Agreement with the express or implied consent of the STATE, such holding over shall be deemed to be a month - to-month tenancy otherwise subject to the terms of this Agreement. During such month-to - month tenancy, CONCESSIONAIRE shall pay monthly rental in the amount of one-twelfth (1/12) the prior year's annual rental, as calculated pursuant to Section 5 herein, or seven percent (7%) of that month's gross receipts, whichever is greater.

4. **GOING CONCERN, BLUE SKY, BUSINESS VALUES OF CONCESSION OPERATIONS**

CONCESSIONAIRE's rights and privileges are limited to those rights and privileges specifically granted in this Agreement and CONCESSIONAIRE's business operations upon the Premises shall not, as between the STATE and CONCESSIONAIRE, accrue any value for going concern, good will, blue sky, business values, trade name, or other intangible property.

5. GROSS RECEIPTS, METHOD OF ACCOUNTING

CONCESSIONAIRE shall pay to the STATE each year during the term of this Agreement seven percent (7%) of the gross receipts as defined in Section 6 herein, as reported on the attached Exhibit D (IDPR Concession Revenue Reporting Form).

Payment of the percentage of gross sales and year-end revenue report is due on May 1, 2015; May 1, 2016; May 1, 2017; May 1, 2018; May 1, 2019; May 1, 2020; May 1, 2021; May 1, 2022; May 1, 2023; and May 1, 2024.

Payment shall be made to the order of the Idaho Department of Parks and Recreation, Attn: Eagle Island State Park, P.O. Box 83720, Boise, Idaho 83720-0065. Late payments shall accrue interest at the legal rate of interest as set by the State Treasurer for the accrual of interest on judgments until paid. Payments that are more than thirty (30) days late will constitute a breach of this Agreement absent a written addendum to this Agreement signed by both parties. If this Agreement is breached by CONCESSIONAIRE, unpaid annual rent shall be considered at once due and payable by CONCESSIONAIRE without notice or demand by the STATE. For purposes of calculating unpaid annual rent due and payable in the event of breach, the annual rent shall be seven percent (7%) of the gross receipts received by CONCESSIONAIRE following the last annual rent payment.

6. DEFINITION OF GROSS RECEIPTS

Gross receipts, as used in this Agreement, shall include all monies and anything else of value received by CONCESSIONAIRE from admission charges and the provision of the required or optional services described in Exhibit B (Required and Optional Services), or from any other business conducted by CONCESSIONAIRE on the CONCESSION PREMISES, or from any other use of CONCESSION PREMISES, excepting an allowance of deductions for sales or excise taxes imposed by any governmental entity and collected by CONCESSIONAIRE.

7. ACCOUNTING AND RECORDS

A. CONCESSIONAIRE shall install and maintain inventory, bookkeeping, and accounting methods; and methods of collection of monies, which shall permit the STATE to accurately compute the gross revenue of CONCESSIONAIRE.

B. CONCESSIONAIRE shall, at its own expense, install and maintain such cash

register equipment as will provide a continuous registering tape and show sales breakdown as to admission charges and major categories of items and services sold.

CONCESSIONAIRE shall also maintain at its own expense a sales journal, cash disbursement journal, and general ledger.

C. CONCESSIONAIRE shall submit to the STATE, no later than May 1, 2015; May 1, 2016; May 1, 2017; May 1, 2018; May 1, 2019; May 1, 2020; May 1, 2021; May 1, 2022; May 1, 2023; and May 1, 2024, a statement of annual gross receipts and a copy of the year-end sales tax report for the preceding calendar year. Such statement shall contain an appropriate certification that all gross receipts during the yearly accounting period have been duly and properly reported to the STATE.

D. CONCESSIONAIRE shall keep true and accurate books and records showing all of its business transactions in separate records of account for the CONCESSION PREMISES in a manner acceptable to the STATE. The STATE shall have the right to examine daily sales records kept on the CONCESSION PREMISES during regular business hours of CONCESSIONAIRE, provided that such examination does not unreasonably interfere with CONCESSIONAIRE's operation of the concession. The STATE shall have the right to examine all other books and records, including but not limited to inventory records and certified state of Idaho Sales Tax Return Records, provided that the STATE shall treat such records as confidential and not divulge them to third parties except in the event of litigation. The STATE shall examine books and records only upon reasonable notice and only at such times as will not unreasonably interfere with CONCESSIONAIRE's operation of the concession. The STATE further shall have the right to examine all such books and records at any time within two (2) years of termination or expiration of this Agreement, or until such time that a final audit is concluded as to CONCESSIONAIRE's business under this Agreement, whichever event occurs first.

