

Exhibit A to Staff Report
Civic Center Kiosk Draft Term Sheet (dated September 25)

Type of Agreement: License Agreement

Parties: Recreation and Park Department (the “Department”) and the Civic Center Community Benefit District (CCCBD), Inc. (the “Licensee”)

Use: Installation and operation of a temporary 640 square foot food and beverage kiosk (the “Kiosk”) at Joseph L. Alioto Performing Arts Piazza (the “Plaza”) in the area identified in Exhibit A (which includes both the Kiosk and the surrounding area) (the “License Area”).

Licensee shall engage a professional food and beverage service provider (the “Operator”) to operate the food and beverage kiosk for a fair market license fee equal to the higher of minimum base rent or a percentage of Operator’s gross revenues from all sales at rates to be negotiated by Licensee. The Licensee shall obtain the prior written approval of the agreement between the Licensee and Operator (the “Operating Agreement”) by the General Manager of the Department prior to its commencement. The Operating Agreement fees collected by Licensee (after deduction of the Administrative Fee defined below) shall be placed in Licensee’s separate account with a bank approved by the Department (“Operating Maintenance Account”), which shall require Department prior written approval for any disbursements in excess of \$2,500. For purposes of the License Agreement, obligations of the Licensee may be performed by the Operator, except for oversight of the Operating Agreement and Kiosk operations, maintaining the Kiosk, and spending the Maintenance Account funds to maintain the Kiosk, the Playgrounds, or the Plaza.

Term: 3-year initial term, with an automatic option by the Licensee to renew for 2 additional 3 year terms as long as Licensee is not in default of the License Agreement. Notwithstanding the foregoing, the Department may terminate the License Agreement at any time (i) for any default (which shall include a failure to operate the Kiosk for more than 120 days without Department approval) that is not timely cured or (ii) after 3 years if the Department requires Kiosk to be removed as a regulatory matter. The Licensee may terminate at any time upon written notice to the Department 1) should Licensee be unable to accept delivery of the Kiosk, or 2) should repair or damage to the Kiosk exceed the maintenance reserves dedicated for repair and maintenance of the Kiosk.

Improvements: The Kiosk shall be installed in the Plaza for Licensee by the Trust for Public Land (TPL) in accordance with the plans and specifications approved in advance and in writing by the Department’s General Manager. Neither the Department nor the Licensee shall have any obligation to perform or pay for such installation. The Kiosk shall be installed by duly licensed and bonded contractors hired by TPL and pursuant to a written contract approved by the Department.

Non-routine Maintenance Account : TPL is providing the Licensee with \$30,000 to be placed in Licensee’s separate account with a bank approved by the Department (“Non-routine Maintenance Account”), to establish a reserve for the purpose of non-routine repairs and maintenance of the Kiosk and the Playgrounds as described in Exhibit B. Any expenditure from this account shall be authorized by the Department in advance and in writing. Licensee shall retain invoices, receipts and any other proof of payment for all expenditures. In the event that the Non-routine Maintenance Account is depleted below \$30,000, the Department and Licensee shall work in good faith to find

ways to replenish the account including grants and donations or transfer of funds from the Operating Maintenance Account if funds in the account exceed the Base Amount (as defined below).

Financial Terms: Licensee shall allocate some of the Operating Agreement fees towards a reasonable administrative fee (the “Administrative Fee”) paid to the Licensee for the management and oversight of the Kiosk and associated revenues. The Administrative Fee shall include Licensee’s management, accounting, insurance, legal and overhead costs, but shall exclude repair and maintenance costs.

First 18 months of operation: monthly Fee of \$850 plus \$425 per month for the first 10 months to cover legal fees incurred in connection with License Agreement and other related agreements

Month 19 forward of operation: monthly Fee of \$900

1st 3-year Option term: monthly Fee of \$1,000

2nd 3-year Option term: monthly Fee of \$1,200

Except for the Administrative Fee, all other Operating Agreement fees and payments shall be deposited in the Operating Maintenance Account.

Operating Maintenance Account for Kiosk: Funds in the Operating Maintenance Account shall be used solely for Licensee’s required maintenance of the Kiosk (the “Kiosk Expenses”) and, as requested by the Department, to provide supplemental services such as ambassadors, tables and chairs and free events for the newly renovated Civic Center Playgrounds and Plaza (the “Other Plaza Expenses”), provided that requests for use on Other Plaza Expenses will not cause the Operating Maintenance Account to hold less than the Base Amount (as defined below). The Operating Agreement will require the Operator to pay all taxes including Possessory Interest Taxes relating to the Operations of the Kiosk. In the event that Operator violates their Operating Agreement and taxes are not paid by the Operator, the Kiosk Expenses may include those taxes.