8. **EXCLUSIVENESS POLICY**

The CONCESSIONAIRE shall have the exclusive right to provide the required and optional services described in Exhibit B within the CONCESSION PREMISES during the operating season of December 15 to April 1 and any extensions before or after. While

CONCESSIONAIRE may, at its option, provide additional services within the CONCESSION PREMISES, such right is non-exclusive. CONCESSIONAIRE shall not provide any concession services whatsoever on any portion of the PARK outside the CONCESSION PREMISES.

9. RENEWAL

The STATE does not grant CONCESSIONAIRE the right to automatically renew this Agreement for an additional period of time. However, if the STATE, at the expiration of this Agreement, desires to lease the CONCESSION PREMISES again, and if CONCESSIONAIRE is not in default or breach as set forth in Section 17 of this Agreement, the STATE grants CONCESSIONAIRE the first right to accept a new agreement under such terms and conditions as the STATE may then prescribe and under the following conditions:

CONCESSIONAIRE shall first notify the STATE in writing of its desire to renew the agreement sixty (60) days prior to its expiration. If the STATE desires to renew this Agreement, it shall notify the CONCESSIONAIRE in writing of the terms and conditions that the STATE may then desire to prescribe. Mailing to the last known address of CONCESSIONAIRE shall then complete notification to CONCESSIONAIRE. CONCESSIONAIRE shall then have thirty (30) days from the date of that mailing to notify the STATE of its acceptance of the terms and conditions prescribed by the STATE. Acceptance shall be complete only if received by the STATE in writing and within the time prescribed.

The first right to accept a new agreement is subject to the provisions of this Agreement concerning termination.

10. QUALITY OF SERVICE

All items sold and all food service provided by CONCESSIONAIRE shall comply with the Rules of the Idaho Department of Health and Welfare governing Food Safety and Sanitation Standards for Food Establishments as enforced by Central District Health Department. A copy of the permit-license and inspection report issued by Central District Health Department shall be made available to the Park Manager. The STATE shall have the right to prohibit the sale of any item or to order the improvement of any service or equipment not satisfying the above requirements.

11. CONTROL OF RATES AND CHARGES

CONCESSIONAIRE agrees that any admission fees and all rates and prices charged by CONCESSIONAIRE for goods, beverages, food, and services furnished or sold to the public are subject to review and approval by the STATE. CONCESSIONAIRE shall, by December 1 of each year, submit to the STATE for approval a list of the fees, rates, and prices proposed for the following operating season. Such submission shall also include, but is not limited to, ounces per serving, fat content of meat, and any other information necessary to determine the quality and quantity of goods, beverages, food, and services furnished or sold to the public. Prices charged by CONCESSIONAIRE shall be reasonably related to the quality and quantity of the items sold. If the STATE determines that any price is not so related, the STATE may order that the price be modified.

The STATE may not require a modification in price that would prevent CONCESSIONAIRE from realizing a profit on items sold. CONCESSIONAIRE shall keep a schedule for such fees, rates or prices posted at all times in a conspicuous place on the CONCESSION PREMISES.

12. CONSTRUCTION OR MODIFICATION OR IMPROVEMENTS

If the CONCESSIONAIRE should undertake at its own expense, any construction, alterations, or modification of the CONCESSION PREMISES, the CONCESSIONAIRE shall submit, for the review and prior written approval of the STATE, all plans, drawings, and specifications. The STATE shall approve, reject, or require modifications of such plans within forty-five (45) days after submission of those plans to the STATE.

13. MAINTENANCE, REPAIRS, OR DAMAGE TO CONCESSION PREMISES

CONCESSIONAIRE shall, at its own expense, maintain the CONCESSION PREMISES in clean, healthful, and safe condition, and in accordance with applicable state, county, and federal laws and regulations. If CONCESSIONAIRE fails to undertake repairs necessary to maintain such conditions, the STATE shall have the right to perform such maintenance or repairs and CONCESSIONAIRE shall promptly reimburse the STATE for the cost thereof, provided that the STATE shall first give CONCESSIONAIRE fifteen (15) days written notice of its intention to perform such maintenance or repairs to enable CONCESSIONAIRE to perform such

maintenance or repairs at its own expense.

In the event of any emergency such as vandalism, fire, wind, flooding, hail, or other act of God, which threatens damage to the CONCESSION PREMISES or harm to the public, the STATE may immediately act to stop such emergencies and mitigate any potential damage to the CONCESSION PREMISES. The STATE shall notify CONCESSIONAIRE of any emergency circumstances, action, or repair and shall request that CONCESSIONAIRE make further repairs necessitated by such emergency. CONCESSIONAIRE shall reimburse the STATE for all reasonable repairs made pursuant to this emergency provision.

14. INSURANCE

CONCESSIONAIRE shall obtain and maintain insurance at its own expense as required herein for the duration of the agreement, and comply with all limits, terms and conditions stipulated. Policies shall provide, or be endorsed to provide, all required coverage. CONCESSIONAIRE shall provide certificates of insurance or certified endorsements as applicable for the insurance required. CONCESSIONAIRE shall not commence work under this Agreement until satisfactory evidence of all required insurance is provided to the state.

A. Additional Insured. All insurance, except for Workers Compensation shall name the "State of Idaho" and the "Idaho Department of Parks and Recreation" as Additional Insured.

B. Ratings. All insurance shall be with insurers rated A-, VII, or better in the latest Bests Rating Guide, and be in good standing and authorized to transact business in Idaho. The coverage provided by such policies shall be primary. Policies may contain deductibles, but such deductibles shall not be deducted from any damages due the state.

C. Tail Coverage. If any of the liability insurance required for this agreement is arranged on a "claims-made" basis, "tail coverage" will be required at the completion or termination of this agreement for a duration of twenty-four (24) months thereafter. Continuous "claims-made" coverage will be acceptable in lieu of "tail-coverage" provided the retroactive date is on or before the effective date of this agreement, or twenty-four-months "prior acts" coverage is provided. CONCESSIONAIRE will be responsible for furnishing certification of "tail coverage" or continuous "claims-made" coverage.

D. No Implied Limitation. By requiring insurance herein, the STATE does not represent that coverage and limits will necessarily be adequate to protect the contractor, and

such coverage and limits shall not be deemed as a limitation on the contractor's liability under the indemnities granted to the state.

E. Required Coverages. CONCESSIONAIRE shall maintain insurance in amounts not less than the following:

1. Commercial General Liability (CGL) with a limit of not less than \$1,000,000 each occurrence, and \$1,000,000 annual aggregate, if defense is outside the limits. If defense is inside the limits, the limit must be \$2,000,000 each occurrence, and \$2,000,000 aggregate. If necessary, a commercial umbrella or excess policy may be used to meet the limits required, providing the CGL is listed on the underlying insurance in the umbrella or excess policy, and the umbrella/excess policy meets the requirements above for acceptable carriers.
2. Automobile Liability including owned, non-owned, and hired liability with a limit of not less than \$1,000,000 each occurrence, and \$1,000,000 aggregate. If necessary, a commercial umbrella or excess policy may be used to meet the limits required, providing the Auto is listed on the underlying insurance in the umbrella or excess policy, and the umbrella/excess policy meets the requirements above for acceptable carriers.
3. Workers Compensation Insurance in amounts as required by statute, and Employers' Liability with a limit of \$100,000 Bodily Injury by Accident-each Accident, \$100,000 Bodily Injury by disease-each employee, \$500,000 Bodily Injury by Disease-policy limit.

15. HOLD HARMLESS AGREEMENT

CONCESSIONAIRE shall indemnify, defend and save harmless the STATE, its officers, agents and employees from and against any and all liability, claims, damages, losses, expenses, actions, attorneys' fees and suits whatsoever caused by or arising out of CONCESSIONAIRE's negligent or wrongful performance, acts or omissions under this Agreement or CONCESSIONAIRE's failure to comply with any state or federal statute, law, regulation or rule. Nothing contained herein shall be deemed to constitute a waiver of the STATE's sovereign immunity, which immunity is hereby expressly reserved.

16. **INCORPORATION OF PLANS AND AGREEMENTS**

The concession plan, park master plan, and/or management agreement for the PARK is incorporated by reference into this Concession Agreement.