Funds in the Maintenance Operating Account may only be used for Kiosk Expenses until such times as funds have accumulated to equal or exceed \$25,000 (the “Base Amount”). The Base Amount may over time decrease or increase this with approval by the Department commensurate with the Kiosk actual maintenance cost history and anticipated expenses. Funds in excess of this minimum amount may then be expended first to replenish that Non-routine Maintenance Account so that it has a balance of \$30,000 and then from time to time, as reasonably requested by the Department, towards Other Plaza Expenses. Licensee shall have sole discretion to approve all Kiosk expenditures under \$2,500, as long as they are related to the Kiosk maintenance obligations. Expenditures of the account in excess of \$2,500, and any expenditure for Other Plaza Expenses, shall be authorized by the Department in advance and in writing. Licensee shall retain invoices, receipts and any other proof of payment for all expenditures.

Use Parameters: Licensee may allow the Operator to enter the Premises to install, operate, maintain and manage the Kiosk for the sale of food and beverages.

Operational Requirements: Licensee shall require the Operator to operate in compliance with all applicable rules, regulations and codes, including, without limitation, San Francisco Department of Public Health and the San Francisco Planning Department.

Menu items and pricing: Licensee shall require the Operator to provide menu items and pricing prior to starting operations to the General Manager, and obtain the General Manager’s approval. Throughout the duration of the License Agreement, the General Manager won’t unreasonably withhold approval for menu items or pricing. Licensee shall encourage the Operator to ensure that

at least 25% of the meals offered on the menu meet the nutritional standards set forth in SF Adm Code Section 4.9-1(e).

Sustainable Foods: Licensee shall require the Operator to use commercially reasonable efforts to incorporate sustainable food concepts into everyday operations of the business on the License Area. Sustainable foods are those which, through their production, purchase, and consumption, enhance the health of the environment, producers and consumers through one or more of these methods: growing, processing and distributing locally; using low or no synthetic agricultural chemicals; fairly trading with developing countries; meeting animal welfare standards; processing minimally; no genetic modification; no unnecessary antibiotics; and no added growth hormones.

Seating Area Tables and Chairs: Licensee shall allow the Operator to provide tables and chairs for use of its customers and the general public, and require that the tables and chairs be of good quality, attractive and in keeping with the image and operation of the Kiosk and the Plaza.

Hours of Operations: Licensee shall require the Operator to actively sell food and beverages from the Kiosk to the general public Monday-Friday: 7:30 am to 5:30 pm during daylight savings and 8 am to 4 pm during standard time and Saturday: 10 am to 4 pm. The Kiosk may be closed on Thanksgiving Day, Christmas Day, 4th of July, New Year's Day and one additional identified holiday per year. There shall be no limitation on additional business hours provided that operation can only be during the hours that Civic Center Plaza is open to the public.

Maintenance: Licensee shall maintain all aspects of the Kiosk at all times. The Department shall have no obligation to maintain or otherwise fix or repair any deficiencies with the Kiosk. If the Licensee doesn't have sufficient reserve funding in the Operating Maintenance Account or the Non-routine Maintenance Account to perform the necessary repairs or maintenance, Licensee may terminate the agreement and the Department may elect to take ownership of the Kiosk upon the License termination.

The Licensee intends to require the Operator to maintain the interior features of the Kiosk (including all improvements and equipment installed by the Operator including, but not limited to, operational equipment and restaurant and cooking equipment, including a hood system and HVAC system), while the Operating Agreement would require Licensee to maintain and repair the building envelop (excluding exterior exhaust fan and HVAC systems components), building systems and structural components of the Kiosk. The Licensee shall require the Operator to be responsible for all plumbing blockages and for maintaining adequate grease control systems, to promptly repair any leaking plumbing fixture, to be responsible for cleaning the interior and exterior of the Kiosk, and to be responsible for cleaning the restroom and for providing supplies to the restroom such as paper and cleaning products. The Licensee shall require the Operator to provide a \$5,800 security deposit.

Under the terms of the License Agreement, the Department is required to power wash the grounds surrounding the Kiosk on a monthly basis. The Licensee shall follow up with the Department at the request of the Operator if this requirement is not met.