17. **BREACH AND TERMINATION**

Each term and condition of this Agreement is material, and default as to, or breach of any, of these terms by CONCESSIONAIRE shall be grounds for termination of the entire agreement by the STATE. Any material violation by CONCESSIONAIRE of any rule or regulation now in force or hereafter adopted by the Park and Recreation Board, shall be grounds for termination of this Agreement. The determination of whether a violation constitutes a material violation subjecting this Agreement to termination shall rest solely in the discretion of the STATE.

A. Bankruptcy. A material violation of this Agreement shall be deemed to occur if CONCESSIONAIRE files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act or if involuntary proceedings under any bankruptcy act or insolvency act be instituted against CONCESSIONAIRE or if a trustee or receiver is appointed of any property of CONCESSIONAIRE.

B. Violation of Land and Water Conservation Fund Act Requirements. All concession operations must comply with the provisions of the Land and Water Conservation Fund Act (LWCF) and implementing guidelines (36 Code Federal Regulations 59), including, but not limited to, provisions requiring the leased area to be maintained as a public outdoor recreation facility, not as a private area; the provision requiring fees to be competitive with fees for similar private facilities; and compliance with all Civil Rights and accessibility legislation (e.g., Title VI of Civil Rights Act, Section 504 of Rehabilitation Act, and Americans with Disabilities Act), with such compliance indicated by signs posted in visible public areas, statements in public information brochures, etc. Noncompliance with LWCF requirements shall be deemed a material violation of this Agreement and cause for termination.

C. Notice of Violation. The STATE shall provide written notice to CONCESSIONAIRE of any Agreement or rule violation and shall allow CONCESSIONAIRE thirty (30) days from service of the notice to cure the violation.

D Notice of Termination. Agreement or rule violations which have not been cured

within thirty (30) days of receipt of the notice of violation shall subject the Agreement to termination. Notice of termination shall be in writing and shall be effective upon service.

E. Administrative Fees. Prior to the termination, CONCESSIONAIRE may elect to pay the STATE's administrative costs associated with enforcing the terms of this Agreement, and the STATE may agree to accept payment of such costs in lieu of termination for each day that such violation went uncorrected over and beyond the thirty day grace period provided in section 17.D of this Agreement. The STATE and CONCESSIONAIRE agree that such administrative costs are fixed at fifty dollars (\$50) for each day that the violation goes uncorrected, up to a maximum of one thousand, five hundred dollars (\$1,500).

F. Reinstatement. Not later than thirty (30) days following the termination of this Agreement for cause, the CONCESSIONAIRE may submit to the STATE a written request for reinstatement setting forth good cause why the Agreement should be reinstated. At the STATE's discretion, the Agreement may be reinstated upon the payment of a reinstatement fee of four hundred dollars (\$400), and upon such other terms and conditions as the STATE deems appropriate.

G. Going Concern. Blue Sky, Business Values. CONCESSIONAIRE waives any claim that it is entitled to compensation for going concern, good will, blue sky, business values, trade name, or other intangible property in the event this Agreement is terminated, regardless of whether the STATE intends to continue similar business operations upon the CONCESSION PREMISES or offer an opportunity to a successor concessionaire to operate a similar business upon the CONCESSION PREMISES.

H. Termination by Concessionaire. CONCESSIONAIRE may terminate this Agreement at any time by giving three (3) months written notice to the STATE of its intent to terminate.

18. ASSIGNMENTS OR SALE OF INTEREST

A. CONCESSIONAIRE and/or any person or entity that owns a "controlling interest" as herein defined in CONCESSIONAIRE's ownership (collectively defined as the CONCESSIONAIRE for the purpose of this section), shall not assign, sublease, or otherwise sell or transfer responsibilities under this Agreement or the concession operations authorized hereunder, or sell, or otherwise assign or transfer (including but not limited to mergers, consolidations, reorganizations, or other business combinations) a

controlling interest in such operations, this Agreement, or controlling interest in CONCESSIONAIRE's ownership as defined herein, without the prior written consent of the STATE. Failure to comply with this provision or the procedures described herein shall constitute a material breach of this Agreement for which the Agreement may be terminated immediately by the STATE without regard to the procedures for termination set forth above; and the STATE shall not be obligated to recognize any right of any person or entity claiming an interest in this Agreement or claiming the right to own or operate the concession operations authorized hereunder.

B. CONCESSIONAIRE shall advise the person or entity proposing to enter into a transaction described above that the STATE shall be notified and the proposed transaction is subject to review and approval by the STATE. CONCESSIONAIRE shall request in writing the STATE's approval of the proposed transaction and shall promptly provide the STATE all relevant documents related to the transaction including all prospective CONCESSIONAIRE data forms that must be obtained from and filed with the STATE prior to any approval by the STATE.

C. The STATE in exercising its discretionary authority herein shall, among other matters, take into consideration the management qualifications of any individual or entity that would obtain an interest in facilities or services authorized hereunder, the experience of any such individual or entity with similar operations, and the ability of any such individual or entity to operate the concession authorized hereunder in the public interest under the regulation of the STATE.

D. For the purposes of this section, the term "controlling interest" in CONCESSIONAIRE's ownership shall mean, in the instance where CONCESSIONAIRE is a corporation or limited liability company, an interest beneficial or otherwise of sufficient outstanding voting securities or capital of CONCESSIONAIRE so as to permit exercise of substantial managerial influence over the operations of the CONCESSIONAIRE; and, in the instance of a partnership, limited partnership, joint venture, or individual entrepreneurship, any beneficial ownership of the capital assets of CONCESSIONAIRE sufficient to permit substantial managerial influence over the operations of CONCESSIONAIRE shall constitute a controlling interest for purposes of this Agreement

E. No mortgage shall be executed and no bonds or other evidence of interest in, or indebtedness upon the assets or proposed assets of CONCESSIONAIRE, including this Agreement, shall be issued except for the purpose of installing, enlarging, or improving facilities and equipment for the accommodation of the public in the PARK; and then only with the prior written consent from the STATE. In the event of default on such mortgage, encumbrance, or other indebtedness or of other assignment or transfer, the creditor or any assignee thereof shall succeed to the interest of CONCESSIONAIRE in such assets; but shall not thereby acquire any operating right or privilege in or to the operation of the concession, or the CONCESSION PREMISES, pursuant to this Agreement, without the express prior written consent of the STATE.

F. In the event that approved improvements are financed by any outside investors, CONCESSIONAIRE shall disclose the identity of said investors to the STATE.

G. In the event that the STATE shall approve assignment of this Concession Agreement to any other person or entity other than a mortgagee, CONCESSIONAIRE shall pay to the STATE an amount equivalent to ten percent (10%) of the assignment price, minus the amount paid by the assignee for any buildings, improvements, appurtenances, and fixtures owned by CONCESSIONAIRE existing upon the CONCESSION PREMISES.

19. RIGHTS UPON TERMINATION OR EXPIRATION

At the expiration or early termination of this Agreement, CONCESSIONAIRE shall, within thirty (30) days thereafter, remove from CONCESSION PREMISES or otherwise dispose of in a manner satisfactory to the STATE all personal property belonging to CONCESSIONAIRE located on CONCESSION PREMISES, and restore the CONCESSION PREMISES to as good a condition as the same were in at the date of this Agreement. If removal and restoration is not completed within thirty (30) days after termination, the STATE may, at its election, perform the work and bill CONCESSIONAIRE for the costs thereof. CONCESSIONAIRE shall pay such bill within thirty (30) days of receipt.

20. BUILDINGS AND IMPROVEMENTS

The CONCESSIONAIRE shall not erect any buildings, structures, improvements or fixtures upon the CONCESSION PREMISES, other than temporary structures that are removed

by CONCESSIONAIRE at the end of each operating season.

21. EQUIPMENT

CONCESSIONAIRE, at its own expense, shall provide the CONCESSION PREMISES with all equipment necessary for the services required under this Agreement. The quality and maintenance of such equipment shall comply with all applicable laws and regulations.

22. SIGNS, ADVERTISING NAME

CONCESSIONAIRE shall not erect a sign on the CONCESSION PREMISES or in the vicinity thereof, without obtaining the prior written approval of the STATE. No signs containing brand names or products sold at the concession are to be displayed without the written approval of the STATE.

23. BUSINESS NAME

Any assumed or fictional business name used by CONCESSIONAIRE in conjunction with its concession operations upon the CONCESSION PREMISES shall be subject to the approval of the STATE.

24. LICENSES AND PERMITS

CONCESSIONAIRE shall obtain and pay for all permits or licenses that may be required for the operation of the concession.