Quarterly reports: Licensee shall prepare and submit quarterly operating reports to the Department per the schedule outlined above, including a detailed accounting of all income and expenses and an accounting of the quarterly income reported by the Operator, including any percentage rent overage paid by the Operator, when applicable. Licensee shall also provide copies of the maintenance fund bank statements for the past quarter. Quarterly income and expenses

reports and bank statements shall be provided to the Department no later than April 15, August 15, October 15 and February 15 for the preceding quarter. Upon request from the Department, Licensee shall provide invoices, receipts and other proof of payments. Along with the August 15 report, Licensee shall also provide an annual written narrative of the operation for the preceding July to June period, including any relevant maintenance issue incurred and their cost to remediate. To the best of its knowledge, Licensee shall also note any anticipated or potential replacement or maintenance cost that would significantly decrease its maintenance reserve. In addition to quarterly reports and annual narrative, Licensee shall communicate promptly with the Department about any major incurred or anticipated adverse maintenance issue.

Termination: Upon termination of the License Agreement, the Licensee shall transfer title and ownership of the Kiosk to the Department, subject to any required approvals. Pending approvals the Department shall have the right to make any needed repairs to the Kiosk. Upon acceptance of the Kiosk, Licensee shall disburse any remaining maintenance funds to the Department along with a final income and expense report within 45 days of the termination date and assign the Operating Agreement to the Department. In addition, if the Licensee elects to terminate the License Agreement early for any reason including, but not limited to, insufficient Operating Maintenance Account funds for Kiosk maintenance, , and the Operator is not in default under the Operating Agreement, Licensee shall assign its interest and obligations in the Operating Agreement to the Department, with the Operator submitting monthly base rent, quarterly income reports and percentage rent to the Department as of the date of such assignment. In such event, the Department shall assume the Licensee's Kiosk maintenance obligations under the Operating Agreement.

Personnel: Licensee shall require the Operator to hire, employ and or assign experienced, qualified food and beverage service, maintenance, repair, management and any other such persons necessary or advisable for the proper operation of the Kiosk and performance of Operator's obligations under the Operating Agreement. Licensee shall hire, employ and or assign experienced, qualified maintenance, repair, management and any other such persons necessary or advisable for the proper maintenance of the Kiosk and performance of Licensee's obligations under the License Agreement.

Special Events: The Plaza is a popular location for public and private events. The Plaza may be partially or completely closed to accommodate such events. The Department retains the authority, in its sole discretion, to prohibit the Operator from operating during the length of the special event, and the Licensee shall require the Operator to partially or completely close for business upon written notice from the Department, which shall be communicated to both the Licensee and the Operator. Additionally, the Department shall have the right to prohibit Licensee from performing any maintenance or capital improvements to the Kiosk during special events, unless otherwise authorized in writing by the General Manager or in the event of an emergency.

Upon notice from the Department, the Licensee shall require the Operator to be closed during a permitted event that closes or restricts access to the Plaza generally to the public. 2017 events that would trigger these requirements, and that are exempt from the \$2,000 fees listed below, are SF Pride and the Comedy Festival. Any future events that trigger this requirement would include a condition that the Event sponsor (promoter) be required to pay the Operator \$2,000 per day for the closure unless they are civic celebrations sponsored by the City of San Francisco ("City") (including Department). Licensee shall not be obligated to pay anything to the Operator for any closure required by Department or City.

Utilities: The Licensee shall not be responsible for the cost of electrical and water utilities as the Department shall provide those services as reasonably necessary for the operation of the kiosk on the terms of the agreement for the duration of the License Agreement including any extended terms.

Waste Management: Licensee shall require the Operator to keep the Kiosk free of food, spills, and debris and in a neat, clean, orderly and attractive condition at all times, provide adequate garbage, compost and recycling receptacles to serve the Kiosk customers, empty such receptacles as often as needed to keep them from overflowing during Kiosk operational hours and secure the receptacles when the Kiosk is closed. Licensee shall require the Operator to also be responsible for keeping the area inside the Park and within 150 feet around the Kiosk (see Exhibit A), excluding the Playgrounds and streets, clean and free of garbage relating to Operator's operation.

For its customers trash, the Operator shall provide an off-the-shelf trio of accessible bins, no more than 25 gallons each, that can be secured out in the seating area during the day and stored or otherwise secured at night. Operator shall keep the kitchen trash enclosure secured at all times. The Department will service all of the Operator's trash with a minimum of 4 daily trips to empty all the kiosk cans during operating hours.