25. COMPLIANCE WITH APPLICABLE LAWS

CONCESSIONAIRE shall at all times comply with all applicable laws, ordinances, and regulations of the county of Ada, the state of Idaho, and the United States. Violation of such laws, ordinances, or regulations may be considered as cause for termination of this Agreement.

26. UTILITIES

CONCESSIONAIRE shall, at its own expense, be responsible for the extension, hookup, and metering of all utilities used in connection with the CONCESSION PREMISES where separate metering is available. All utilities, including electrical wiring, shall be installed

underground. CONCESSIONAIRE shall be responsible for the accrual and payment of all utility charges or fees, commencing seven (7) days prior to the first open business day. The termination of this responsibility will occur seven (7) days after the close of the last business day.

A. **STATE-Supplied Water.** If the STATE supplies water to the CONCESSION PREMISES, it will do so without charge, provided that such supply shall be for the term of this agreement only, that the STATE shall not be responsible for improvement of the water supply beyond that quantity and quality existing as of the date of this agreement, and that the STATE shall not be liable for any damages due to the failure in the supply of water. The STATE shall give reasonable notice to CONCESSIONAIRE of any temporary discontinuance of the water supply due to repair or maintenance.

27. **OPERATION**

A. CONCESSIONAIRE shall provide Eagle Island State Park the required facilities and services described in Exhibit B (Required and Optional Services) each year of the Agreement from December 15 to April 1, inclusive, daily

B. CONCESSIONAIRE is encouraged to be open for service before and after the above dates to better service park visitors. CONCESSIONAIRE may provide facilities and services to public on other dates at CONCESSIONAIRE's discretion with the approval of the Park Manager. The STATE reserves the right to require changes in the dates and times of required facilities and services to ensure adequate service to the public.

CONCESSIONAIRE shall provide the STATE with an operation schedule indicating times of operation.

C. In the event of adverse weather, or other adverse operating conditions, the Park Manager may permit CONCESSIONAIRE to close the facilities and services at any time during the term of this Agreement.

D. CONCESSIONAIRE, its employees, and representatives shall conduct themselves in such a manner as to promote a positive image for the business, the PARK and the STATE.

E. CONCESSIONAIRE shall keep the CONCESSION PREMISES in a clean and sanitary condition at all times.

28. RIGHT TO ACCESS

The STATE shall have access to the CONCESSION PREMISES and to each part thereof during the regular business hours of CONCESSIONAIRE for the purpose of inspecting the CONCESSION PREMISES and daily sales records.

CONCESSIONAIRE shall have the right at all times to transverse Park property on a route approved by the STATE to get to and from the CONCESSION PREMISES in order to keep the CONCESSION PREMISES open during regularly scheduled business hours.

29. TAXES

CONCESSIONAIRE shall pay all taxes on personal property belonging to CONCESSIONAIRE located on the CONCESSION PREMISES. CONCESSIONAIRE shall pay all sales and other taxes levied against the operation of the concession. CONCESSIONAIRE shall pay all taxes or assessments or charges, which at any time may be lawfully levied upon any interest in this Agreement or any possessory right that CONCESSIONAIRE may have in or to the CONCESSION PREMISES. CONCESSIONAIRE shall provide the State with a valid tax identification number.

30. WAIVER OF AGREEMENT TERMS

No waiver by either party at any time of any of the terms, conditions, or covenants of this Agreement shall be deemed a waiver at any time thereafter of the same or any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay or failure by the STATE to reenter the CONCESSION PREMISES or to exercise any right, power or privilege or option arising from any default, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option held by the STATE, or be construed as a waiver of such default or relinquishment of any rights herein. No notice to CONCESSIONAIRE shall be required to restore or revive the condition that time is of the essence after the waiver by the STATE of any default. No option, right, power, remedy, or privilege of the STATE shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to STATE by this Concession Agreement shall be deemed cumulative.

31. MODIFICATION

Notwithstanding any of the provisions hereof; the parties hereinafter, by mutual consent, may agree to written modifications or additions to this Agreement, subject to approval of the Park and Recreation Board. The STATE shall have the right to grant reasonable extensions of time to CONCESSIONAIRE for any purpose or for performance of any obligation of CONCESSIONAIRE hereunder.

32. TERMS BINDING UPON SUCCESSOR

All the terms, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon the successors and assignees of the parties hereto. The provisions of this Section shall not be deemed as a waiver of any of the conditions against assignment set forth above.

33. NON-DISCRIMINATION

CONCESSIONAIRE and its employees shall not discriminate against any person because of race, gender, color, ancestry, national origin, or disability by refusing to furnish such person any accommodation, facilities, services, or privileges offered to or enjoyed by the general public. Nor shall CONCESSIONAIRE or its employees publicize the accommodations, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability or the patronage of any person because of race, gender, religion, color, ancestry, national origin, or disability.

In the performance of this Agreement, CONCESSIONAIRE shall not discriminate against any employee or applicant for employment because of race, gender, color, religion, national origin, or disability. CONCESSIONAIRE shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, gender, color, religion, ancestry, national origin, or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

CONCESSIONAIRE shall permit access to its records of employment, employment advertisement, application forms, and other pertinent data and records by any agency of the STATE designated for the purpose of investigation to ascertain compliance with Title 67, Chapter 59,

Idaho Code.

34. TIME OF THE ESSENCE

Time is expressly declared to be of the essence in this Agreement.

35. NOTICES

Any notices that may be given by either party to the other shall be deemed to have been fully given when made in writing deposited in the United States mail, postage prepaid, and addressed as follows:

TO CONCESSIONAIRE AT: Ryan Neptune
Gateway Parks
3200 Mountain View Drive
Boise, ID 83704
Email: Ryan@planetbuilt.com

TO THE STATE AT: Idaho Department of Parks and Recreation
Eagle Island State Park
PO Box 83720
Boise, ID 83720-0065

The address to which notices may be mailed shall be changed by written notice to the other party.

36. PUBLIC RECORDS

Pursuant to Idaho Code section 9-335 et seq., information or documents received from CONCESSIONAIRE may be open to public inspection and copying unless exempt from disclosure. CONCESSIONAIRE shall clearly designate individual documents as "exempt" and shall indicate the basis for such exemption and CONCESSIONAIRE agrees to indemnify and defend the STATE for honoring such a designation. The failure to designate any document that is released by the STATE shall constitute a complete waiver of any and all claims for damages

caused by any such release. If a Public Records Law request is made for materials claimed exempt, the CONCESSIONAIRE claiming exemption shall provide the legal defense for such claim.

37. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement between the parties related to the subject matter of this Agreement and may not be modified without the written consent of both parties.

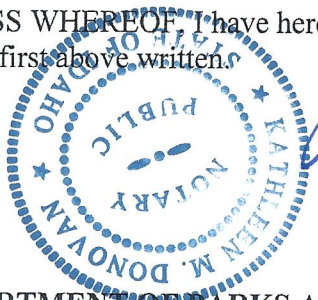
38. SIGNATURES

CONCESSIONAIRE:

Ryan Neptune by Susan E. Buxton Feb. 27, 2014
Ryan Neptune attorney in fact Date
STATE OF IDAHO) fact per record
County of Ada) power of attorney
ss. dated 2/19/2014
Susan E. Buxton, Attorney in fact for Ryan Neptune,

On this 27th day of February, 2014, before me, the undersigned Notary Public in and for said State, personally appeared Ryan Neptune, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that she executed the same.

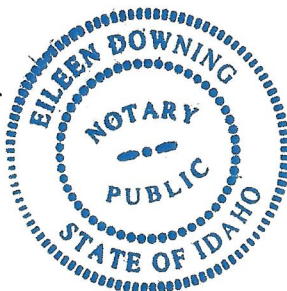
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this first above written.



[Signature]
Notary Public
Residing at Bowen, ID
My commission expires: 8.8.2018

IDAHO DEPARTMENT OF PARKS AND RECREATION:

Nancy C. Merrill
Nancy C. Merrill, Director
STATE OF IDAHO)
County of Ada) ss.
2/24/14
Date



On this 24 day of February, ²⁰¹⁴~~2012~~, before me, the undersigned Notary Public in and for said state, personally appeared Nancy C. Merrill, known or identified to me to be the Director of the Idaho Department of Parks and Recreation, and acknowledged to me that the Idaho Department of Parks and Recreation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this first above written.