Existing Concessions: Two concessions currently operate within the Plaza: Annie's Hot Dogs and Off the Grid. These concessions may continue to operate under their existing agreements with the Department; provided however, that Department will require Off the Grid activation to move their activities to Larkin Street. Under the terms of the License Agreement, the Department shall consult with the Licensee and its Operator before extending those agreements.

San Francisco Bottled Water Ordinance. The San Francisco Environment Code Chapter 24 prohibiting the sale or distribution of drinking water in a sealed rigid plastic bottle having a capacity of twenty-one (21) fluid ounces or less at events held on City property with attendance of more than 100 people. Licensee agrees to comply with all applicable provisions and a violation of this provision is subject to administrative fines as prescribed by San Francisco Environment Code Chapter 24. All terms in this Section are defined in San Francisco Environment Code Chapter 24.

Prevailing Wages: Licensee shall comply with and require the Operator to comply with Prevailing Rate of Wages, as defined and established in San Francisco Administrative Code Sections 6.1, 6.22(e)(3), and 6.22(f) respectively for employment activities related to the Kiosk. Licensee shall also require Operator to comply with San Francisco Administrative Code Section 23.61, which requires prevailing wages and certain working conditions for construction on City property. "Licensee shall also comply with such prevailing wage and working conditions to the extent any other Licensee or Operator activity in the License Area is a "public work" as defined under California Labor Code Section 1720 *et seq.* "

Insurance and Indemnity Provisions: To be included in License Agreement.

Branding and Signage: Licensee shall require the Operator to obtain the Department's approval of any signage which may include the requirement to include the Department's logo be included in the signage.

Exhibit A – Map

Operator responsible for keeping the red line area inside the Plaza and within 150 feet around the Kiosk, excluding the Playground and streets, clean and free of garbage relating to Operator’s operation.

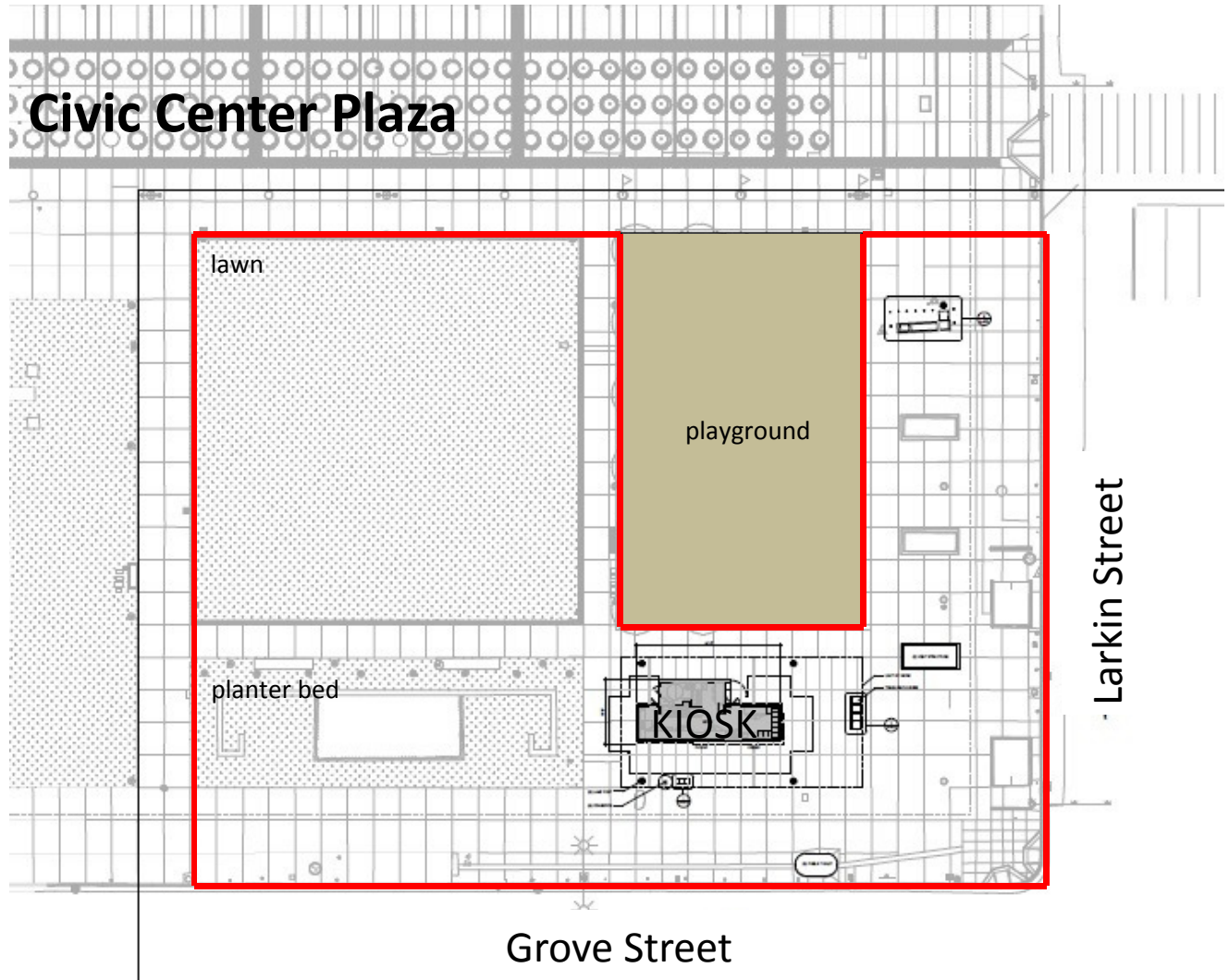


Exhibit B - Maintenance

- 1) Maintenance goal. The Parties intend that the Civic Center Playgrounds and Kiosk be maintained in a way that ensures that the quality, craftsmanship, and over-all integrity of the design of the Playgrounds and Kiosk is preserved, including replacement of play equipment and “Design Features” with new equipment and features of similar or better quality to that in place when the facilities opened. “**Design Features**” shall mean the entire built environment, and each component part thereof, within the Playgrounds and Kiosk, including but not limited to play equipment, surface materials, lighting, landscaping, sidewalks, walls, stone features, and wooden features.
- 2) Routine Maintenance. CBD (either directly or through the Operator) shall be responsible for routine maintenance of the Kiosk and RPD shall be responsible for routine maintenance of the Playgrounds, which routine maintenance shall include but not be limited to:
 - a) sweeping and maintenance of sidewalks and surface areas;
 - b) removal of graffiti from sidewalks and Design Features;
 - c) inspection of Design Features for structural integrity; cracking and rust; splinters; and to assure proper anchoring to surface areas
 - d) inspection of painted surfaces for bubbling, cracking, or fading and routine stripping, re-painting, and touch-up of painted or finished surfaces;
 - e) inspection of surface areas for gaps, settling, and non-level transition areas;
 - f) repair, leveling and touch-up work on surface areas;
 - g) inspection and replacement of small portions of rubberized surface coverings, should such surface coverings become substantially damaged or degraded.
 - h) maintenance of landscaping;
 - i) other routine maintenance tasks;
- 3) Non-Routine Maintenance. Due to the state-of-the-art nature of the Playgrounds and Kiosk, from time to time maintenance issues will arise that will require the purchase of special equipment or materials, or securing outside expertise or skills. Any such maintenance issue will be deemed to be a “Non-Routine Maintenance Item”. Non-Routine Maintenance Items are anticipated to include, but are not limited to:
 - a) replacement or repair of specified Design Features, should they become substantially damaged or degraded, including but not limited to those that cannot be repaired by RPD staff
 - b) repair or replacement of Kiosk or any of its elements if not covered by warranty or the Operator or under the Operating Agreement.
 - c) purchase of maintenance equipment that can only be used on the Playgrounds and not at other RPD facilities or parks;
 - d) other maintenance, repair or replacement tasks related to the Design Features that would not reasonably be considered to be routine maintenance tasks; and
 - e) redesign services to accommodate substantial changes to the Playgrounds or Kiosk over time.

RPD shall determine when the playgrounds require non-routine maintenance, and may request that CBD either order replacement parts as specified by RPD or reimburse RPD for non-routine maintenance expenses undertaken by RPD, out of the Non-Routine Maintenance Fund; provided, however, CBD shall never pay any costs which exceed the amounts then available in the Non-Routine Maintenance Fund. If CBD desires to pay for any non-routine Kiosk repairs out of the Non-Routine Maintenance Fund, CBD must first obtain RPD’s written sign off on such expenditures, before paying for them out of the Non-Routine Maintenance Fund.