Eileen Downing
Notary Public
Residing at Ada County
My commission expires: 03-30-15

SPECIAL POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS that Ryan Neptune, President of NEPTUNE INDUSTRIES INC., manager of EAGLE SUPERPARKS, LLC and GATEWAY PARKS, LLC, of Boise, Ada County, Idaho, does hereby make, constitute and appoint SUSAN E. BUXTON, of Boise, Ada County, Idaho, EAGLE SUPERPARKS, LLC and GATEWAY PARKS, LLC's true and lawful attorney in fact for NEPTUNE INDUSTRIES INC. and in my name, place and stead to sell, lease, convey, encumber and enter into any contract for any purpose whatsoever with regard to NEPTUNE INDUSTRIES INC. AND ALL RELATED COMPANIES in which I own an interest or in which I may acquire an interest in the future, and to sign, seal, execute, deliver and acknowledge such instruments in writing of whatever kind and nature as may be necessary or proper to carry out the appointment made by this Special Power of Attorney.

Giving and granting unto said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the above stated premises, as fully to all intents and purposes as the signer might or could do if personally present, and hereby ratifying and confirming all that said attorney shall lawfully do or cause to be done, pursuant to this Special Power of Attorney, by virtue of these presents. This power of attorney shall not be affected by disability or incapacity of the principal.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of February, 2014.

NEPTUNE INDUSTRIES, INC.

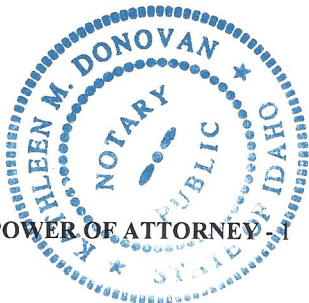



RYAN NEPTUNE, President

STATE OF IDAHO)
) ss.
County of Ada)

On this 19th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared RYAN NEPTUNE, known or identified to me to be the President of Neptune Industries, Inc. the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





Notary Public for Idaho
Residing at Boise, Idaho
Commission expires: 08/08/2018

SPECIAL POWER OF ATTORNEY

Exhibit A.
Park Site Map



Exhibit B (Required and Optional Services)

Required Services

- The CONCESSIONAIRE shall create a shaped and contoured snow field on approximately two (2) acres for the purpose of establishing a winter sports venue, which the CONCESSIONAIRE will operate at Eagle Island State Park. Activities will include tubing, sledding, skiing, and snowboarding. Other features related to general snow play, such as snow castles and training hill may be constructed for use as well.
- The CONCESSIONAIRE will require additional fees of users for accessing the snow field. These access fees will not exceed five dollars (\$5) per child under 12 and twenty dollars (\$20) for adults and children ages 12 and older. Additional charges for Tube, Sled, Ski, Snowboard, Ice Skate Rentals, and Retail, Lessons, and limited food service will be assessed at similar rates and require approval by the STATE.
- Snow field hours typically will be weekdays 4:00 pm to 8:00 pm. Weekend and holiday, 10:00 am to 8:00 pm. Hours may be adjusted at the request of the CONCESSIONAIRE and the approval of the STATE.
- The CONCESSIONAIRE shall provide all equipment necessary to build out the venue and support the day-to-day operation of the facility, including staffing, snowmaking, required maintenance, and trash removal.

Optional Services

- The CONCESSIONAIRE may provide limited food services, including prepared food and beverages.

Exhibit C.

Concession Operation Premises



Exhibit D (IDPR Concession Revenue Reporting Form)

Idaho Department of Parks and Recreation Concession Revenue Reporting Form

Concession Company Name: _____

Company Address: _____

Concession At: _____

Tax ID # _____ Date From: _____ Date To: _____

A. Income	(1) Food & Beverage	\$ _____
	(2) Outdoor Equipment Rental	\$ _____
	(3) Restaurant/Bar Sales	\$ _____
	(4) Other	\$ _____
	(5) _____	\$ _____
	(6) _____	\$ _____
	(7) _____	\$ _____

B. Total Gross Income - add amounts from lines A(1) - A(7) _____

C. Sales or Excise Taxes Deduction _____

D. Gross Receipts - subtract amount on line C from amount on line B

E. Total Gross Receipts (from above)		_____
Idaho Department of Parks and Recreation Share	X	_____ %
SEND THIS AMOUNT		_____

Attach check or money order and mail to:

Idaho Department of Parks and Recreation
Attn: Operations
P O Box 83720
Boise, ID 83720-0065
Tel: 208.514.2261

IDPR ONLY
Ck \$:
Ck #:
PCA:
Fund:
S/O: