



**OHIO TURNPIKE AND
INFRASTRUCTURE COMMISSION**

ADDENDUM NO. 2
ISSUED JULY 16, 2021

to

RFP NO. 7-2021
**FOR FOOD AND RETAIL CONCESSIONS OPERATIONS AT THE
ERIE ISLANDS/COMMODORE PERRY SERVICE PLAZAS**

PROPOSAL DUE DATE: 5:00 P.M. (EASTERN TIME), JULY 30, 2021

ATTENTION OF RESPONDENTS IS DIRECTED TO:
ANSWERS TO QUESTIONS RECEIVED THROUGH 5:00 PM ON JULY 15, 2021

-AND-

**REVISIONS TO THE RFP AND FORM CONTRACT (APPENDIX C) DUE TO A
SCHEDULE UPDATE DESCRIBED ON PAGE 2**

Issued by the Ohio Turnpike and Infrastructure Commission through Jennifer L. Stueber, Esq., General Counsel.

A handwritten signature in blue ink, appearing to read "JL Stueber", is written over a horizontal line.

Jennifer L. Stueber, Esq.,
General Counsel

July 16, 2021
Date

ANSWERS TO QUESTIONS RECEIVED THROUGH 5:00 P.M. ON JULY 15, 2021:

Q#4 Do you have any plans which identify the individual units within the Food vendor Area, and the size of each unit?

A#4 The Commission has no additional plans other than those made available in response to Question No. 1 in Addendum No. 1.

UPDATE ON CONTRACT AWARD SCHEDULE

It is the Commission's intention that the pending Contract for Food and Retail Concessions (FRC) Operator at the Erie Islands and Commodore Perry Service Plazas will be presented to the Commission for award at the Ohio Turnpike and Infrastructure Commission Meeting to be held on September 20, 2021. The current FRC Contract with the existing operator expires February 28, 2022.

Assumptions:

- Design and construction plans typically take 120 to 180 days to develop.
- Construction, lead times, materials, inspections another 120 – 180 days.
- Cedar Point travelers will begin picking up around Memorial Day 2022.

The Commission stresses the importance on compressing the timelines from the point of award to the design and construction phases to minimize the interruption of concession services to the traveling public. Once the Contract has been awarded, it is the Commission's expectation that any and all resources will be deployed to immediately begin planning, design and construction in order to compress the timelines and expedite completion.

Additionally, it is imperative that some type of temporary concession services are available at the Erie Islands and Commodore Perry plazas after February 28, 2022 when interior concessions will likely shut down for redevelopment; and until some or all permanent concessions are available to the traveling public. Since the Commission will operate the facilities during any closure of concession operations, these temporary services will serve two important functions.

- Provide some limited services to the traveling public.
- Offset expenses associated with uninterrupted operation of the service plaza facilities.

Therefore, as part of your company's RFP submission, the Commission requests:

1. A plan to expedite re-opening the concessions along with a timeline estimating your companies plan for design, construction, inspections and re-opening. Please be advised that limiting interruption of services is of critical concern to the Commission. Plans with expedited timelines will be given additional consideration during the scoring process.

If your company is unable or unwilling to expedite design and construction, please provide an explanation in your proposal.

2. The types of temporary concession services and resources your company or brand partners can provide until such time that permanent concessions are opened to the traveling public. These can include, but are not limited to, commercial food kitchen trailers, food trucks, catering, mobile ordering, vending, other services, etc. Please provide a proposal for temporary concession services as part of your proposal. Plans proposing temporary concession services will be given additional consideration during the scoring process.

If your company is unable or unwilling to provide some level of temporary concession services, preferably 24-hour service, please provide an explanation in your proposal.

The following revised documents are being issued with this Addendum No. 2 to address the foregoing:

- Revised Request for Proposal (RFP) document
- New Appendix J – Revenue Sharing Proposal for Temporary Services
- Revised form Contract for (Appendix C)

END OF ADDENDUM NO. 2



OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION
682 Prospect Street
Berea, Ohio 44017
(440) 971-2081

REQUEST FOR PROPOSALS
FOR FOOD AND RETAIL CONCESSIONS OPERATIONS AT THE ERIE
ISLANDS / COMMODORE PERRY
RFP No. 7-2021

ISSUE DATE: **May 10, 2021**

SITE VISITS & TOURS: **June 2, 2021 at 10:00 A.M.** (Erie Islands Service Plaza)

***Masks and Social Distancing Required** **June 9, 2021 at 1:30 P.M.** (Commodore Perry Service Plaza)

INQUIRY END DATE: **June 18, 2021 at 5:00 PM (Eastern)**

QUESTION & ANSWER RESPONSE DATE: **June 30, 2021**

PROPOSAL DUE DATE: **July 30, 2021 at 5:00 P.M. (Eastern)**

COMMISSION MEETING: **September 20, 2021** (anticipated meeting for contract award – subject to change)

SMALL BUSINESS ENTERPRISE GOAL

(INCLUDING SBE, DBE AND EDGE) FOR THIS CONTRACT: (A) THE OPERATOR SHALL COMMIT TO AN SBE GOAL OF 15% FOR THE RENOVATION/CONSTRUCTION OF THE AREAS OF RESPONSIBILITY; AND (B) THE OPERATOR SHALL MAKE A GOOD FAITH EFFORT TO: (1) ENSURE THAT ONE OR MORE UNIT IS OPERATED BY AN SBE MANAGED OPERATOR (THIS CAN BE THE OPERATOR IF AN SBE OR BY SUBCONTRACT WITH AN SBE); BUT IF NO SBE OPERATOR IS ESTABLISHED OR AVAILABLE; (2) OPERATOR SHALL MEET AN SBE GOAL OF 10 % FOR SUBCONTRACTS FOR GOODS, SUPPLIES AND SERVICES IN SUPPORT OF OPERATOR'S CONCESSIONS OPERATIONS

In lieu of taking exceptions to RFP requirements, including but not limited to terms and conditions, scope of work statements, service levels requirements, etc., or providing assumptions that may be unacceptable to the Commission, Respondents are strongly encouraged to use the inquiry process in Part VII of this RFP.

TABLE OF CONTENTS

PART I.	BACKGROUND INFORMATION	1
PART II.	ASSISTANCE FROM COMMISSION PERSONNEL.....	4
PART III.	TECHNICAL PROPOSAL REQUIREMENTS.....	4
PART IV.	REVENUE SHARING PROPOSAL.....	7
PART V.	CONTRACT FOR CONCESSION OPERATIONS REQUIREMENTS.....	7
PART VI.	PROPOSAL SUBMISSION REQUIREMENTS	8
PART VII.	INQUIRY SUBMISSION INSTRUCTIONS, SITE VISIT & SURVEY	8
PART VIII.	PROPOSAL SUBMISSION INSTRUCTIONS.....	9
PART IX.	EVALUATION OF PROPOSALS.....	9
PART X.	DEVIATIONS, EXCEPTIONS AND ADDENDA TO THE RFP.....	10
PART XI.	OFFICE OF EQUITY AND INCLUSION.....	11
PART XII.	LEGAL REQUIREMENTS	11
PART XIII.	INQUIRY AND PROPOSAL SUBMISSION INSTRUCTIONS	12
PART XIV.	ONLINE NOTARY PUBLIC SERVICES.....	12
PART XV.	RFP APPEAL PROCESS.....	13

APPENDIX A – Scope of Services

APPENDIX B – Revenue Sharing Proposal

APPENDIX C – Form of Contract for Food and Retail Concession Operations

APPENDIX D – Non-Collusion Affidavit

APPENDIX E – Affirmation & Disclosure Form – Executive Order 2019-12D

APPENDIX F – Office of Equity and Inclusion forms

APPENDIX G – Ethics Policy

APPENDIX H – Operator Information Packet

[APPENDIX I – OTIC Standard Exceptions Form](#)

[APPENDIX J – Revenue Sharing Proposal for Temporary Services](#)

**REQUEST FOR PROPOSALS (RFP NO. 7-2021) FOR
FOOD AND RETAIL CONCESSIONS OPERATIONS AT THE ERIE ISLANDS /
COMMODORE PERRY**

PART I. BACKGROUND INFORMATION

The Ohio Turnpike and Infrastructure Commission (“Commission”), a body corporate and politic constituting an instrumentality of the State of Ohio, is responsible for operating and maintaining the Ohio Turnpike, a toll road officially known as the James W. Shocknessy Ohio Turnpike. The Ohio Turnpike is a limited access highway extending 241 miles across northern Ohio. Additional information regarding the Commission and the Ohio Turnpike can be found at <https://www.ohioturnpike.org/home>.

The Commission owns, operates and maintains seven (7) pairs of Service Plazas within the Ohio Turnpike right-of-way. This RFP encompasses one pair of Service Plazas - set in the city of Clyde in Sandusky County, Ohio and identified as the Erie Islands (westbound traffic) and Commodore Perry (eastbound traffic) Service Plazas (collective “Service Plazas”). The Service Plazas were newly constructed in 1999 and renovated in 2015. The Service Plazas most recently hosted the following food and retail concession operations:

Erie Islands and Commodore Perry Unit Designations

<u>Unit</u>	<u>Concept</u>	<u>Use</u>	<u>Square Feet</u>
1	Coffee Shop	Starbucks	679
2	24 Hour	Burger King	810
3	Fast Casual	Auntie Anne’s	775
4	Fast Casual	Sbarro’s	775
5	Fast Casual	Einstein Bros.	2103
6	Retail/Gift	Travel Mart	748

The locations, concepts and uses of all Service Plazas located along the Ohio Turnpike can be found at the Commission’s website at <https://www.ohioturnpike.org/travelers/service-plazas>. The Service Plazas generally offer the following amenities and services:

- A. **Information Centers.** All Service Plazas are accessible to and designed for the convenience of Ohio Turnpike travelers and the local Ohio communities. Therefore, Service Plazas are appointed with a variety of amenities and services such as information desks, brochure displays, Turnpike Television offering 24-hour weather and information, maps, interactive destination kiosks with toll calculators and more.
- B. **Plaza Managers.** Commission-employed Service Plaza Managers are on duty daily at all Service Plazas to oversee our properties, facilities, and operations, to assist with customer service, facilitate maintenance needs and answer general questions. Scheduled hours vary for our staff throughout the week, including weekends. Concession operators have access to the Ohio Turnpike employees and Emergency Services 24 hours per day/ 7 days a week via telephone.
- C. **Common Area Maintenance.** The sum total square footage of all Common Areas within each Service Plaza is approximately 20,524 square feet. The Commission keeps in force a contract for janitorial services and provides other Common Area Maintenance (“CAM”) activities and splits its CAM costs and expenses, as defined in the Contract attached to this RFP, with the Selected Operator (“CAM Charges”). The CAM Charges

are fifty percent (50%) of the Commissions total monthly costs and expenses for common area maintenance.

The Commission is responsible for the purchase and replacement of interior and exterior common area Fixtures, Furnishings and Equipment (FF&E) including chairs, tables, trash bins and plaza furnishings for your use and are included as part of CAM Charges. FF&E purchases are generally amortized over a five-year schedule.

- D. **Restrooms.** All Plazas have two (2) sets of men's and women's public restrooms, plus family restrooms with twenty-four (24) hour janitorial services as part of CAM activities. There are separate restroom facilities, including showers, available for truckers in the Trucker's Lounge area. Additionally, non-public restrooms for the exclusive use of employees of the Service Plazas and its operators are located on the lower level near the employee break room.
- E. **Employee Restroom/Breakroom.** An employee break room and exclusive restroom facilities are located on the lower level of each Service Plaza building. The Selected Operator shall pay special attention to the break room and rest room facilities therein, which the Operator and its employees shall use in lieu of the public restroom facilities, and keep them in an orderly, clean and sanitary condition. Bearing in mind these are shared areas, the Selected Operator shall provide furniture and other equipment necessary to suit their needs in the break room for the employees and be responsible for all related costs.
- F. **Fuel.** At each Service Plaza, the Commission provides service station facilities offering gasoline and diesel fuel, DEF, compressed air as well as automotive supplies under a separate contract with a Service Station Operator selected by the Commission. 7-Eleven presently provides service station operations at the fourteen Service Plazas under the Sunoco and 7-Eleven brands. Gas prices on the Turnpike are monitored by the Commission to guarantee competitive prices and comparable offerings to off-Turnpike service stations in the area.
- G. **Truckers' Lounge.** All Service Plazas have a designated area for commercial drivers to rest and relax. The modernized Service Plazas offer a lounge area with comfortable seating, tables and televisions. All Service Plazas provide separate restroom and shower facilities in this area. The modernized Service Plazas also have coin-operated washers and dryers, and laundry detergent and supplies are similarly available for purchase within the Trucker's Lounge.
- H. **Public Wireless Internet Access ("Wi-Fi").** The Commission provides public Wi-Fi service to patrons of the Service Plazas without charge. The Commission's costs of providing this service are included in the CAM Charges.
- I. **Business Use Internet Access.** Each Service Plaza is equipped with business use internet access available to an operator through a separately negotiated, private agreement between the operator and the Commission's provider, and other terms as may be agreed upon by the Commission and the Operator. While an operator may obtain business use internet access from any provider, it is the Commission's recommendation and preferred option going forward for operators to use the existing service available from the Commission's provider.
- J. **Vending Machines.** Each Service Plaza offers a variety of vending machines under separate contract(s). Vending machines contain snacks such as chips, candy, gum, etc. and a variety of cold beverages. Other vended services including massage chairs, video and arcade games, and penny presses are under separate agreements.
- K. **Ohio Lottery.** Online and instant lottery tickets are sold at most Service Plazas. All service stations and most retail gift shops have instant and online lottery tickets

available twenty-four (24) hours a day. Video online Win-Stations are also available at all plazas. Lottery tickets up to \$499 can be redeemed at most gift shops and all service station facilities on the Turnpike.

- L. **Parking.** Service Plazas have separate parking areas for cars, trucks, buses and RVs. Expanded parking areas in the rear lot with extra-long spaces for truckers with double and triple trailers are available. There is a separate employee parking area outside of the access gate.
- M. **Electric Vehicle Charging.** As of the date of this RFP, the Commission currently offers EV charging sites at the Indian Meadow, Tiffin River, Blue Heron and Wyandot Service Plazas. The Commission plans to expand EV charging sites to all plazas in the foreseeable future.

The following contracted services shall be retained and administered by the Commission under separate Agreements:

1. Service Station Operations.
2. Food, Beverage and Laundry Vending Services.
3. Marketing, Communications and Advertising.
4. ATM's.

The Commission issues this Request for Proposals seeking to select a qualified operator (“Operator”) to provide food and retail concessions operations at the Erie Islands and Commodore Perry Service Plazas, as further described in Appendix A for:

Build-out and operate **Food and Retail Concessions** for Units 1, 2, 3, 4, 5 and 6 at the **Erie Islands and Commodore Perry** Service Plazas to include nationally or regionally branded concepts as approved by the Commission by a single operator. The sum total square footage of all six (6) Units is approximately five-thousand, eight hundred ninety (5890) square feet, per plaza with similar correlating square footage assigned on the plaza’s lower level for storage accessible by two (2) common staircases and a service elevator.

The “Operator Information Package,” Appendix H attached hereto, contains the drawings for the Erie Islands and Commodore Perry (collectively “SP-4”) and illustrates the dimensions of the entire concession area.

The contract for the Operator’s services shall commence upon its Effective Date and continue for a period of ten (10) years, with options to renew for five (5) additional five (5) year terms, exercisable by the Commission.

Please Note: At the time of issuing this RFP, the Commission cannot specify when a contract will be awarded, the effective date of any awarded contract or when construction is expected to commence. The current contracts for food and retail concession operations at the Service Plazas expire on February 28, 2022. The Commission is attempting to amend those contracts to provide for early termination. Respondent(s) will be advised of the anticipated schedule of targeted dates through the inquiry process if it becomes known prior to the Question & Answer Response Date. Otherwise, this issue will be addressed during contract negotiations.

Any person responding (a “Respondent”) must clearly demonstrate depth of experience in providing food and retail concession services, including familiarity with the various methodologies and industry best practices for performing the required tasks. Demonstrated experience in providing the necessary services is required.

PART II. ASSISTANCE FROM COMMISSION PERSONNEL

Commission personnel will be assigned to assist, as needed, with the coordination of the various aspects of any assignments. Commission personnel will also make available all documents in the Commission's possession to the Respondent required for completion of its duties. Generally, the Commission's Director of Service Plaza Operations and Chief Engineer will administer and manage the contract for the Operator's services.

The following information is included in the Operator Information Packet, attached hereto as Appendix H.

1. Sales Data from 2015 to 2019.
2. Traffic Data from 2015 to 2019; see also, <https://www.ohioturnpike.org/business/investor-relations#>

PART III. TECHNICAL PROPOSAL REQUIREMENTS

The general nature, scope and deadlines for the food and retail concession operator services are set forth in Appendix A ("Scope of Services") and the cover page of this RFP. The Commission expects that Respondents will have experience in providing the services of this nature and should understand the general scope of the services necessary to successfully fulfill the Commission's requirements.

Respondents should prepare Proposals that are concise and that include an explicit response to the items listed below:

- A. Narrative.** Respondents are required to provide a narrative describing the services the Respondent proposes to perform, the Respondent's understanding of the requirements described in this RFP, its experience and capabilities to perform the applicable Scopes of Services (attached hereto as Appendix A), and the Respondent's proposed means and methods to perform the tasks set forth in the Scope of Services. The narrative should clearly address the following critical matters:
1. Overall Mix of Brands/Concepts: Keeping in mind the Commission's strong preference for national or regional brands, submit the following in the proposal:
 - a. The specific brands for the Respondent to operate at the Service Plazas, the proposed hours of operation and a breakdown of the approximate square footage each will require. Respondent's proposal for alternate food and retail facilities at any or all Units, and the Commission is open to general retail service operations for the Service Plazas, but specific brands and concepts are required for food operations.
 - b. An initial menu and product list showing portion sizes and prices for all food and beverages and/or products which the Respondent proposes to offer.
 - c. How brand mix is compatible and complementary with one another and the brands' ability to create a sense of space or destination while meeting the needs and desires of the traveling public and special appeal to truckers.
 - d. The Respondent's rationale for the proposed brand mix.
 - e. If proposing to operate franchised brands, disclose the following (i) term of franchise; (ii) contractual agreement with franchisor; (iii) agreement with

- franchisor enabling franchisee to operate on the Ohio Turnpike; (iv) franchisee's commitment to franchisor regarding percentage of gross income toward franchise fee and advertising; (v) consent by franchisor to operation by franchisee under terms of the Contract between the Commission and the franchisee.
2. Aesthetics and Design: Acknowledging the obligation to design and remodel the space, provide the following preliminary ideas for the following:
 - a. The Respondent's financial commitment and resources necessary to provide appealing restaurant, retail, or gift shop facilities.
 - b. Conceptual designs incorporating a sense of place or destination.
 - c. The use of space will optimize operations, service delivery, customer service and sales.
 - d. The ability to integrate and remain consistent with third-party or mandated design standards.
 - e. The ability to successfully carry out the construction "build-out" required within the Service Plazas.
 3. Business Plan: Submit a documented business plan that evidences the Respondent's recognition of all the requirements of the Scope of Services, the business environment in which the Service Plazas operate and comparative information regarding the strength of the proposed brands or concepts and their ability to drive sales. The Business Plan **must** include the following:
 - a. Pro Forma Sales, Revenue and Expense projections for the initial ten (10) year term.
 - b. Supporting rationales for projections and its reasonableness in terms of monetary return to the Commission.
 - c. Statements for how each concession will maximize sales and revenues.
 - d. Anticipated capture rates and target market/demographics.
 - e. Detailed plan for an initial Capital Investment and any Capital Reinvestment Commitment obligations to arise upon each renewal period specifying the proposed schedule and targeted capital improvements over the complete term of the Contract.
 4. Customer Service, Marketing and Operations Plans: Recognizing the staffing, hours of operation and other service level requirements described above, provide an initial plan that addresses the following matters:
 - a. Training, Quality Assurance and Quality Control plans that take into consideration peak periods and sudden influxes of customers.
 - b. Management Plan, which must include supervision, recruitment, and retention measures.
 - c. Staffing Plan detailing the minimum number of non-management staff required to effectively operate each concept during the proposed operating hours and staffing requirements for each.
 - d. Brand Audit process and frequencies.
 - e. Approach to providing consistent customer service throughout fluctuating volume periods.
 - f. Complaint resolution process.
 - g. Merchandising and Marketing Plan.
 - h. Pricing Plan.
 - i. Sustainability Plan (Recycling, utilities conservation, environmental programs, etc.).

5. **Facilities Management:** Conceding the equipment, maintenance and repair responsibilities described in the Scope of Services and form of Contract, address the following matters to support Respondent's capabilities to perform the proposed obligations:
 - a. Describe the Respondent's approach to facilities management, including anticipatory, routine, scheduled and emergency maintenance and repairs.
 - b. Provide the Respondent's proposed activities regarding sanitation.
 - c. Identify Respondent's commitment to stewardship of the Units and other Areas of Responsibility at the Service Plazas.

6. A plan to expedite re-opening the concessions along with a timeline estimating your company's plan for design, construction, inspections and re-opening. Please be advised that limiting interruption of services is of critical concern to the Commission. Plans with expedited timelines will be given additional consideration during the evaluation process. If your company is unable or unwilling to expedite design and construction, please provide an explanation in your proposal.

7. The types of temporary concession services and resources your company or brand partners can provide until such time that permanent concessions are opened to the traveling public. These can include, but are not limited to, commercial food kitchen trailers, food trucks, catering, mobile ordering, other services, etc. Please provide a proposal for temporary concession services as part of your proposal. Plans proposing temporary concession services will be given additional consideration during the evaluation process. If your company is unable or unwilling to provide some level of temporary concession services, preferably 24-hour service, please provide an explanation in your proposal.

B. Experience and Qualifications. Fully and completely respond to the following requests by identifying the answer by number in the same sequence as the question.

1. Disclose the number, type and location of facilities managed the Respondent, and give the name or names under which the operations are conducted and identify warehouses, service centers, headquarters, and locations for operations.
2. Detail the Respondent's experience operating brands and concepts proposed.
3. Provide the annual sales volume and total number of employees for all operations. Separately list the sales figures and employees dedicated to any toll road facilities.
4. Provide an organizational chart showing a chain of executive authority from the Respondent's President or comparable Chief Executive down through the officer or employee(s) directly responsible for managing and servicing the prospective agreement, and identify the individuals occupying the positions shown and provide a resume for the individual(s) directly responsible for managing the prospective contract. Any companies submitting as a joint venture, partnership, or other form of association shall include the organization of each individual company within the association. Include any joint venture agreement and operating agreement between and among association members, plus a description of the role that each will play in the overall operation. Franchisees submitting as part of an association must submit the documents required in the preceding sentence.
5. Identify any present operations that are required to operate twenty-four (24) hours a day, seven (7) days a week and the one closest in proximity to the Ohio Turnpike.

6. State the length of time the Respondent has been engaged in the business under its present name and provide all prior “doing business as” or d.b.a. names.
7. State whether the Respondent has ever had a contract terminated or cancelled and provide details of any such terminated or cancelled contracts.
8. List any outstanding litigation in which the Respondent is involved, including the name of the case and the jurisdiction in which it was filed. Also, list whether the Respondent is the subject of any outstanding liens, judgments, bankruptcies, or receiverships.
9. Provide at least three (3) relevant customer references and contact information to evidence its experience in the industry, and identify any relevant special recognitions, awards, reviews, honors or other similar accolades.
10. Disclose all services or functions the Respondent anticipates fulfilling through subcontracting and identify the subcontractors proposed to perform those duties.

C. References. At least three (3) client references with contact information demonstrating experience working with other governmental or public entities with respect to the Scope of Services, and identifying any services performed.

D. Socially and Economically Disadvantaged Business. The SBE goal for this contract is as follows: (1) the Operator shall commit to an SBE goal of 15% for the renovation/construction of the Areas of Responsibility; and (2) the Operator shall make a good faith effort to (a) ensure that one or more units is operated by an SBE managed operator (this can be the Operator if an SBE or by subcontract with an SBE); but if no SBE operator is established or available; (b) Operator shall meet a goal of 10% for subcontracts for goods, supplies and services to support Operator’s concessions operations. In the Proposal and in completing the OEI forms attached to this RFP, Respondent shall describe how Respondent intends to meet this SBE goal for the proposed contract.

E. Insurance and Performance Bond. Evidence of Respondent’s ability to provide insurance policies with the coverages and limits required under the Contract for Food and Retail Concession Operations, and an affirmative statement regarding its capacity to furnish the required performance bond. See form of Contract (attached hereto as Appendix C) at Section 17.17.6, “Performance bond.”

PART IV. REVENUE SHARING PROPOSALS

The Revenue Sharing Proposal form is attached hereto as Appendix B and the Revenue Sharing Proposal for Temporary Services form is attached hereto as Appendix J. Respondents must complete and submit ~~theis~~ Revenue Sharing Proposal in a separate pdf document submitted to the Commission at purchasing@ohioturnpike.org with its response to the RFP. Respondents are strongly encouraged to complete and submit the Revenue Sharing Proposal for Temporary Services in a separate pdf document submitted to the Commission at purchasing@ohioturnpike.org with its response to the RFP.

PART V. CONTRACT FOR CONCESSION OPERATIONS REQUIREMENTS

In submitting a Proposal, the Respondent agrees to sign the Commission’s Form of Contract for Food and Retail Concession Operations attached as Appendix C incorporating the Scope of Services, subject to the Respondent’s Proposal, within ten (10) days of the Commission’s delivering of a notice of award.

PART VI. PROPOSAL SUBMISSION REQUIREMENTS

A Respondent's proposal to be responsive must consist of the following:

- A. The Respondent's Technical Proposal addressing the items described in Part III and the Scope of Services (Appendix A attached hereto).
- B. Completed and separately submitted Revenue Sharing Proposal (Appendix B attached hereto) and Revenue Sharing Proposal for Temporary Services (Appendix J attached hereto).
- C. An explanation of any concerns, requested information or exceptions related to the RFP, Scope of Services or the Food and Retail Concession Operations Contract (attached as Appendix C) using the spreadsheet attached as Appendix I.
- D. A completed, signed and notarized Non-interest/Non-collusion Affidavit (see Appendix D attached hereto; see also the Ethics Policy attached as Appendix G which is referenced in the affidavit).
- E. Completed and Signed Disclosure and Acknowledgement Governing the Expenditure of Public Funds on Offshore Services (see Appendix E attached hereto).
- F. Completed and separately submitted form from the Commission's Office of Equity and Inclusion ("OEI"), including the Small Business Enterprise (SBE) Utilization forms (see Appendix F attached hereto).
- G. Submit a proposal bond or certified check in the amount of \$5,000 conditioned on the faithful execution of the Contract for Food and Retail Concession Operations based on Respondent's proposal if selected for the contract award. See ORC 5537.07(C). The Commission shall return the bonds or certified checks to each Respondent after the successful execution of a contract with the Selected Operator. **PLEASE NOTE** –In addition to including the proposal bond or certified check with the electronic submission of the proposal, the original, hardcopy of the proposal bond or certified check must be sent to the Commission, Attn. Legal Dept., at the Administration Building at 682 Prospect Street, Berea, Ohio 44017 and received within 5 (five) business days of the proposal due date.

Proposals submitted in response to this RFP are subject to the Ohio Public Records Act found pursuant to Section 149.43 of the Ohio Revised Code. Respondents that deem any materials submitted in response to this RFP as excluded from the definition of "public record" or otherwise exempt from disclosure (i.e., proprietary trade secrets) under the law, must clearly mark the material so designated as "confidential." Public record requests received by the Commission will be responded to in a reasonable amount of time and in accordance with Ohio law.

PART VII. INQUIRY SUBMISSION INSTRUCTIONS, SITE VISIT & SURVEY

Inquiries. All interested parties are welcome to submit specific questions or requests for clarifications of the RFP requirements. Respondents are expected to raise any questions, exceptions, or additions they have concerning the RFP prior to the end of the Inquiry Period indicated on the cover page. These questions shall be addressed in writing and **emailed to purchasing@ohioturnpike.org**. **Do not contact**

the Commission by phone. Do not direct questions regarding the RFP to anyone other than through the email address provided. At the completion of the Inquiry Period, a summary of all questions and answers will be compiled, posted on the Commission's website (<https://www.ohioturnpike.org/business/doing-business-with-us/rfps>), and provided via email to the interested parties on file. In the event that it becomes necessary to provide additional clarifying data or information or to revise any part of this RFP, addenda will be posted publicly (at the same link as answers) and provided directly to all recipients of this RFP.

Site Visit and Tour. Plans for the Service Plazas are provided with this RFP. (See Appendix H). The Commission will hold pre-proposal site visits and tours on **Wednesday, June 2, 2021 at 10:00 AM at the Erie Islands Service Plaza** and **Wednesday, June 9, 2021 at 1:30 PM at the Commodore Perry Service Plaza**. The Erie Islands Service Plaza is located at 1012 N. County Road 260 (Plaza #4 North), Clyde, Ohio 43410, at Milepost 100.0 Westbound (Located east of Interchange #91 at Milepost 100.0 on the north side of the Ohio Turnpike right-of-way in Sandusky County, Ohio, State Route 412, 1 Mile east of State Route 510 to County Road 260, north on County Road 260 to access road (approximately 100 feet)). The Commodore Perry Service Plaza is located at 888 N. County Road 260 (Plaza #4 South), Clyde, Ohio 43410, at Milepost 100.0 Eastbound (Located east of Interchange #91, at Milepost 100.0, on the south side of the Ohio Turnpike right-of-way in Sandusky County, Ohio, State Route 412 to County Road 260, south on County Road 260 to access road (approximately 1/10 mile south of Turnpike)).

Anyone attending a site visit and tour must wear a mask at all times and adhere to social distancing, maintaining a minimum of six (6) feet between themselves and other individuals.

Customer Survey. Any Respondent may conduct a customer survey at any Service Plazas on the Ohio Turnpike. One (1) survey per Respondent is permitted during the RFP process. Each survey questionnaire shall be no longer than one (1) page (two (2) sides of one (1) page is permitted). No more than two (2) calendar days will be permitted to conduct each survey.

PART VIII. PROPOSAL SUBMISSION INSTRUCTIONS

Proposals shall be organized, with an index, ordered in the same manner as the response items and Scope of Services requested by this RFP. Respondents must timely submit its Proposal electronically to purchasing@ohioturnpike.org in pdf format (separate pdf documents for the Technical Proposal and the Revenue Sharing Proposal) before the deadline specified on the cover page of this RFP. Paper copies received will be considered non-responsive.

PART IX. EVALUATION OF PROPOSALS

The Commission will form an Evaluation Team of Commission staff to review completed Proposals. A Contract for Food and Retail Concession Operations will be awarded, if any award be made, on the basis of the responsive Proposal which, in the judgment of the Commission, is the Proposal that delivers the best value in terms of service and price submitted by the Respondent that is most qualified to provide the services specified. A Proposal will be considered responsive if the Proposal responds to all of the requirements of the Specifications and contains no deviations from the Specifications that would affect the amount of the Proposal or otherwise create a competitive advantage. Award of a contract will not be based solely on the Revenue Sharing Proposal, but on a combination of factors. In determining whether a Respondent is responsive, the Commission will consider the Respondent's experience, conduct and performance on previous contracts and ability to execute the contract properly. Additionally, as noted

above in Part III, proposals that include expedited time lines and temporary concession services will be given additional consideration. Factors that may be considered by the Commission are:

- A. Statement of the Respondent’s understanding of the Scope of Work, its capabilities to meet the requirements of the RFP and its means and approach to performing the services described in Appendix A – [30] points
- B. The Respondent’s skills, reputation, experience, capabilities and expertise in performing the required services – [25] points
- C. The qualifications of the individuals proposed to perform services – [15] points
- D. Completion and submission of all items required under this RFP. [30]
- E. Submission of any exceptions or requested deviations, and committing to a plan for meeting or exceeding the SBE Goal or satisfactorily demonstrating use of Good Faith Efforts to attain SBE certified firms’ participation on the Project – pass/fail
- F. Revenue Sharing Proposal as detailed in Appendix B of the RFP – Evaluated separately from above factors.

Once the Proposals are reviewed (meaning concepts, operations and corporate ability only), the Respondents will be evaluated and ranked. The Commission may require one or more Respondents to answer questions, respond to concerns or provide clarification regarding their Proposal. The initial ranking of the Proposals will exclude the Revenue Sharing Proposals. Once this initial ranking is completed, the Commission will open and review the Revenue Sharing Proposals and combine the initial ranking with the evaluation of the Revenue Sharing Proposals. In performing the final ranking, the Commission reserves the right to give greater weight to the operational proposals over the Revenue Sharing Proposals. Once the final ranking is performed, if necessary, the Commission may attempt to negotiate a mutually acceptable Revenue Sharing agreement with the top-ranked Respondent. If those negotiations are unsuccessful, the Commission will then look to the second ranked Proposal and, if necessary, the negotiation process may be repeated.

PART X. DEVIATIONS, EXCEPTIONS AND ADDENDA TO THE RFP

Respondents should raise any questions, exceptions or requested changes they have concerning the RFP during the Inquiry Period. If a Respondent discovers any ambiguity, error, conflict, discrepancy, omission or other deficiency in this RFP, that Respondent should immediately notify the Commission of such error and request modification or clarification of the RFP in accordance with the procedures outlined in PART V. In the event that it becomes necessary to provide additional clarifying data or information or to revise any part of this RFP, addenda will be issued and posted on the Commission’s website (<https://www.ohioturnpike.org/business/doing-business-with-us/rfps>) to modify the necessary provisions of the RFP.

Respondents should specify in the Proposals whether they take exception to any of the Scope of Services or the Contract for Food and Retail Concession Operations. If a Respondent fails to notify the Commission of a known error in the RFP, and a Contract for Food and Retail Concession Operations is

awarded to that Respondent, that Respondent shall not be entitled to additional compensation or time by reason of the error or its later correction.

The Commission reserves the right to make changes to the scope of this RFP and to clarify any of the requirements, information and/or provisions of this RFP as it deems necessary. Any changes to the RFP will be made via addenda issued prior to the submission deadline. The Commission further reserves the right, if necessary, to extend the submission deadline.

PART XI. OFFICE OF EQUITY AND INCLUSION

The Commission adopted its Small, Minority Business Inclusion Program in 2016 to ensure that businesses certified as a Small Business Enterprise (SBE), Minority Business Enterprise (MBE), and/or Disadvantaged Business Enterprise (LDBEs) have the fullest possible opportunity to participate in contracts involving the expenditure of Commission funds. The program is administered by the Commission's Office of Equity and Inclusion (OEI), which reviews each proposed contract and determines if opportunities exist and if so, applies a goal to the proposed contract. In some cases, no goal is applied to a proposed contract due to a lack of opportunity and availability of certified businesses.

The Commission's Office of Equity and Inclusion Standards and Practice Manual for the Small, Minority and Disadvantaged Business Inclusion Program is available on the Commission's website at <https://www.ohioturnpike.org/business/oei>.

When a goal is identified in an RFP, the respondent must submit the documentation provided by the Commission to show how the respondent will meet the goal. When the goal is waived, the program standards still require respondents to use "good faith efforts" or necessary and reasonable actions that would reasonably be expected to attain SBE or MBE or LDBE participation in the respondent's performance of the scope of work. The OEI's forms are attached to this RFP as Appendix F.

Additionally, whether the Commission applies a goal to a proposed contract or not, the program standards provide that the Commission may apply an evaluation credit of five percent (5%) to the total points awarded for proposals received from SBEs, or MBEs and LDBEs consultants to perform the personal or professional services set forth in the scope of services. The Commission may apply this credit in the evaluation process for proposals submitted in response to this RFP No. 7-2021.

For questions about the Commission's Small, Minority and Disadvantaged Business Inclusion Program, please visit the Commission's website at <https://www.ohioturnpike.org/business/oei>.

PART XII. LEGAL REQUIREMENTS

The Respondent is required to adhere to the rules and regulations promulgated by the Commission and the State of Ohio and all terms and conditions set forth in this RFP. Additionally, the Respondent agrees to the following:

- A. A Respondent may withdraw or modify its proposal only if notice of such withdrawal or modification is prior to the proposal opening date as identified on the front cover of this RFP.
- B. Once opened, the Respondent agrees that its Proposal cannot be altered, modified, or withdrawn.

- C. By submitting a Proposal, the Respondent acknowledges it has read this RFP, understands it, and agrees to be bound by the terms and conditions set forth herein.
- D. The Commission is not responsible for the accuracy of any information regarding this RFP that was gathered through a source other than the Commission's website or the inquiry process described in the RFP.

The Commission reserves the right to:

- A. Reject any and all Proposals in whole or in part;
- B. Require any Respondent to submit additional written or oral clarification of their Proposals and to meet with any, but not necessarily all, of the Respondents to obtain additional information and/or clarification and/or to negotiate terms of any Proposals submitted;
- C. May consider financial information other than the financial information required by this RFP as part of the evaluation process, including but not limited to credit reports from third-party reporting agencies.
- D. Negotiate the Price Proposal submitted by the top-ranked Respondent;
- E. Enter into a Contract with the Respondent on the basis of the Proposal submitted, without written or oral modifications thereto; and
- F. Waive minor irregularities noted in a Proposal when in the best interest of the Commission.

Under no circumstances will the Commission be responsible for any costs incurred by any Respondent in submitting a Proposal.

PART XIII. INQUIRY AND PROPOSAL SUBMISSION INSTRUCTIONS

Respondents must timely submit one electronic version of its Proposal electronically to purchasing@ohioturnpike.org in pdf format (separate documents for the Technical Proposal and the Revenue Sharing Proposal) before the deadline specified on the cover page of this RFP.

PART XIV. ONLINE NOTARY PUBLIC SERVICES

The Commission has the capability to provide online notary public services which are available to any bidder without access to a notary public for documents that must be notarized and submitted with a bid. Please allow at least 3 business days to process any request for online notary public services. Requesting party must have computer internet access and a webcam. Please contact the Commission at purchasing@ohioturnpike.org for online notary public information and services.

PART XV. RFP APPEAL PROCESS

Any aggrieved respondent desiring to challenge the award of a contract as a result of this RFP must state its complaint in writing, through electronic submission in pdf format to purchasing@ohioturnpike.org within five (5) calendar days of notification of the contract award. Upon receipt of a timely challenge, one or more representative(s) of the Commission shall meet with the protesting party to hear its objections. ORC Chapter 119 shall not be applicable to such meeting. No final award shall be made until the Commission either affirms or reverses its earlier determination for such contract award.

APPENDIX C

CONTRACT FOR FOOD AND RETAIL CONCESSION OPERATIONS
FOR THE ERIE ISLANDS AND COMMODORE PERRY SERVICE PLAZAS
BETWEEN

-AND-
OHIO TURNPIKE AND
INFRASTRUCTURE COMMISSION
(CONTRACT 2021-SP-4-MCA-FRC)

(THE CONTRACT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY -- TO BE COMPLETED ONLY AFTER CONTRACT AWARD)

This Contract is made and entered into as of the date last written below (“Effective Date”), by and between the **Ohio Turnpike and Infrastructure Commission** (the “Commission”), 682 Prospect Street, Berea, Ohio 44017, through its Executive Director under the authority of Section 5537.04 of the Ohio Revised Code and Resolution No. _____, adopted _____ and _____ (“Operator”), [insert address], a _____ organized and existing under the laws of _____, through its duly authorized representative.

RECITALS

WHEREAS, the Commission issued Request or Proposal No. 7-2021 (“RFP”) on _____, 2021 to select an operator to provide Food and Retail Concession Services to the traveling public at the service plazas along the Ohio Turnpike known as the Erie Islands and Commodore Perry Service Plazas (SP-4), as more fully described in the RFP; and

WHEREAS, the Operator submitted a proposal under cover letter dated _____, 2021 (“Proposal”) in response to the RFP that the Commission deemed the Proposal to be the best of those received in terms of the combination of service and revenue; and

WHEREAS, the Commission and the Operator desire to enter into a contract for the Operator to perform the services described in the Scope of Services to this Contract .

NOW THEREFORE, in consideration of the mutual promises, covenants and terms and conditions set forth herein the parties agree as follows:

ARTICLE 1 – DESCRIPTION OF SERVICES AND TERM

1.1 The Operator agrees to perform and is engaged under the terms, conditions and provisions of this Contract to provide food and retail concession services and other services as set forth in this Contract.

1.2 Through the execution of this Contract, the Commission accepts and the Operator

APPENDIX C

agrees to be bound by the terms and conditions of this Contract, which includes the final Scope of Services, incorporated herein as **Exhibit A**, subject to any changes or modifications that may be made by the parties under this Contract. The Scope of Services is incorporated and made a part of this Contract, except as changed or modified by any provisions of this Contract, whether or not physically attached to this Contract. In the event of any conflict between the Contract and the Scope of Services, the provisions of the Contract shall govern.

1.3 This Contract for Food and Retail Concession Services at the Service Plazas shall become effective upon the first date written below (“Effective Date”). The initial term of the food and retail concession services at the Service Plazas (as defined below) shall commence on the opening date of restaurant operations and, subject to the termination provisions of the Contract, shall continue for a period of ten (10) years (the “Initial Term”). For purpose of this Contract, “opening date” shall mean the date that more than fifty percent (50%) of the restaurant services are fully operation.

1.4 The Commission shall have the option to renew the Contract for five (5) additional five (5) year renewal terms exercisable upon notice to the Operator at least 180 days before the expiration of the initial or renewal term (each, a “Renewal Term”).

ARTICLE 2 –RIGHT OF USE; UNITS AND AREAS OF RESPONSIBILITY.

2.1 Right of Use. Subject to the terms and conditions set forth in this Contract, the Commission grants to Operator a non-exclusive right to enter upon and use the premises described on **Exhibit B** [*to be added after proposal is submitted and terms negotiated*] attached hereto and incorporated herein (hereinafter the “Areas of Responsibility”) for any purpose related to Operator’s operating food and retail concession services at the Erie Islands and Commodore Perry Service Plazas (hereinafter the “Service Plazas”). Notwithstanding anything herein to the contrary, it is the Commission’s intention that, throughout the Term of this Contract, the Operator shall be the exclusive vendor of the entire Units (as defined below) encompassing all of its square footage. The Commission reserves the right to solicit and provide auxiliary services, as appropriate, outside of the assigned Unit space, as necessary or appropriate for special events; however, Operator shall have the right of first refusal for such special events, as appropriate.

2.2 Duration of Right to Use. The right to use granted to under this Contract shall terminate at the cessation of this Contract whether by expiration, termination or otherwise.

2.3 Operator’s Units. The Operator shall provide food and retail concession services at Units [*insert Unit number(s)*] at the Erie Islands Service Plaza and at Units [*insert Unit number(s)*] at the Commodore Perry Service Plaza (hereinafter the “Units”) at all times during the Term of this Contract and in a manner satisfactory to the Commission.

2.4 Areas of Responsibility. During the term of this Contract, Operator shall have the use of and responsibility for, as further set forth in this Contract, the areas of the Services Plazas described as [*to be added after proposal is submitted and terms negotiated*] (the “Areas of Responsibility”) defined above and as further depicted on the drawings attached hereto as **Exhibit B** and incorporated by reference [*exhibit to be added after proposal is submitted and terms negotiated*].

APPENDIX C

2.5 Areas of Responsibility Accepted in “As Is” Condition. The Operator accepts the Areas of Responsibility, including all attachments, improvements, furnishings, and equipment in their “as is condition” as of the Effective Date of this Contract.

ARTICLE 3 – PAYMENTS

3.1 Concessions Fee:

3.1.1 Gross Revenue:

3.1.1.1 For purpose of this Contract, the term “Gross Revenue” shall mean all amounts received or charged by the Operator in cash or credit for, on account of sales of, or gift cards or certificates redeemed for, all products or services made at or rendered from the Service Plazas, whether delivered or sold for consumption on or off the premises, except that discounts for employee meals, shall be excluded in determining the amount of “Gross Revenue.” Overages or shortages in cash collections shall not be offset against gross receipts.

3.1.1.2 In calculating Gross Revenue, discounting through the acceptance and redemption of coupons, gift cards, discount programs and frequency programs at its operations shall not be unduly restricted but shall require prior Commission review and written approval.

3.1.1.3 In determining the amount of “Gross Revenue,” nothing shall be excluded or deducted from the amounts received or charged on account of any tax payable by the Operator, but no amount shall be included which the Operator is by law required to collect from customers and to pay over to any taxing authority or governmental agency.

3.1.2 The Operator shall pay the Commission an annual Concessions Fee, based on a percentage of Operator’s gross revenues, to be paid on a monthly basis, based on the following schedule:

[Terms to be added after proposal is submitted and terms negotiated]

This schedule is subject to the Guaranteed Minimum Annual Concessions Fees described in this Section. For year one of the Contract, the aggregate amount the Operator pays to the Commission for the Concessions Fee, Property Management Fee (described below) and Capital Improvement Fee (described below) shall equal or exceed \$*[insert based on proposal]* (“Guaranteed Minimum Annual Concessions Fee”) per set of plazas. For each subsequent year thereafter, the Guaranteed Annual Concessions Fee will be based on the actual aggregate amount the Operator paid the Commission from the previous year plus 2%.

The Concessions Fee and the Guaranteed Minimum Annual Concessions Fee guarantee year shall run January through December, and any given partial year shall be pro-rated on a monthly basis commencing with the date operations commence. The Concession Fee shall

APPENDIX C

increase two percent (2%) on January 1 each year throughout the term of the Contract, provided, in computing the first annual two percent (2%) increase, six (6) operating months or more shall constitute a full year and invoke an increase upon the first day of January during the term of the Contract.

If, in any year during the term of the Contract, the aggregate amount the Operator pays to the Commission for its Concessions Fee (adjusted annually), Property Management Fee and Capital Improvement Fee fails to exceed the Guaranteed Minimum Annual Concessions Fee, the Operator shall pay to the Commission the difference between the amount the Operator has paid during the guaranty year and the Guaranteed Minimum Annual Concessions Fee. This amount shall be paid on or before February 1 of the year following the guaranty year.

3.2 Property Management Fee: The Operator shall make payments to the Commission monthly in the amount of four percent (4%) of Gross Revenue generated from the Operator's activities under the privilege and license granted under this Contract.

3.3 Capital Improvement Fee: The Operator shall make payment to the Commission monthly in the amount of 1% of Gross Revenue for capital improvements to the Service Plazas. The Commission will exclusively use the Capital Improvement Fee for improvements to the Service Plazas. At the end of the Contract, all unexpended capital improvement funds remain the property of the Commission.

3.4 Common Area Maintenance Fees:

3.4.1 Definitions. For purposes of this Contract, the following terms shall have the meanings provided below:

3.4.1.1 "Common Area" shall mean all the public and shared areas and square footage of the Service Plaza Building, **except** the designated Unit areas. The common areas within the Service Plazas include areas such as public restrooms, lobbies, food court, truckers lounges, service hallways, stairways, basements and loading docks. The exterior Common Area is further described to include the parking areas, access roads, the employee parking areas, the truckways, driveways, loading docks and areas, pedestrian sidewalks, ramps, grounds, landscaped and planting areas, retaining walls, all lighting facilities incident thereto and all other areas and improvements and facilities which may be furnished by Commission for the general use in common of Operator and other contractors or service providers of the Commission at the Service Plaza properties, their officers, agents, employees and customers, as such areas and facilities may be changed from time to time in the discretion of the Commission. For purpose of this Contract, "Common Area" shall not include the premises used for service station operations at the Service Plazas.

3.4.1.2 "Common Area Maintenance Fees" or "CAM Charges" shall mean fifty percent (50%) of the Commission's total costs and expenses of maintaining, and managing the Common Areas at the Service Plazas, calculated on the square footage apportioned to the Operator's concessions operations. CAM Charges shall include fifty percent (50%) of the total monthly expense for 24-hour janitorial services, maintenance of rest rooms,

APPENDIX C

lobbies, food court, picnic area, truckers lounge and showers, parking areas, grounds, building, trash containers, yard, pest and insect control of common areas, common area trash removal, and other miscellaneous cleaning and specialized maintenance services, ~~and Public Wi-Fi~~ provided by the Commission in the Common Areas. CAM Charges shall include fifty percent (50%) of the total cost of Fixtures, Furnishings and Equipment (FF&E) amortized over five (5) years. The monthly CAM Charges shall also include fifty percent (50%) of all expenses of utility services (electric, natural gas, water and wastewater) for the common areas of the Service Plaza Buildings, structures and property. CAM Charges will not be applicable during the construction phase or buildout phase. CAM Charges will commence upon the first full month of operation of the individual concessions based on the percentage of space occupied by the operating unit(s).

3.4.2 Payment of CAM Charges: The Operator shall pay the CAM Charges to the Commission on a monthly basis. The Commission shall invoice the Operator for the CAM Charges and payment shall be due and payable within fifteen (15) days of receipt of the invoice. A late fee of eight percent (8%) per annum will be assessed to all overdue payments.

3.5 Revenue Sharing Reports: The Operator shall forward monthly Revenue Sharing Reports for the prior month's activities on or before the 4th business day of each month. Accompanying its monthly payment, the Operator shall make a final report, certified to be true and correct, to the Commission of its activities for the preceding month. The final report shall be in the format prescribed by the Commission, as approved by the Commission.

3.6 Payment of Fees. The Operator shall pay the Concessions Fee, Property Maintenance Fee and Capital Improvement Fee to the Commission on a monthly basis, on or before the business day following the 11th day of the month. If the last day of the month falls on a Saturday, Sunday or legal holiday, the Operator may make payment on the gross revenue generated through the last business day of the month provided the balance of the month's Gross Revenue is included in the succeeding month's payment. The relationship of debtor-creditor shall exist between the parties as to the Commission's share of all monies collected by the Operator, but not paid to the Commission.

3.7 Obligation to Keep and Maintain Accounting Records. The Operator agrees to keep such records of its operations and to make such reports to the Commission (in addition to those hereinafter prescribed) as the Commission may require. The Operator shall keep accounting records of its operations under this Contract separate from its record of all other operations and shall keep separate records for each individual concession and Unit covered by the Contract. Receiving and accounting procedures for any amounts which the Operator is entitled to exclude from Gross Revenue shall be such as to cause no undue interference with the auditing of the Operator's Gross Revenue, and any items that cannot be identified to the satisfaction of the Commission's auditors will be treated as Gross Revenue.

APPENDIX C

ARTICLE 4 – DESIGN AND RENOVATION

4.1 Operator Responsibility. The Operator shall be responsible for the design and renovation, licensing and permitting, and maintenance of the facilities and mechanicals in the Areas of Responsibility as described in the Scope of Services attached hereto as **Exhibit A**.

4.2 Ohio Building Code. All construction work shall comply with the Ohio Building Code and other reasonable requirements, subject to the review and approval of the Commission's Chief Engineer. The Operator shall obtain all necessary permits for the performance of the work.

4.3 Plans and Specifications. The Operator shall submit the plans and complete construction documents for the design and renovation of the Areas of Responsibility to the Commission within sixty (60) days after the Effective Date of this Contract, including specifications, construction schedule, fixtures and furniture listings and equipment specifications for the renovation.

4.4 Plan Review by Commission. The plans and complete construction documents shall be reviewed and approved by the Commission's Chief Engineer prior to submission to the State of Ohio for plan approval. The plans and complete construction documents shall be reviewed by the Commission, and the Commission shall, within thirty (30) calendar days after receipt of the documents respond to the Operator in writing indicating approval, rejection, or other action to be taken (i.e., approval with modification(s)). The Operator shall re-submit such documents within thirty (30) calendar days for further action by the Commission. The Commission's approval of the plans and construction documents does not relieve the Operator from furnishing equipment and material of proper dimension, quantity, and quality, nor shall such approval relieve the Operator from responsibility for errors in the preparation of the construction documents, or failing to meet the requirements of this Contract.

4.5 Construction. Prior to the commencement of the work, the Operator shall submit the name and contact information of the prime contractor and subcontractors to the Chief Engineer for approval. The Operator shall carry out the renovation construction of the Areas of Responsibility in strict accordance with the approved plans and construction documents and shall not make any changes except upon the prior written approval of the Commission. The failure of the Operator to carry out the renovation construction of the Areas of Responsibility in strict accordance with the approved plans and construction documents shall be grounds for termination of the Contract by the Commission.

4.6 Quality of Work/Inspection. All work and materials shall be the highest quality and shall be in accordance with recognized construction industry standards and procedures. The Commission shall inspect the work to determine if it is being performed in accordance with the standards set forth herein and the approved plans and construction documents.

4.7 Insurance and Bonding. The construction contractor(s) hired by the Operator shall be bonded in amount equal to the bid submitted by said contractor(s) for constructing the renovation. The bond shall be with a surety authorized to conduct business in the State of Ohio and shall cover performance of the contractor(s) as well as payment to their subcontractors. The Operator shall require its contractors and all subcontractors to provide comprehensive/commercial general

APPENDIX C

liability and excess catastrophe liability coverage throughout the construction in such amounts as the Commission determines, and Ohio Workers' Compensation coverage. The Commission shall be named an additional insured under said policies and shall be furnished with the certificate evidencing such insurance, which shall require a thirty (30) day notice to the Commission of cancellation or material change in coverage. The policy or policies shall be primary and non-contributory.

4.8 Prevailing Wage. The contractor(s) shall base its bid upon the prevailing rates of wages as ascertained by the Ohio Department of Commerce, Division of Labor & Worker Safety, Wage and Hour Bureau for the Project as provided in Section 4115.03 through 4115.14 of the Ohio Revised Code. The prevailing rates of wages are published by the Division of Labor & Worker Safety, Wage and Hour Bureau and Hour portal at <https://wagehour.com.ohio.gov/w3/webwh.nsf/wrlogin/?openform> and shall be incorporated by reference in the Operator's contract(s) with its construction contractor(s). Within ten (10) days of the date of the Notice to Proceed, each contractor and every subcontractor shall provide to the Commission (Attention: Office of Equity and Inclusion Manager) a schedule of dates during the term of the Contract on which wages will be paid to employees for the project. Every contractor(s) and any subcontractor(s) that performs the buildout shall pay the prevailing wage rates of the locality to laborers and mechanics performing work.

4.9 Certified Payroll. The contractor(s) and any subcontractor(s) shall deliver certified copies of payroll reports within two weeks after the initial pay date to the prevailing wage coordinator, and supplemental reports at least each month thereafter. The certification of each payroll shall be executed by the contractor, subcontractor, or duly appointed agent thereof and shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by the Contract. The contractor shall be responsible for submitting all payroll reports of the subcontractors.

4.10 Time for Completion. Time is of the essence when undertaking the renovation. The Commission anticipates that demolition and renovation construction shall commence in [*TBD after contract award*] with the scheduled completion not more than 120 days thereafter. Contracts entered into by the Operator shall contain clearly established deadlines for completion to which liquidated damage provisions shall be tied in the event any contractor fails to timely complete their portion of the renovation construction.

4.11 Project Closeout. Upon completion of the build-out work, the Operator shall furnish to the Commission one (1) complete set of "as-built" plans and specifications (paper and electronic version). The "as-built" drawings shall be in a form acceptable to the Commission and shall be subject to the approval of the Commission.

4.12 Ownership of Improvements. At such time as the built-out constructed Areas of Responsibility are accepted by the Commission, the articles affixed to the property including, but not limited to, real property additions, attachments and fixtures, except for business fixtures (i.e., menu boards, brand logos, etc.) shall become the property of the Commission, unless otherwise provided in Article 6 below. If, prior to expiration of the Contract, the Commission deems it necessary to terminate the Contract, in whole or in part, the Commission is not obligated to pay

APPENDIX C

the Operator for any unamortized portion of the cost of any construction, build-out, renovation or remodeling that may have occurred.

4.13 Post-Renovation Capital Improvements and Refurbishment. The Operator shall keep the Units and Areas of Responsibility operating, updated, furnished and decorated in the most modern and effective manner to create the greatest earning potential for the Operator and the Commission as well as for the enjoyment of the patrons throughout the term of the Contract. The Operator shall expend the necessary funds and effort to maintain and refurbish the Units and Areas of Responsibility over the complete term of the Contract, which shall fulfill its Capital Reinvestment Obligation, as set forth in Article 17 of this Contract. The Operator shall not construct or make any renovations, repairs or improvement to the Units and Areas of Responsibility without having obtained written approval from the Commission. Prior to requesting a re-positioning of an existing concept, the Operator shall submit a written business plan to the Commission for approval that includes sales and expense estimates for the remainder of the term. If the Commission determines that operational issues arise from under-performance, the Operator shall provide documentation explaining the causes, what improvements it plans to make and how the proposed change will improve operations as part of the re-concepting. The renovations, repairs, or improvements during the term of the Contract shall proceed in accordance with the process set forth above for the original design and renovation of the Areas of Responsibility. The appearance and the attractiveness of the Units and Areas of Responsibility are of the essence to the Commission. The Operator, therefore, shall redecorate, repaint and maintain the Units and Areas of Responsibility, fixtures, furnishings and equipment in the Units any time and in the manner it may be required to do so by reasonable request, in writing, of the Commission.

4.14 Temporary Food Service. The Operator may provide temporary food service until the concession buildouts are completed and fully operational, as approved by the Commission, including but not limited to, commercial food kitchen trailers, food trucks, catering, mobile ordering or other similar services. Price and food items will be required as set forth in Article 10 of this Contract. Payments to the Commission will be required per the Revenue Sharing Proposal unless other revenue sharing terms are agreed to by the parties in writing.

ARTICLE 5 - MAINTENANCE

5.1 Maintenance Generally. The Operator shall maintain its Units and Areas of Responsibility, and all attachments, utilities, mechanicals, equipment, and furnishings therein, at its sole cost and expense, excluding only structural maintenance. The Operator shall ensure that the Units and Areas of Responsibility are maintained in first-class appearance and operability, and its maintenance responsibilities shall include, but are not limited to: cleaning of interior walls; sweeping, dusting, mopping and cleaning and care of all capital items within the Units and other Areas of Responsibility. The Operator's maintenance obligations shall generally include the following:

5.1.1 The maintenance, repair and replacement of all utilities and mechanicals within the Units and Areas of Responsibility, including basement storage areas;

APPENDIX C

5.1.2 The maintenance, cleaning, and jetting of all drain lines from the Units to the grease interceptor; and maintaining the grease inceptor located outside the building;

5.1.3 The maintenance and cleaning of all grease traps installed by the Operator in any Unit or Areas of Responsibility;

5.1.4 The maintenance and cleaning of any and all exhaust systems and grease containment for kitchen equipment to the exterior of the building, including make-up air units, fans, filters, ducts, exterior louvers, and the surrounding roof membranes that may accumulate grease;

5.1.5 Contracting with an approved fire suppression maintenance, inspection, and repair company in relation to fire suppression systems associated with cooking equipment and exhaust systems;

5.1.6 The furnishing, maintenance, repair, and replacement of the necessary boosters to step up the temperature of the water for dishwashers to the proper temperature;

5.1.7 The decoration of the interior of the Units so as to keep such interior neat, attractive, and fresh in appearance; and

5.1.8 Contracting with a professional rodent/pest and insect control company to regularly inspect and perform rodent, pest and insect control service in the Units and Areas of Responsibility.

5.2 Cleaning. The Operator shall perform cleaning and maintenance, and keep continuously clean, all Units and all of its Areas of Responsibility including storage, basement space, offices, utility, dumpster, grease receptacles and any and all other areas that are part of each Service Plaza apportioned to the Operator. In connection with the food court, the Operator is responsible for cleaning, housekeeping and filling the condiment areas as well as the collection and cleaning of its trays and any other item(s) provided to customers. Except as otherwise specified in this Section, the Operator shall perform such other housekeeping functions as are necessary to keep the aforesaid parts of the Service Plaza buildings, including the equipment therein, in a safe, orderly and presentable condition, and to prevent unnecessary depreciation thereof.

5.3 Rubbish and Garbage Disposal. The Operator shall collect and dispose of all rubbish and waste materials that accumulate as the result of its concession operations at the Service Plazas, and shall collect and dispose of all rubbish, waste and debris from any source from the area for which the Operator is responsible. (This does not include trash accumulated in the common areas). The Operator shall provide adequate dumpster(s) and/or compactors for collection of the waste material and shall be responsible for contracting for the disposal of such material generated within its Units and other Areas of Responsibility. Excessive trash may not be visible outside of the dumpster at any time. The Operator shall monitor trash volume and adjust the number of dumpsters and/or the frequency of pickups, as seasonal volumes dictate, or as directed by the Commission, the cost of which shall be borne by the Operator. The method and place of disposal shall be sanitary, free from odor and shall conform with all local and other laws and regulations, including storm water runoff guidelines, and with any instructions governing such disposal that the Commission may,

APPENDIX C

from time-to-time, give to the Operator. All waste materials shall be properly disposed of in accordance with such laws, regulations, and Commission instructions. Any container or other facilities for temporary storage of waste materials shall be adequate in size, all doors and lids shall be in place, in good condition and fully functional, sanitary and shall be maintained and operated in a sanitary manner. The sewage system is not designed to handle the disposal of garbage and trash, and the Operator shall not use such system for the disposal of garbage, whether or not materials are ground up.

5.4 Recycling Program. The Operator shall participate in a recycling program to include all equipment, supplies, labor and hauling for the Areas of Responsibility covered under the Contract. These may include, but are not limited to, cardboard, cooking oils, paper, plastic, metals, pallets, and other materials. The cost or credit of the recycling program shall be borne by and accrue to the Operator. The Operator shall provide the Commission with an annual report indicating the types and amounts of materials recycled at the assigned facilities on the Ohio Turnpike as part of the Annual Plan.

5.5 Landscaping, Snow Removal and Property Management. The Commission shall mow and trim all grass and existing shrubbery and plantings. The janitorial service shall remove the snow from sidewalks and from surfaced areas immediately adjacent to the building that are not accessible to heavy equipment. The Commission shall remove the snow from vehicle and parking areas, which it determines to be accessible to heavy equipment. The Commission shall assess a monthly fee equal to Four Percent (4%) of gross receipts for landscaping, snow removal and general property management, as previously detailed in Section 3.2.

5.3 Maintenance Plan. The Operator shall provide the Commission's Facilities Engineer or designee a documented plan of how and when facility equipment, kitchen equipment, utilities and unit operations are to be serviced. The maintenance plan shall include the name and contact information for the Operator's subcontracted service providers responsible for performing the maintenance, repair, and inspection of the following:

5.3.1 General facilities and routine maintenance services including miscellaneous repairs (leaking sinks, damaged outlets, lighting, etc.);

5.3.2 Pest control including scope of services;

5.3.3 Fire Alarm and Fire Suppression Systems;

5.3.4 Duct, Hood and Exhaust Inspection and Cleaning for exhausted equipment (broilers, fryers, grills, ovens, etc.);

5.3.5 Exhaust and Makeup Air equipment inspection and maintenance (filters, belts, controls, etc.);

5.3.6 Explanation of how scheduling frequencies are determined;

5.3.7 Floor Drain, Unit Plumbing Inspection, Cleaning and Line Jetting;

APPENDIX C

5.3.8 Grease Trap (inside) and Grease Interceptor (outside) cleaning and testing;

5.3.9 Grease hauling and removal;

5.3.10 Kitchen Equipment repair and maintenance;

5.3.11 Trash hauling and removal;

5.3.12 Operations (cleanliness, neatness, proper handling of food-cleaning products-garbage, etc.)

5.4 Maintenance Report. The Operator shall provide a service report, not less than every three (3) months to the Commission's Facilities Engineer or designee, showing that the items set forth in the Maintenance Plan have been completed and by whom and including the following:

5.4.1 A checklist schedule (above) and supporting documentation for executing the maintenance plan;

5.4.2 Status of any pending items;

5.4.3 A detailed summary of any incidents (fires, equipment failures, inspections by Health and/or Fire Departments, periods of disruption to food service, etc.) as well as corrective measures undertaken by the Operator; and

5.4.4 Any items that the Commission needs to address that may affect vendor operations.

5.5 Inspection by Commission. The Commission may, at any time without prior notice, enter the Units and other Areas of Responsibility to determine if the Operator is satisfactorily performing the maintenance requirements set forth above. Upon written notice by the Commission, the Operator shall perform whatever maintenance the Commission reasonably deems necessary to maintain the standards set forth in the Scope of Work and this Contract. If the Operator does not perform or commence performance of such maintenance within the time specified in the notice, which in no case shall be less than eight (8) hours, the Commission shall have the right to enter the Unit and/or Area of Responsibility and perform such necessary maintenance and the Operator shall promptly reimburse the Commission for the costs thereof, plus an additional twenty percent (20%) fee for administrative overhead.

ARTICLE 6- EQUIPMENT AND FURNISHINGS.

6.1 Equipment and Furnishings Generally. The Operator shall furnish, install, repair, maintain and replace all furnishings, fixtures, equipment, decorations, and accessories necessary for the conduct of the Operator's business and for the furnishing and decoration of the Operator's Unit and Areas of Responsibility. In addition, the Operator shall be required to supply all furnishings and equipment within the Units including, but not limited to, the following: all kitchen equipment, counters, floor, and wall coverings, etc. Such equipment shall at all times be adequate in number, condition, and type of items for the conduct of the restaurant in accordance with the standards required under this Contract. The Commission shall have the right to require substitution of any

APPENDIX C

equipment or the purchase of any additional equipment at any time, and from time-to-time, when in the judgment of the Commission such action is necessary or advisable.

6.2 Point of Sale Equipment. The Operator shall provide modern and efficient cash handling and point of sale equipment. All cash control equipment shall have a non-resettable grand total to allow for a complete and accurate audit trace.

6.3 Equipment Tagging. The Operator shall identify each item of its equipment valued in excess of Five Hundred Dollars (\$500.00) by a tagging method approved by the Commission, using a master list of numbers provided to the Commission. All tagged movable items and equipment furnished by the Operator shall remain the property and responsibility of the Operator.

6.4 Furnishings provided by the Commission. Unless the Operator's approved concept(s) contain a seating area within the confines of the Unit, the Operator's equipment shall not include the furnishings and equipment on the grounds and in the lobby, lounges and food court seating area such as chairs, tables, and trash containers. Food court furnishings shall be furnished by the Commission.

6.5 Right to Purchase. Unless otherwise specified herein, all furnishings, fixtures, equipment, decorations, accessories and other items provided by the Operator shall at all times remain the property of the Operator. Under mutual agreement of the parties, the Commission, its successors, and assigns, shall have the option upon written notice to purchase any or all of the equipment furnished pursuant to this Article at the expiration or earlier termination of the Contract. The purchase price shall be the cost for the items being purchased, including freight, sales taxes, and installation cost less depreciation at ten percent (10%) per year. Within ninety (90) days after the Effective Date of this Contract, the Operator shall file with the Commission a listing of its initial investment including all equipment, which list shall show the cost of all its equipment, as herein set forth, together with the beginning date of the depreciation period. In computing the number of years of depreciation, six (6) months or less shall be disregarded, and more than six (6) months shall be considered a full year. The Commission may, by exercise of the option with respect to equipment, obtain such equipment at no charge that has been fully depreciated in accordance with the above formula.

ARTICLE 7-REPAIRS

7.1 Commission's Responsibility. The Commission shall be responsible for all exterior repairs and all structural repairs, whether interior or exterior, to the buildings. The Commission shall replace any such equipment, which it determines to need replacement. The Commission shall be responsible for the operation, maintenance, repair and replacement of water supply, water lines and pipes connecting sewer lines and pipes to the exterior of the outside wall to the Units except as otherwise provided. The sewage system shall be operated and maintained by the Commission. The Commission shall repair any damages to the building caused by, resulting from or incidental to fire, lighting, windstorm, floods, hail or other action of the elements, or the explosion of any boiler not installed by the Operator. If repairs or replacements that are normally the responsibility of the Commission become necessitated by the negligence or the willful destructiveness of the

APPENDIX C

Operator, its agents or employees, such repairs or replacements shall be at the expense of the Operator.

7.2 Operator's Responsibility: The Operator shall be responsible for repairs to the inside portion of the Unit walls, ceiling, floor and Unit area space, and all Operator installed equipment. The Operator shall also be responsible for the cost of any repairs to the structural components and elements of the Service Plazas' buildings or the utility systems, which are necessary because of the acts, or omissions of the Operator, its agents, employees, or contractors. The Operator shall pay such costs within thirty (30) days of receipt of an invoice therefor. Any maintenance, repairs or replacements, or the furnishing of any equipment for which the responsibility is not allocated herein shall be the responsibility of the Operator at its sole expense. The Commission reserves the right to inspect the Operator's Units and Areas of Responsibility to verify compliance.

7.3 No Abatement. There shall be no abatement in payments due to the Commission under this Contract, and no liability on the part of the Commission by reason of any inconvenience, interruption of service, annoyance or injury arising from the Commission making repairs in accordance with this Article.

7.4 Building Mechanicals. The Commission will provide heating, ventilation, and air conditioning ("HVAC") to the common areas of the facilities and untreated ambient make-up air to the Operator's Areas of Responsibility. The Operator shall, at its sole expense, have responsibility for the HVAC, electrical, plumbing and systems, and water, electrical and natural gas utility supplies, including the respective natural gas and water meters, dedicated to serving the Units within its Areas of Responsibility. The Operator shall maintain the HVAC facilities and all installed systems for the Unit in accordance with all applicable laws, codes, regulations, and directives of the Commission, which shall include the following:

7.4.1 Furnish and install roof-mounted make-up air unit(s) to correspond with all vendor exhausts. Makeup air shall be fully conditioned (heated and cooled) by the Operator. Electric and natural gas for conditioning equipment shall be from the Operator's utility supplies. Roof curbs shall be installed/modified to meet heights required by the current code. Balance all exhausts and makeup air and provide balance reports to the Commission not less than annually or upon reasonable request of the Commission.

7.4.2 The Operator shall maintain and repair all utility controls, pipes, wires, and gas lines, conduits and HVAC equipment that are located in and/or dedicated to serving the Operator's Areas of Responsibility. Lighting fixtures, including bulbs, throughout the entire area of the Operator's Units and Areas of Responsibility shall be maintained and replaced as necessary by the Operator.

ARTICLE 8 – UTILITIES & INTERNET SERVICE

8.1 Electric Service. The Commission will supply an electric panel and meter sockets for the Operator's use. The Operator shall make its own arrangement with the utility company to furnish the electric current necessary to the operations of the Operator, including the Unit's mechanical

APPENDIX C

and electrical equipment, and the Operator shall pay all charges accruing for such electric current directly to the utility company.

8.2 Water and Wastewater Service. The Erie Islands and Commodore Perry Service Plazas receive water services from the City of Clyde. The Operator shall be responsible for paying for water and wastewater services it uses within its Units. The Operator shall provide approved water meters for both hot and cold water as part of the build-out. In addition to the monthly CAM Charge for water and wastewater described herein, the Operator shall monthly pay 100% of the Unit water and wastewater charges.

8.3 Natural Gas. The Unit will be supplied with individual natural gas service. The Operator shall make its own contract for the furnishing of natural gas service necessary to the operations of the Operator, and the Operator shall pay all charges accruing for such natural gas service directly to the utility company. As stated previously, the Operator shall also be assessed a monthly CAM Charge for natural gas and utilities service in the common area.

8.4 Auxiliary Facilities. The Commission shall install emergency electrical power facilities with sufficient capacity to operate emergency lighting in public areas and the Operators' storage coolers. The Operator is required to connect to the emergency generator, including the Point of Sale (POS) system, in order to provide limited services to the traveling public and shall be responsible for all costs of installation and connection to the emergency power source. The Operator shall also provide for its own utilities during build-out.

8.5 Public Wi-Fi. The Commission provides public Wi-Fi service to patrons of the Service Plazas without charge. The Commission's costs to provide public Wi-Fi is included in the CAM charges as provided in Section 3.4 of this Contract.

8.6 Business Use Internet. Each Service Plaza is equipped with business use internet access which is available to the Operator through the Commission's provider. Nothing prohibits the Operator from obtaining business use internet access from a provider of its choice. If the Operator chooses to use the Commission's business use internet access, the Operator shall make its own arrangements with the provider to furnish business use internet access necessary to the operations of the Operator and the Operator shall pay all charges for such service directly to the provider, subject to other terms as may be agreed upon by the Operator and the Commission in writing.

ARTICLE 9 – HOURS OF OPERATION AND STAFFING LEVELS

9.1 Hours of Operation and Staffing Levels. The Operator shall provide operating hours for each concession and the staff levels as set forth in its staffing plan submitted to and approved by the Commission. Any changes in operating hours or minimum staffing levels shall be requested in writing for approval by the Commission and communicated with as much advance notice as possible.

9.2 Operator's Staffing Plan. The Staffing Plan shall include the following:

APPENDIX C

9.2.1 Generally. In general, during high-volume hours, each Unit shall be required to be fully open and staffed with all of the concessions in service, and that, at other times, the needs of the traveling public may be met by a more limited operation in which one (1) or more specific areas or Units may be closed while no less than one (1) remains continuously open. The Operator shall operate in an efficient manner in accordance with the highest standards of management and customer service, to the end that the public may be served promptly and courteously, and that public esteem may be won for the Operator and for the Commission. The Commission requires that the appropriate staff of the Operator shall have received adequate training in accordance with these requirements.

9.2.3 Minimum Staffing and Hours. At no time shall an Operator leave an open food concept with less than two (2) employees per shift. The Operator shall maintain at least one (1) of the proposed food or retail concepts open twenty-four (24) hours a day, seven (7) days a week, offering breakfast, lunch, and dinner menus. The Operator shall also have additional personnel available should actual workload conditions dictate, i.e., during peak travel periods, unless the Commission approves an alternate method of making service available. Inasmuch as patronage of the Units may fluctuate substantially over the life of the Contract, the Commission may from time-to-time designate, by written direction, periods when each food service area of each Unit must be open. Any such written direction shall be posted prominently in the Operator's office or other designated area of any Unit to which it applies.

9.2.4 Adequate Staffing. Staffing levels must take into account the need for coverage, employee breaks and fluctuations in plazas volume to provide uninterrupted service to customers. The Operator must provide for staffing at a level that provides a high level of customer service during all hours of operation, without excuse or exception that meets or exceeds the minimum specified.

9.2.5 Changes to Staffing or Operating Hours. The Commission reserves the right to modify the hours of operation and minimum staffing levels if traveling trends, seasonal travel or customer demands so dictate. The Operator shall maintain the agreed upon hours of operation and ensure that sufficient employees as identified and agreed upon in the staffing requirements are available to provide the agreed upon staffing and service levels. The Operator shall render speedy, courteous, and efficient service to customers at all times.

9.2.6 Adequate Supervision. In addition to the above referenced staffing, the Operator shall at a minimum employ one (1) full-time, on-site General Manager ("GM") or equivalent, responsible for the management and operation of the food and retail concession services as specified in this Contract. The GM must have a minimum of five (5) recent, consecutive year's employment in similar operations with comparable responsibilities. The GM must have education and/or a high degree of experience and expertise in management and effective financial control, as evidenced by prior management duties involving similar service operations. It is the Operators responsibility that the GM and management staff assigned to the plazas are familiar with the terms of the Contract and their responsibilities therein.

APPENDIX C

9.2.7 Dedicated Management. The sole responsibility of the Operator's management staff assigned to the Ohio Turnpike will be the Commission's Service Plazas. He/she may have no other management or supervisory responsibility for other operations or businesses of the Operator that are not located on or associated with the Ohio Turnpike. The Operator shall assure that the GM or an immediate assistant will be on site at each Service Plaza during all hours the Food and/or Retail Concessions are in operation. Any exception to this is at the sole discretion of the Commission and must be requested in writing by the Operator and approved in writing by the Commission.

9.2.8 Unacceptable Conduct. If the Commission disapproves of the actions or behavior of any of the Operator's employees, including supervisors or management, the Commission will inform the Operator and the parties shall review the relevant information. If an employee of the Operator is, in the opinion of the Commission, uncooperative, inept, incompetent, or otherwise unacceptable for any lawful reason, the Commission will give the Operator notice of such deficiencies and the Operator shall remove such person from responsibility at the Service Plazas. Any such removal shall be made in the name of the Operator, and the Operator shall indemnify and defend the Commission against any legal action arising out of such action.

ARTICLE 10 – PRICE AND QUALITY OF FOOD ITEMS AND RETAIL GOODS

10.1 Commission Approval of Menu and Product Lists. Prior to beginning operations, the Commission must approve Operator's initial menu and product lists. The approval of the menu and lists shall include portion sizes and prices for all food, beverages, merchandise products and combinations.

10.2 Pricing. The prices of food and beverage items sold shall be no higher than ten percent (10%) above the prices for food and beverage items being sold at the same branded restaurants (or similar concepts) located nearest the Turnpike interchanges in that area and/or deemed comparable by the Commission. Provided, however, the Operator may charge prices up to fifteen percent (15%) over comparable restaurants for the Units operated on a twenty-four (24) hours a day, seven (7) days a week basis. The Operator shall not alter prices or products once approved by the Commission without additional approval and must justify the proposed price increases based on actual escalating costs of doing business. The Operator may request a pricing adjustment by submitting accurate and appropriate supporting documentation in the form of labor projections, wage levels, food/product costs, related operating costs and changing needs, as identified through use of a food/retail management system. Price changes will be negotiated in good faith between the Operator and the Director of Service Plaza Operations. Acceptance of the price increase shall be at the sole option of the Commission.

10.3 Quality. The quantity and quality of all food and beverage items shall be at least equal to the quantity and quality of the same items sold at the same branded restaurants (or similar concepts) located nearest the Turnpike interchanges in that area. If the Commission determines that the quality or quantity of an item or items is not in conformance with the standards established for that offering, the Director of Service Plaza Operations or designee shall notify the Operator of the

APPENDIX C

requirements at which it may thereafter sell such food items or offer other products under this Contract.

10.4 Promotions. During the term of the Contract, the Operator shall advertise its operation of restaurants on the Ohio Turnpike and enter into various promotional activities, all to the reasonable satisfaction of the Commission. Written approval from the Commission is required prior to any food, beverage, product, or discount program, including coupons, being offered to the public. The Operator shall keep the Commission continuously informed of any proposed changes in the menu including, but not limited to, any additions or deletions of menu items or any changes in quality, portion size and price. If the Commission determines that any price at which the Operator has sold or is selling food items or other products is not in accordance with the requirements set forth herein, the Director of Service Plaza Operations or his designee shall notify the Operator of the maximum price at which it may thereafter sell such food items or other products under this Contract.

10.5 Compliance. The Operator shall conduct and complete two (2) price surveys per year of all food and retail items, including combination (“combo”) meals, offered for sale at the Service Plazas. The survey will be taken at a pre-determined time that is mutually agreeable to the parties. Each year of the Contract, price surveys must be completed and shall be submitted annually as supporting documentation prior to any requested pricing adjustments, as part of the Annual Plan.

The Commission will conduct periodic surveys to determine whether prices, quantity and quality of products submitted by the Operator meet requirements.

Survey locations for the Operator and the Commission shall be a sampling of like items at a minimum of two (2) of the same or like concepts as determined comparable by the Commission and located nearest to the Service Plaza off Turnpike interchanges and routes in that area. An initial list of locations, approved by the Commission, shall be established as meeting the criteria prior to the Operator’s first menu/product submittal with a minimum sample of two (2) sites per survey. The prices of like items shall be averaged together to determine the comparative pricing and evaluate pricing compliance and requested pricing adjustments. If the Commission determines that the Operator is consistently failing to meet the standards required as to quality, portion size or price, the Commission shall so notify the Operator in writing. The Commission may thereafter require the Operator to consult with the Commission regarding its menu, and to abide by any and all modifications made by the Commission thereto, and to seek and obtain written approval before making any written changes to the menu.

10.6 Retail Goods. All items and merchandise the Operator desires to sell must have the Commission’s prior written approval. There shall be no direct competition with other vendors in the Service Plaza. The merchandise sold at the retail/gift shops shall be of good quality and reasonably priced. Items offered shall be attractive, non-offensive and useful to travelers on the Ohio Turnpike. These items may include, but are not limited to apparel, sunglasses, maps and road atlases, bulk snacks, candy, beverages, and other items used by the public and the trucking industry that travels the Turnpike. Retail goods and merchandise to be sold by the Operator shall not exceed the prevailing prices determined by a survey to be conducted by the Commission in the same manner as the survey to be conducted under the preceding section. However, if the Operator operates a retail concession twenty-four (24) hours a day, then it will be permitted to increase the

APPENDIX C

retail prices for such items up to five percent (5%) over comparable vendors in consideration of the twenty-four (24) hour operation requirement. During the term of the Contract, the Commission shall have the right to monitor the prices for the miscellaneous items. If the Commission finds that the Operator is violating the terms of this section, it shall notify the Operator in writing of said violations with reasonable documentation thereof.

10.7 Sale of Hemp or Hemp Products. The parties acknowledge that the possession, purchase and sale of hemp and hemp products, including cannabidiol (“CBD”) oil, is legal in the state of Ohio pursuant to Ohio Senate Bill 57 which became law on July 30, 2019. Under Ohio law and federal law, hemp or hemp products are subject to a delta-9 tetrahydrocannabinol concentration (“THC”) of not more than three-tenths percent (.3%) on a dry weight basis. Acknowledging the foregoing, the parties agree that Operator may possess, purchase, and sell hemp or hemp products as part of the retail services provided at the Service Plazas under this Contract, subject to the following requirements:

10.7.1. The Operator shall identify all items for sale in the Service Plazas that contain “hemp”, or which constitute a “hemp product” under Section 928.01 of the Ohio Revised Code and provide a list of such items (“Hemp or Hemp Product List”) to the Commission on the date of commencement of the services under this Contract. The Operator shall update the Hemp or Hemp Product List any time items are added to or removed from the list and provide such updated list to the Commission within fourteen (14) calendar days of an item being added to or removed from the list.

10.7.2. For each item identified in the Hemp or Hemp Product List, it shall be the responsibility of the Operator to verify the following:

10.7.2.1 The hemp or hemp product does not contain more than .3% THC by concentrate;

10.7.2.2 The hemp or hemp product is not a food or beverage;

10.7.2.3 The hemp or hemp product is not marketed or labeled as a “dietary supplement” or other similar language; and

10.7.2.4 The hemp or hemp product does not purport to provide health benefits associated with a drug regulated by the Food and Drug Administration (FDA).

The Operator shall verify the foregoing by providing to the Commission the packaging of each hemp or hemp product and publicly available information provided by the manufacturer. Should the FDA or another governmental regulatory authority promulgate regulations regarding subsections 10.7.2.2, 10.7.2.3 and/or 10.7.2.4 above, the parties may amend this provision of the Contract pursuant to a written amendment executed by both parties.

10.7.3 In addition to the foregoing, the Operator agrees to comply with all applicable state and federal laws and regulations regarding the possession, purchase or sale of hemp

APPENDIX C

or hemp products whether adopted prior to or after the date of execution of this Contract, including any licensing programs.

10.7.4 In addition to the indemnification obligations provided elsewhere in this Contract, the Operator shall defend, indemnify and hold harmless the Commission, its Commission members, Executive Director, officers and employees (“Indemnified Parties”), from and against any and all liability, including claims, demands, losses, damages, settlements, judgments, including but not limited to third party claims and governmental regulatory actions, costs and expenses (including reasonable attorney’s fees, consultant or expert fees and any other costs of defense) of every kind and description arising out of or in connection with the Operator’s possession, purchase or sale of hemp or hemp products at the Service Plazas as part of the retail services provided under this Contract.

10.8 EZ Pass Sales. Upon written request, the Operator will be permitted retail sales of EZ Pass transponders with the written consent of the Commission. The Commission must approve any equipment, signs, and promotional materials. EZ Pass sales are exempt from compensation owed to the Commission.

ARTICLE 11 – DELIVERIES

11.1 Deliveries. There is an access road located in the rear of each Service Plaza and a security gate whereby delivery vehicles may enter the Service Plaza from the access road. When not in use, this gate is to remain in the closed position. The Operator shall not permit employees or third parties to use the access gate for ingress and egress of personal or company vehicles. The Operator shall ensure that all vehicles the Operator admits through the back gate for purposes of deliveries or service shall leave the Service Plaza by the same gate. Failure to control the use of the rear access gate shall be sufficient cause for the Commission to remove the Operator’s privilege to such access. The Operator is solely responsible to provide ingress/egress to those vehicles delivering goods and services to the Operator.

ARTICLE 12 –ACCESS TO THE TURNPIKE AND SERVICE PLAZAS

12.1 Non-Revenue Access. Upon request, the Operator’s management staff performing multi-unit supervisory services at the Service Plazas under the Contract will be permitted toll free use of the Turnpike while performing the services described herein. Non-Revenue Transponders will be issued to the Operator’s management and supervisory staff as requested, upon review and approval by the Commission. The Operator shall keep a current record of the transponders issued to each of the Operator’s employees, made available to the Commission upon request. However, non-supervisory or management employees of the Operator, trucks or other vehicle delivering supplies to the Operator, shall not be permitted to travel over the Turnpike unless proper toll is paid. Use of the transponder is authorized for carrying out the terms of the Contract only. U-turns and crossing of the median at marked or unmarked areas is strictly prohibited. Any violation of these policies may result in revocation of the transponder and associated privileges. Lost or damaged transponders will be subject to a \$100.00 (per transponder) replacement cost. For accountability and security purposes, the Operator must report all inoperable or lost transponders to the Service

APPENDIX C

Plaza Operations staff immediately. Non-Revenue transponders will NOT be issued to third party vendors, vendor sub-contractors, delivery personnel, etc.

12.2 Access Cards. The Operator's employees performing services at the Service Plazas under the Contract will be issued Security Access Cards for their respective Plaza as requested by the Operator's manager/supervisor. The Operator shall keep a list of the access card number assigned to each of its employees and make it available to the Commission upon request. Any actions by the Operator's employees that compromise this system are not acceptable, including forced entry, allowing, or facilitating unauthorized access to, providing an opportunity for unauthorized access to, or not reporting unauthorized persons in restricted areas. All control access cards are to be returned to the Operator's manager immediately upon termination of an employee and accurate records kept. Lost or damaged cards will be subject to a \$15.00 (per card) replacement cost. For accountability and security purposes, the Operator must report all damaged and lost cards to the Service Plaza Manager immediately.

12.3 Prohibited Access. Unauthorized persons are not permitted access to any non-public areas of the Service Plaza buildings and facilities that require the use of electronic access cards to gain entrance. Unauthorized persons are any persons not employed at or doing business within the Service Plaza(s) and include, but are not necessarily limited to: customers, family members, friends or business associates of the Operator or its employees, ex-employees and any unauthorized contractors. All unauthorized persons in restricted areas should be immediately reported to the Service Plaza staff. If Service Plaza staff is not available, the Division Service Plaza Manager or Ohio State Highway Patrol should be immediately notified to have the individual removed.

ARTICLE 13 – QUARTERLY MEETINGS AND INSPECTIONS

13.1 At the close of each fiscal quarter, or more frequently if deemed necessary by the Commission, the Operator and the Service Plaza Operations Department shall meet to review operating results for the fiscal year-to-date, as well as operating plans for the balance of the fiscal year. At such meetings, the Operator shall report on performance, customer service and other subjects requested by the Commission. The Commission shall have the right at any time to inspect the Units and other Areas of Responsibility.

ARTICLE 14 - ANNUAL PLAN, REPORTS AND OPERATING STATEMENT

14.1 Profit and Loss Operating Statement. Each year of the Contract, the Operator shall submit to the Commission a Profit and Loss (P&L) Operating Statement for the concessions covered under this Contract for the previous operating calendar.

14.2 Department of Health Inspection Reports. Each year of the Contract, or upon written request of the Commission, the Operator shall submit copies of all Department of Health Inspection Reports. Any critical violations noted shall require a written action plan submitted with the report outlining the corrective measures undertaken by the Operator to remedy the violation(s).

14.3 Annual Plan. On or before January 1 of each calendar year, the Operator shall submit to the Commission an Annual Plan for the Food and Retail Concession operation(s) for the following

APPENDIX C

fiscal year. The Plan shall be based on identified goals and objectives as established and determined by the Commission in conjunction with the Operator and addresses any of the following items that will require attention in the upcoming operating year: (1) Concepts; (2) Menus; (3) Retail Goods; (4) Pricing; (5) Proposed Changes; (6) Proposed Hours of Operation; (7) Promotional and Marketing Plans; (8) Staffing Plans; (9) Employee Training, Recruitment and Retention; (10) Budgets for all Operating Costs; (11) Pro Forma Financial Projections by Month and Year; (12) Merchandising and Decor Expenditures; (13) Proposed Capital Expenditures and Reinvestment Obligation; (14) Fixtures, Furnishings and Equipment (“FF&E”); (15) Maintenance Plans and Schedules; (16) Updated Access Card Assignment Inventory; (17) Updated Transponder Assignment Inventory; (18) Proposed Adjustments to Business Terms; (19) Additional Services; (20) Technology; (21) Brand Audit Results; and (22) Customer Satisfaction Survey results and format for next survey. The Commission shall have the right to make any changes to the Annual Plan or to refuse to expend any money suggested by the Annual Plan. Once the Annual Plan is approved by the Commission, the Operator shall be responsible for faithfully executing the Annual Plan and shall not substantially deviate from the Annual Plan without the express written consent of the Director of Service Plaza Operations.

ARTICLE 15 – RESTRICTIONS AND PROHIBITIONS

15.1 Throughout the term of this Contract, the Operator shall not offer any of the following goods or services to the public at the Service Plazas:

15.1.1 Banking Services: Operator shall not install any ATM banking machines without the written consent of the Commission. The Commission reserves the right to install ATM banking machines or issue a separate RFP for any and all banking services at any and all Service Plazas. The Operator is restricted from offering “Cash Back” options at any of its Point of Sale locations.

15.1.2 Vending Machines: The Operator shall not install any vending machines without the written consent of the Commission. The Commission reserves the right to install vending machines or issue a separate RFP for any and all vending machines at any and all Service Plazas. Furthermore, the Operator shall not sell or permit to be sold in any of the Units any product or service that is generally or actually offered for sale through a vending machine. Only licensed, promotional items related directly to the concept and/or food and beverage items comparable to off Turnpike locations may be offered for sale within any of the restaurant Units.

15.1.3 Lottery tickets or games: The Operator may only install Ohio Lottery ticket sales machines with specific written consent of the Commission. The Commission must approve the location of the equipment and any signs and promotional materials. Lottery sales are exempt from compensation owed to the Commission.

15.1.4 Video Games: The Operator shall not install video game machines without the prior written consent of the Commission. If written consent is granted for the installation of such games, the Operator shall submit a listing of said games to the Commission, which contains a description of each game, dimensions, a diagram showing the proposed location,

APPENDIX C

and any other pertinent data requested by the Commission. The Commission may, at any time, require the relocation, replacement, withdrawal, or removal of such machines. The video games shall be placed in an enclosed area. The revenues received by the Operator shall be divided equally between the Operator and the Commission.

15.1.5 Alcoholic Beverages and Intoxicants: The Operator shall not at any time promote, advertise, sell, serve, or otherwise furnish, within the limits of the Ohio Turnpike, any form of alcoholic beverage or intoxicants without prior written approval of the Commission.

15.1.6 Vehicle Service Station Operation: The Operator shall not sell or permit to be sold any product typically incidental to service station operations or required in conjunction with the operation and use of motor vehicles.

15.1.7 Special Retail: The Operator shall not at any time install or set up any retail carts, kiosks, food trucks, stands, advertisement, etc. outside of the assigned Unit space, in or around either Service Plaza without written permission from the Commission. The percentage of the Operator's Gross Receipts payable to the Commission to install or set up retail carts, kiosks, stands, advertisement etc. shall be determined upon approval after reviewing the request and proposal from the Operator.

ARTICLE 16 – SIGNS; ADVERTISING

16.1 Signs. The Commission, at no cost to the Operator, will fabricate and install the initial installation of exterior approach signs on the mainline roadway advising of services available at the Plazas. The Operator must provide branded logos in a high definition .pdf or .eps format for fabrication of mainline signs and the back-lit monument signs at each Service Plaza. The Commission has provided and shall continue to maintain and provide signs on the Turnpike indicating the approach to any Service Plaza and other signs designed to direct traffic to the Service Plaza. The Operator shall be responsible for the fabrication and installation of all interior signage in connection with the Operator's services, with prior Commission review and approval. The Operator shall be responsible for the cost of the replacement of signs due to deteriorated condition, updated logos, normal wear and weathering, damage, brand conversion or at the reasonable request of the Commission during the term of the Contract, as mutually agreeable. During the term of the Contract, the Commission may erect signs at various toll plazas indicating the name and location of attractions within a certain area. If such additional signs are erected, the cost thereof shall be the responsibility of the Operator benefiting from the signs. Any additional exterior identification signage shall require the Commission's prior written approval.

16.2 Advertising. The Operator, with prior Commission approval, may purchase advertising and place signage inside the Service Plazas to advertise and promote its various goods and services. However, the permission to place signage inside the Service Plazas does not represent an exclusive right to the Operator. The Commission actively engages in advertising programs whereby it places various advertisements for other entities inside its Service Plazas in exchange for advertising revenue. Notwithstanding anything herein to the contrary, upon the Commission's advanced

APPENDIX C

written approval, Operator may use its own marketing materials of the Commission's third party marketing firm.

ARTICLE 17 - CAPITAL REINVESTMENT OBLIGATION

17.1 Capital Reinvestment Obligation Account. If the Commission exercises its option to renew the Contract after its initial ten (10) year term or any subsequent renewal term, the Operator shall make capital improvements to its Units and Areas of Responsibility. The Operator shall establish a Capital Reinvestment Obligation ("CRO") Account and deposit 0.75% of its monthly Gross Receipts into the CRO Account throughout the initial and any renewal term of the Contract. The Operator shall use the funds deposited in the CRO Account exclusively to finance capital improvements as part of the Operator's Capital Reinvestment Obligation.

17.2 CRO Account Reports. An accounting of the CRO Account balance shall be reported to the Commission monthly with the sales and concession fee reports. At the end of each term of the Contract, uncommitted CRO funds will be paid to the Commission, upon written request. Upon termination of the Contract, unexpended CRO funds shall be paid in full to the Commission.

17.3 The Operator shall make capital improvements under this Article 17 no later than the expiration of the renewal term giving rise to the obligation. The cost of the Operator's capital improvements shall be no less than the total of the funds accrued in the CRO Account over the previous term. The capital improvements shall proceed in accordance with the process for the original design and renovation of the Units, subject to the review and approval of the Commission's Chief Engineer, in writing. The Operator shall pay to the Commission an amount equal to the difference, if any, between the required Capital Reinvestment Obligation expenditure and the Operator's actual investment within sixty (60) days of scheduled improvement or upon completion of any refurbishment.

17.4 The capital improvements eligible for funding through the CRO Account may include, but are not limited to, rebranding or remodeling concepts, facility infrastructure and systems improvements, technology improvements, improved finishes, and furnishings. However, the Operator shall not use the CRO Account to fund ongoing, routine maintenance; movable or non-fixed equipment or assets; or refurbishment expenses required of concessionaires. The CRO Expenditure shall be amortized in full over the remaining Term of the Contract. The Commission shall not be required to pay to the Operator the unamortized portion of the cost of any construction and/or renovation/remodeling that may have occurred as part of the Capital Reinvestment Obligation.

ARTICLE 18 – GENERAL TERMS AND CONDITIONS

18.1 Reporting. The Operator shall provide, and shall require all subcontractors to provide, any requested data to determine compliance with the representations made in the approved SBE

APPENDIX C

Participation Certification, Utilization Plan, and Statements of Intent to Contract and Perform for each invoice through the Commission's online diversity compliance portal: <https://ohioturnpike.diversitycompliance.com/Default.asp>. The Operator and all subcontractors shall timely submit all required data prior to any reasonable due dates, and to check the online diversity compliance portal on a regular basis to manage contact information and contract records. The Operator shall require all subcontractors to have completed all requested items and maintain contact information on record that is accurate and up to date. The Operator shall include these disclosure and reporting requirements in all subcontracts under the Contract and further require that all subcontractors place the same obligation in each of their lower tier contracts (if any). The Commission may require additional information related to compliance at any time before, during, or after contract award.

18.2 Performance Warranty. The Operator acknowledges that the Commission desires, and Operator expressly agrees, that it shall provide and maintain during the term, first class quality in products, service, and price comparability consistent with industry standards. The parties acknowledge that Operator's representation of quality in its Proposal is of the essence of this Contract and further, that it is essential and necessary, and Operator shall use its best efforts to promote and expand business at the Service Plazas. Upon a determination made by, and in the sole discretion of, the Commission, the Operator's failure to maintain the highest standard of products, service, and performance for similar operations, shall constitute an Event of Default under this Contract.

18.3 Traffic Conditions. The Ohio Turnpike has been constructed and is maintained as a modern express highway. While it is anticipated that the Turnpike will be open to the traveling public throughout the term of the Contract and that the traveling public will have access to the various Service Plazas located along the Turnpike, in certain situations traffic flow will be interrupted as a result of various occurrences including, but not limited to, acts of nature, accidents, maintenance and repair work on the roadways and bridges. In addition, the continued renovation and maintenance program of Service Plazas on the Turnpike will have an effect on traffic flow and may affect the use of the Service Plaza facilities. The Operator shall make no claim against the Commission for loss of revenue or otherwise resulting from interruption in traffic flow.

18.4 Assignment of Contract. The Operator may not assign, transfer, convey or otherwise transfer or dispose of its rights, title, interest in, or its duty to perform or supervise the performance of any of its obligations hereunder, to any other person, company, corporation or entity, nor shall it permit any other party to occupy any part of the premises within the Operator's Units, without the prior written approval of the Executive Director of the Commission. Any such approved assignment shall not relieve the Operator from any of its responsibilities under the Contract. Any consent given by the Commission to any assignment or transfer, or partial assignment or transfer, of the Contract or of rights or obligations thereunder, shall not imply a willingness on the part of the Commission to give any subsequent or other consent, nor estop the Commission from refusing same; nor shall any such consent confer upon any assignee or transferee any right to assign or transfer any rights conferred upon such transferee. The Operator covenants for the benefit of the Commission, and of any third party who may sue the Operator, that it shall not defend against any claim, suit or action brought against the Operator on account of any tortious act or contractual liability alleged to have been committed or incurred in the Operator's operations covered by the

APPENDIX C

Contract during the term thereof, on the ground that said operations, or that any duty or obligation of the Operator hereunder was in fact being discharged, by any person, firm or corporation other than the Operator, unless the alleged cause of action occurred subsequent to an assignment or transfer of the entire Contract, which assignment or transfer was duly consented to by the Commission in writing.

18.5 Personal Services. The Operator acknowledges that the Commission has entered into the Contract in reliance upon the experience, financial capacity, integrity and reputation for competence of both the Operator as an entity and the individuals who are the owners and agents of the Operator and representations of the Operator with respect thereto. The Operator agrees that, should a change occur in the ownership interests or in the identity of any individuals performing managerial functions under the Contract, the Operator shall immediately notify the Commission, and shall consult with the Commission on the steps necessary to assure that the change has no detrimental impact on the standard of operations under the Contract. If the Commission is not satisfied that no detriment will arise, the Operator shall take such steps as the Commission shall require to provide adequate assurances, and if the Commission is not thereby satisfied then the Commission may terminate the Contract.

18.6 Disputes Between Operators, Contractors and/or Service Providers. In the event of a dispute between operators, contractors and/or service providers of either Service Plaza as to their rights, under their respective contracts or agreements with the Commission, which they cannot satisfactorily resolve, the Operator agrees, in consideration of a like covenant contained in any agreement or contract between the Commission and the operators, contractors and/or service providers, to promptly request the Commission to act as sole arbiter of said dispute and to abide by the decision rendered by the Commission.

18.7 Non-Disclosure. The Operator agrees that it will not disclose at any time during or after its work under the Contract, either directly or indirectly, any confidential knowledge or information that it or its employees may acquire with respect to the Contract or the Commission's operations, except as may be required by law, or a court of competent jurisdiction.

18.8 Drug-Free Workplace. The Operator shall comply with all applicable federal, state, and local laws regarding drug-free workplaces, and shall make a good faith effort to ensure that its employees do not purchase, transfer, use, or possess illegal drugs or alcohol on the Commission's property, or abuse prescription drugs in any way.

18.9 Records Retention, Audits, and Inspection. The Operator shall maintain all pertinent financial and accounting records, and evidence pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified by the State of Ohio. Financial and accounting records shall be made available for review and/or audit upon request by the Executive Director of the Commission, his representative, or the Ohio Auditor of State's office at any time during the Contract period or for seven (7) years from the date of final payment under the Contract, whichever is later.

18.10 Compliance with Law. The Operator agrees to comply with all applicable federal, state, and local laws and regulations, rules, orders, directives and authoritative case law in its

APPENDIX C

performance under the Contract, including without limitation, the laws relating to the payment of wages, equal employment opportunity, campaign contributions, drug-free workplace, non-discrimination in employment, ADA compliance, unemployment compensation, insurance premiums, workers' compensation premiums, income tax deductions, social security deductions, and any and all tax and payroll deductions required for its employees. In the event that any provision of the Contract is in conflict with any law or regulation, then such law or regulation shall prevail. The scope of services and other obligations of the Operator do not in any way exclude, limit, or diminish its responsibility under the law. The Operator further covenants to secure, at its own expense, any and all licenses, permits and certificates of inspection required by law or by this Contract. The Operator hereby certifies that beginning on the date the contract is awarded and extending until one year following conclusion of the contract, its compliance with Ohio Revised Code Sections 3517.13(I) and 3517.13(J), as applicable.

18.11 Independent Contractor. The Contractor is an independent contractor with respect to all products, installations and services performed hereunder and accepts full and exclusive liability for the payment of all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or later imposed under any State or Federal law and that are measured by the wages, salaries or other remuneration the Operator pays to persons employed for work performed under the terms of this Contract. Concessionaire shall obey all rules and regulations which are now or hereafter issued or promulgated under those respective laws by and duly authorized State or Federal officials. The Operator shall indemnify and save harmless the Commission from any such contributions or taxes or liabilities. The Operator is solely responsible for withholding and payment of any Federal, State, or local income tax for which Concessionaire, its employees, agents, or subcontractors incur liability. It is understood that neither the Operator nor its employees are construed as employees of the Commission for the purpose of the Ohio Public Employees Retirement System ("OPERS"), Workers' Compensation, or for any other purpose.

18.12 Subcontractors. Except any subcontractors originally proposed and approved through the acceptance of the Operator's Proposal, to which the Commission hereby consents, the Operator shall not sublet or assign to any subcontractor nor shall any other subcontractor commence performance of any part of its work or services included in this Contract without the prior written consent of the Commission. Subcontracting, if permitted, shall not relieve the Operator or its surety of any of their obligations under this Contract. The Operator shall be and remain solely responsible to the Commission for the acts or faults of its subcontractor(s) and of such subcontractors' officers, agents, and employees.

18.13 Non-Exclusive Rights. Nothing in this Contract with the Operator shall preclude the Commission from acquiring other services similar to the services provided for in the Contract. However, it is the Commission's intention that the Operator shall be the exclusive Operator of its Units encompassing all of its square footage throughout the term(s) of the Contract.

APPENDIX C

18.14 Publicity.

18.13.1 Any use of or reference to the Contract by the Operator to promote, solicit, or disseminate information regarding the scope of the Contract is prohibited, unless otherwise agreed to in writing by the Executive Director of the Commission.

18.13.2 Neither party may use the name or any data, pictures, or other representation of the other party in connection with any advertising or publicity materials or activities without the prior written consent of the other party.

18.15 Damage or Destruction to Premises. If Service Plaza premises or a portion thereof are rendered, in the Commission's sole opinion, untenable for any reason, the Commission may at its sole discretion take either of the following actions, provided that the Commission shall notify Operator in writing of its decision within thirty (30) days of the occurrence of the damage or destruction:

18.15.1 Suspend operations at the Service Plaza(s), including any payments due by the Operator pursuant to Article 3, until all necessary repairs are made.

18.15.2 If the damage or destruction was caused by Operator, its employees, independent contractors, or agents, the Commission may direct the Operator to repair the premises or the damaged portion thereof, at the Operator's sole cost.

18.15.3 The Operator shall be responsible for and shall reimburse the Commission for losses or costs incurred as a result of damage or destruction of the Service Plaza(s) arising out of, or related to, the Operator's use. The Commission shall have no liability for any loss or damage to the Service Plaza and the Operator shall look solely to its own resources, including insurance, to compensate it for any such loss, from such cause or damage.

18.15.4 The Operator further agrees that the Commission shall not be liable for any inconvenience or annoyance to Operator or injury to Operator's business resulting in any way from damage or destruction of the Service Plaza(s), or the repairing or reconstruction done to remedy such damage or destruction.

18.16 Right of Entry. The Commission, through its officers, employees, agents, representatives and contractor, shall have the right at all reasonable times to enter upon the Operator's Units or other Areas of Responsibility for all reasonable purposes, including, without limitation, the following: for observing the performance by Operator of its obligations hereunder, for inspecting the premises and for doing any act or thing which the Commission may be obligated or have the right to do under this Contract or by virtue of the Commission's ownership of the property or otherwise. Nothing herein, however, shall be deemed to place any responsibility or liability upon the Commission for the safety or condition of the property which are solely the obligation of the Operator.

18.17 Insurance, Bonds, Injuries and Litigation. Upon the execution of the Contract, the Operator shall forward to the Commission certificates of insurance that evidence that the Commission is

APPENDIX C

endorsed as an additional insured and that the Operator is the named insured on policies that conform with this section and are approved by the Commission. The required insurance policies shall be issued from a company or companies authorized to do business in the State of Ohio and which are rated A- or better by A.M. Best, and shall be maintained in full force and effect until the Contract has been fully and completely performed. The insurance policy or policies shall be primary and non-contributory and provide that in the event of cancellation or expiration of the policy, thirty (30) days advanced notice shall be given to the Commission as an additional insured. The insurance policy or policies shall protect the Operator and the Commission from liability and claims for damages for bodily injury, including wrongful death, personal and advertising liability and for damages to property caused by an accident arising from the Operator's performance of the Contract as follows:

18.17.1 Commercial General Liability Insurance for liability and claims for damages for bodily injury, including wrongful death, personal advertising liability and for damages to property caused by an accident, including employer's liability, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate. Coverage shall be on an occurrence form and include contractual liability, products liability, premises operations, liability for independent contractors and personal injury.

18.17.2 Commercial Automobile Liability Insurance covering liability arising out of the ownership, maintenance or use of all owned, non-owned, and hired automobiles including mobile equipment in an amount of not less than a Combined Single Limit of \$1,000,000 for Bodily Injury and Property Damage.

18.17.3 Umbrella/Excess Liability Insurance Policy over primary Commercial General Liability and Commercial Automobile Liability in an amount not less than \$5,000,000.

18.17.4 Workers Compensation. The Operator shall also procure and maintain until the Contract has been fully and completely performed, Ohio Worker's Compensation Insurance covering all employees who engage in any work in connection with the performance of the Contract except employees hired in a state other than Ohio who will not engage in any work in the State of Ohio.

18.17.5 Notice of Claim. Within twenty-four (24) hours after the occurrence of any accident or other event which results in or might result in injury to the person or property of any person which arises in any manner from the performance under the Contract, or occurs in the area for which the Operator is responsible, the Operator shall send written notice of the accident or event to the Commission's Director of Service Plaza Operations setting forth a full and precise statement of the facts regarding the accident or event. The Operator shall immediately send to the Commission's General Counsel a copy of any summons, subpoena, notice or other documents served upon or received by the Operator, or any agent, employee or representative of the Operator, arising in any manner from the performance of the Contract for either Service Plaza.

18.17.6 Performance Bond. The Operator shall submit a performance bond in a form satisfactory to the Commission at the time of Contract execution. Said bond shall provide

APPENDIX C

for payment to the Commission in the event said Operator fails to perform any of the terms and conditions of the Contract, at any time during the term thereof in an amount equal to \$450,000 annually. The bond shall be furnished by a surety authorized to business in the State Ohio and shall remain in effect throughout the term of the Contract.

18.18. Indemnification. The Operator shall defend, indemnify and hold harmless the Commission, its Commission members, Executive Director, officers and employees (“Indemnified Parties”), from and against any and all liability, including claims, demands, losses, damages, settlements, judgments, costs and expenses (including reasonable attorney's fees and any costs of defense) of every kind and description arising out of or in connection with, or occurring during the course of, performance of the Contract where such liability is founded upon or grows out of, directly or indirectly, the negligent acts, errors, omissions, undertakings, representations or warranties of the Operator, its officers, employees, agents, independent contractors or subcontractors and:

18.18.1 is attributable in any manner to bodily injury, personal injury, sickness, disease, or death of any person, or to the injury to or damage or destruction of property; or

18.18.2 is the result from any claimed infringement of any copyright, patent or other intangible property right caused by the Operator, anyone directly or indirectly employed by the Operator or anyone for whose acts the Operator is legally liable; or

18.18.3 arises from or is related to any breach of this Contract by the Operator.

18.19 Application. This agreement to defend, indemnify and hold the Commission harmless shall survive the expiration or termination of this Contract. Nothing herein contained shall require the Operator to reimburse the Commission for acts or omissions caused by the sole negligence of the Commission. The Operator shall waive and shall not assert any claim against the Commission for any injury to persons, whether or not resulting in death, or any loss or damage to property occurring from any cause unless such injury, loss or damage is due solely to the negligence of the Commission, its agents or employees. Should the Commission elect to have the Operator defend one or more of the Indemnified Parties, the Commission shall have the right, but not the obligation, to appoint counsel and to be involved in decision-making as to that defense in all respects. The indemnity obligations of the Operator shall not be limited by the types, terms, conditions, or limits of liability of any insurance purchased and maintained by the Operator. It is the intent of the Commission by this Article to obtain rights to indemnification from the Operator that are to the maximum extent permitted by applicable law. If any term or condition of this Article exceeds what is permitted, then that term shall be read to provide indemnification to the limits of that applicable law.

18.20 Events of Default. Each of the following shall constitute an event of default by the Operator:

18.20.1 If the Operator becomes insolvent, makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property;

APPENDIX C

18.20.2 If by order or decree of a court, the Operator is adjudged bankrupt or an order is made approving a petition filed by any creditors or, if Operator is a corporation, by any of the stockholders of Operator, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or any law or statute of the United States or of any state thereof;

18.20.3 If a petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute is filed against the Operator and is not dismissed within ninety (90) days after the filing thereof;

18.20.4 If any lien is filed against the Service Plaza(s) because of any act or omission of the Operator and is not released or discharged by obtaining a bond at Operator's sole expense and cost within twenty (20) days of the date that the lien is filed;

18.20.5 If the Operator voluntarily abandons, deserts, vacates, or discontinues its operations at the Service Plaza(s);

18.20.6 If the Operator fails duly and punctually to pay any monies required under this Contract to the Commission within twenty (20) days after written notice;

18.20.7 In the event that the Operator shall refuse or fail to maintain the minimum staffing, hours of operation or product, service, or performance standards; or,

18.20.8 If the Operator fails to keep, perform and observe any promise set forth herein on its part to be kept, performed or observed within five (5) days after receipt of notice of default from the Commission except where fulfillment of its obligation requires activity over a period of time, and Operator has commenced to perform to the satisfaction of the Commission whatever may be required for fulfillment within five (5) days after notice and continues such performance without interruption.

18.21 Remedies for Default. Upon occurrence of any Event of Default or any time thereafter during the continuance thereof, the Commission may, at its option, exercise concurrently or successively any one or more of the following rights and remedies:

18.21.1 Upon five (5) days' notice, terminate this Contract.

18.21.2 Without waiving any default, pay any sum required to be paid by the Operator to others than the Operator and which the Operator has failed to pay, and perform any obligation required to be performed by the Operator hereunder, and any amounts to be paid or expended by the Commission in fulfilling the obligations of Operator hereunder, including all interest, costs, damages, attorneys' fees and penalties, shall be repaid by the Operator to the Commission on demand with interest thereon at the rate of twelve percent (12%) per annum from the date of such payment or expenditure plus a twenty percent (20%) administrative fee.

APPENDIX C

18.21.3 Sue for the collection of fees or other amounts for which Operator may be in default or for the performance of any other promise or Contract devolving upon Operator for performance or damage therefor, all without terminating this Contract or re-entering the possession of the Units and other Areas of Responsibility.

18.21.4 Upon reasonable notice, re-enter and repossess the Units and other Areas of Responsibility, either with or without the institution of summary or any other legal proceedings or otherwise and without diminishing, excusing or altering in any way the obligations of Operator under this Contract.

18.22 Waiver. No waiver by the Commission at any time of any of the terms or conditions of this Contract shall be deemed or taken as a waiver at any time thereafter of the same or any other term or condition herein or of the strict and prompt performance thereof. No delay, failure or omission of the Commission to re-enter the Units or other Areas of Responsibility or to take or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of any fee or payment then or thereafter accrued shall impair or be construed to impair any such right, power, privilege or option to waive any such default or relinquishment thereof, or acquiescence therein and no notice by the Commission shall be required to restore or revive any option, right, power, remedy or privilege after waiver by the Commission of default in one or more instances. No waiver shall be valid against the Commission unless reduced to writing and signed by an officer of the Commission duly empowered to execute same.

18.23 Force Majeure. Neither party shall have liability to the other if it becomes unable to timely perform its obligations under this Contract due to labor disputes, fire, acts of God, tornados, flood, hurricane, earthquake, tidal wave, blizzard, or other natural disasters, acts of the state or federal government in their sovereign capacity, riots, civil commotion, quarantine restrictions, war, terrorism, incidence of disease or other illness that reaches outbreak, epidemic or pandemic proportions, unavoidable casualties, or other causes beyond their control.

18.24 Termination of the Contract. In addition to the termination upon five (5) days' notice after an Event of Default as provided above, the Commission may terminate this Contract for the following reasons:

18.24.1 Termination Damage or Destruction. The Commission may terminate this Contract upon damage or destruction to the Service Plaza(s).

18.24.2 Termination of Contract by Mutual Consent. The Commission and the Operator may mutually agree to terminate this Contract in writing on a date prior to the expiration of the Contract term.

18.24.3 Unilateral Termination. The Commission may unilaterally terminate the Contract at any time for any reason by giving thirty (30) calendar days prior written notice to the Operator. If the Commission unilaterally terminates the Contract pursuant to this Section, the Commission shall be paid all revenue sharing payments and fees due to it from the Operator up to the termination date.

APPENDIX C

18.25 Surrender of Units and other Areas of Responsibility. The Operator agrees to yield and deliver peaceably to the Commission, possession of the Units and other Areas of Responsibility, promptly and in as good condition as received, ordinary and reasonable wear and tear excepted, on the date of cessation of this Contract, whether such cessation be by termination, expiration or otherwise.

18.25.1 Removal of Property. Upon cessation of this Contract, the Operator shall forthwith and at its own expense remove all its personal property and equipment, provided, however, that no installed or extended utility lines shall be removed unless the Operator is directed to do so by the Commission. Upon any such removal, the Operator shall, at its sole expense, restore the Units and other Areas of Responsibility to the condition it was in prior to installation of any attachments installed by the Operator, normal wear and tear excepted, by repairing any damages to the premises caused or incurred, directly or indirectly, by the removal.

18.25.2 Waiver. While the Commission acknowledges the Operator's right to litigate any issue with respect to this Contract, the Operator expressly waives any right in law or equity to withhold possession of the Units or other Areas of Responsibility after notice of termination as provided herein, and the Operator expressly waives any and all right to withhold surrender of possession.

ARTICLE 19 – LAW AND DISPUTES

19.1 Governing Law. The Operator's performance shall be in compliance with all applicable laws of the Federal Government of the United States of America and the laws of the State of Ohio. All duties of either party shall be deemed performable and performed in the State of Ohio. The applicable law for any legal disputes arising out of this Contract shall be the law of the State of Ohio, and the forum and venue for such disputes shall be in the courts in Cuyahoga County, Ohio.

19.2 Informal Dispute Resolution. At the written request of either party, the parties will attempt to resolve any dispute arising under, or relating to, the Contract through these informal means. Each party will appoint a senior management representative who does not devote substantially all of his or her time to performance under the Contract. The representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will negotiate in an effort to resolve the dispute without the necessity of any formal proceedings. Either party may declare an impasse after working in good faith toward a resolution. Either party may then pursue its other legal remedies as provide in this Contract and by applicable law.

19.3 Non-Performance Escalation Procedures. Notwithstanding the Informal Dispute Resolution process under Section 19.2 and subject to the right to cure, in the event that the Commission determines that the Operator is not performing in compliance with the agreed upon terms and conditions in this Contract, then the Commission shall have the right, but not the obligation, to, in the sequence shown: (a) formally notify the Operator of non-performance; (b) request a joint meeting to attempt to resolve the non-performance; (c) make a claim against the Operator's performance bond; (d) commence suit in a court of competent jurisdiction; or (e) invoke the termination clause of this Contract.

APPENDIX C

19.4 Non-Compliance and Violations. Notwithstanding the provisions in Section 19.2 and 19.3, the Commission may, at its sole option, address non-compliance and violations of this Contract by Operator under the provisions of this Section 19.4.

19.4.1 Noncompliance/Commission’s Objections. The Commission’s authorized representative(s) shall have the right to make reasonable objections to the Operator’s failure to create and maintain a vibrant first-class concession at the Service Plaza as provided in the Scope of Services and to operate its business in a manner deemed satisfactory by the Commission. The Operator’s agrees to promptly discontinue or remedy any objectionable practice or condition within the cure period stated in any written notice issued by the Commission.

19.4.2 Cumulative or Continuous Violations. Should the Operator fail to comply with the Scope of Services under the Contract, the Commission may place the Operator on notice to cure said violation or violations without declaring the violation an Event of Default, and in addition, collect liquidated damages as provided below. With each notice, whether verbal or in writing, the Operator will be given a cure period in which to remedy the violation without further consequence. Except for a request for financial records by an authorized representative of the Commission, in which case the failure to produce the records within the time period allowed will trigger the imposition of liquidated damages, the Operator will be allowed two written notices cumulatively in each calendar year before imposition of liquidated damages. Beginning with the third written notice, and any written notices thereafter, liquidated damages may be assessed should the Operator fail to remedy the violation before the expiration of the cure period.

Operator’s Performance Obligations	
Form of Notice	Consequence
Pre-Written Notice (Memorialized)	Documented Verbal Notification issued to Operator (designated cure period allowed)
1 st Written Notice	1st written notice issued by Commission to Operator (1 st cure period allowed).
2 nd Written Notice	2nd written notice issued by Commission to Operator (2nd cure period allowed). After the 1 st cure period, the Parties hereby agree that under the current circumstances a reasonable estimate of damages is One Hundred Dollars (\$100) per day per infraction for each whole or partial day until the violation is cured.
3 rd Written Notice	3rd written notice and thereafter Final written notice by Commission to Operator (upon expiration of 2nd cure period). After the 2 nd cure period, the Parties hereby agree that under the current circumstances a reasonable estimate of damages is Two Hundred and Fifty Dollars (\$250) per day per

APPENDIX C

	infraction for each whole or partial day until the violation is cured.
Consequential Damages for Non-Operation of Concessions	Calculated (loss of) Concession Fees, Property Management, Capital Improvement caused by non-operation of concessions per agreed upon operating hours. To be invoiced monthly, per occurrence.

19.4.3 Definitions: For the purposes of this Article 19 only, the following definitions shall apply:

19.4.3.1 Cure Period: An amount of time required to become compliant with the Contract for violations stated in pre-written or written notices issued by the Commission to the Operator, either as mutually agreed between Commission and the Operator or in Commission’s sole reasonable judgment taking into account the specific circumstances of the violation or violations and/or time allowed under previous verbal and written notices concerning the same or similar violations.

19.4.3.2 Pre-written Notice(s): Documented verbal notifications of a violation at the Operator’s Units or Areas of Responsibility delivered by the Commission to the Operator’s ownership, management or its premises on-site management or staff. Pre-written notices may be in person or via telephone, but a record shall be memorialized in documented form.

19.4.3.3 Written Notice: Notice of a violation at the premises delivered by the Commission to the Operator’s ownership, management or its premises on-site management or staff via letter, email or by some other form as may be adopted from time to time by the Commission and delivered to the Operator at the notice address for the Operator specified in the Contract.

19.4.3.4 Liquidated Damages: Operator’s failure to adhere to the operating and performance requirements set forth in the Contract are reasonably anticipated to result in significant inconvenience to the public, adversely affect the overall business of the Service Plaza and reduce the amount of revenue to be paid to the Commission. Additionally, Commission resources will be expended in dealing with violations of the Contract by the Operator. The Parties hereby agree that total damages sustained by the Commission for violations of the Contract could be significant but would be difficult to determine and to track. Therefore, the liquidated damages stated in the Contract for violation of the Operator’s operating performance obligations are agreed to between the Operator and the Commission to be reasonable amounts and reasonable estimates of the loss anticipated to be suffered or incurred by the Commission. The Operator, therefore, hereby agrees that imposition of these liquidated damages is fair and reasonable, and Operator agrees to pay to the Commission as an additional fee the specified liquidated damage amounts immediately upon demand by the Commission. Liquidated damages stated in the Contract shall continue for each full and each partial day for which the violation remains uncured.

APPENDIX C

19.4.3.5 Consequential Damages: Non-Operation of Concepts; Operator's failure to adhere to the agreed upon operating hours requirements set forth in the Contract are reasonably anticipated to result in significant inconvenience to the public, adversely affect the overall business of the Service Plazas and reduce the amount of revenue to be paid to the Commission. Additionally, Commission resources will be expended in dealing with violations of this Contract by the Operator. The Parties hereby agree that consequential damages sustained by the Commission for violations of the Contract could be significant. Therefore, the consequential damages stated in the Contract for violation of Operator's operating hours obligations are agreed to between the Operator and the Commission to be reasonable amounts estimated using historical data of the loss anticipated to be suffered or incurred by the Commission to include concession fees, property management and capital investment. The Operator, therefore, hereby agrees that imposition of these consequential damages is fair and reasonable, and Concessionaire agrees to pay to the Commission as an Additional Fee the specified amounts immediately upon invoice by the Commission. Consequential damages stated in this Agreement shall accrue for each full month for which the violations occur stated in the provisions of this Agreement or in any third and subsequent written notices as provided above.

19.4.4 Remedies Non-Exclusive. The Commission reserves the right, in the Executive Director's sole and absolute discretion, not to impose Liquidated and/or Consequential Damages and instead to seek any other remedy available to the Commission as an Event of Default under Section 18.20, including termination of the Contract. The remedies provided in this Section are in addition to all other rights and remedies that the Commission may have for a breach or violation of the Contract. Nothing in this Section shall be deemed to be a waiver by the Commission of any breach or violation of the Contract, nor shall imposition of any of these sanctions be deemed to stop the Commission from terminating the Contract or from asserting any other of its other rights or remedies under the Contract, or at law or in equity. If any or all of these sanctions are found to be unenforceable, then the unenforceable sanction(s) will be discontinued, but the violations shall continue to be immediately covered by Section 198.4 of this Contract.

19.5 Public Records Act. The Operator acknowledges that the Commission is required to respond to all public records requests under Ohio law. The Operator shall comply with the Commissions' requests with regard to the production of records in response to a request under the Public Records Act in all respects and shall not restrict or otherwise inhibit the Commission from complying. Notwithstanding the foregoing, if Operator deems any records requested through a public records request as excluded from the definition of "public record" or otherwise exempt from disclosure (i.e., proprietary trade secrets) under the law, the Commission will cooperate with the Operator to resist or otherwise limit disclosure provided the Operator agrees through a separate written agreement to defend the Commission or assume the costs and fees associated with the defense, including legal counsel acceptable to the Commission, necessary as a result of withholding the records, and further agrees to indemnify and hold the Commission harmless from and against any claim, lawsuit or judgment arising from withholding the records that the Operator identified as exempt from disclosure.

APPENDIX C

ARTICLE 20 – MISCELLANEOUS

20.1 Notices. All notices given pursuant to this Contract shall be communicated in writing by: (a) hand delivery; (b) Certified U.S. Mail; (c) facsimile transmission; (d) National Overnight Courier; or (e) electronic mail; and shall be deemed given upon actual receipt to the following addresses:

In the case of the Commission:	with a copy to:
Ohio Turnpike and Infrastructure Commission Director of Service Plaza Operations 682 Prospect Street Berea, Ohio 44017 Telephone: (440)971-2042 Facsimile: (440)234-7392 andrew.herberger@ohioturnpike.org	Ohio Turnpike and Infrastructure Commission General Counsel 682 Prospect Street Berea, Ohio 44017 Telephone: (440) 971-2003 Facsimile: (440) 234-7392 jennifer.stueber@ohioturnpike.org
In the case of the Service Operator:	with a copy to:

20.2 Entire Agreement. This Contract embodies the entire understanding of the Commission and the Operator regarding the subject matter of this Contract. This Contract supersedes all prior Contracts between the parties respecting the subject matter of this Contract, both written and unwritten, and constitutes the entire Contract between the parties as of the Effective Date. Any provisions of prior contracts which conflict in any manner with the provisions of this Contract are hereby specifically declared void and of no effect.

20.3 Reasonable Behavior. Each party will act in good faith in the performance of its respective responsibilities under the Contract and will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required by the other party in order to perform its responsibilities under the Contract.

APPENDIX C

20.4 Acts of the Commission. Any act to be performed under the Contract by the “Commission” may be performed by the Executive Director or by such of its employees or such other persons, corporations or firms as the Executive Director may designate. “Executive Director” when used herein, shall refer to the Executive Director of the Commission and include the Director of Service Plaza Operations.

20.5 Construction of Terms and Words. All terms and words used in this Contract, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other general, masculine, feminine or neuter, as the context or sense of this Contract or any paragraph or clause herein may require, the same as if such words have been fully and properly written in the number and gender.

20.6 Headings. The headings of Articles and Paragraphs used in this Contract are for reference only and in no way define, limit, or describe the scope or intent of any provision of this Contract.

20.7 Representations or Warranties. The Operator agrees that no representation or warranties of any type shall be binding upon the Commission, unless expressly authorized in this Contract.

20.8 Amendments. This Contract shall not be changed, modified, discharged, or extended except by written instrument executed by both parties pursuant to the laws of the State of Ohio.

20.9 Governing Law. The Contract shall be construed under and governed by the laws of the State of Ohio. Any litigation arising out of or relating in any way to the Contract or performance under the Contract shall be brought only in the courts in Cuyahoga County, State of Ohio, and the Operator hereby irrevocably consents to such jurisdiction.

20.10 Severability. If any term or provision of this Contract is held invalid, illegal, or unenforceable by any court of competent jurisdiction, the invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contract. This Contract shall be interpreted and construed in a manner to preserve the intent of the parties and as if such term or provision, to the extent it has been held invalid, illegal, or unenforceable, had never been contained herein.

20.11 No Partnership or Joint Venture. Nothing contained in this Contract shall be deemed to constitute the Commission and the Operator as partners in a partnership or joint venture for any purpose whatsoever, and nothing in this Contract shall be construed to create any third-party beneficiaries under this Contract.

20.12 Non-Collusion. The Operator covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Operator further covenants that no person having any such interest shall be employed in the performance of this Contract.

20.13 Binding Nature of Contract. This Contract shall be binding on the Operator and the Commission, their successors and assigns, in respect to all respective covenants and obligations

APPENDIX C

contained in this Contract, but the Contract may not be assigned by the Operator without the prior written consent of the Commission.

20.14 Authority to Execute Contract. The undersigned representatives for the parties represent and warrant to have full and complete authority to execute the Contract on behalf of their respective entities. This representation and warranty are made for the purpose of inducing the other party to execute the Contract.

20.15 Counterparts. This Contract may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which shall together constitute one and the same instrument.

20.16 Electronic Signatures. The parties agree that for purposes of facilitating the signing of this Contract, an electronic signature, or an electronic or facsimile transmission of a signature, shall be an original signature for all purposes.

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APPENDIX C

INTENDING TO BE LEGALLY BOUND, the parties have hereto set their respective hands on the day and year last written below and have executed the foregoing Contract.

OPERATOR

**OHIO TURNPIKE AND
INFRASTRUCTURE COMMISSION**

By: _____

By: _____

Printed: _____

Ferzan M. Ahmed, P.E.
Executive Director

Title: _____

Date: _____

Date: _____

APPROVED:

By: _____

Jennifer L. Stueber, Esq.,
General Counsel

APPENDIX C

EXHIBIT A – SCOPE OF SERVICES

[to be included at time of contract award]

APPENDIX C

EXHIBIT B - AREAS OF RESPONSIBILITY

[to be included at time of contract award]

APPENDIX J – REVENUE SHARING PROPOSAL FOR TEMPORARY SERVICES

Terms for Temporary Services:

Revenue sharing for temporary services shall be the combined total of the (A) percent of revenue sharing proposed, (B) four percent property management and (C) one percent capital improvement fees based on gross receipts generated for Temporary Mobile Food and Beverage Concession Services.

A. Revenue Sharing	_____ % of Gross Receipts
B. Property Management	4% of Gross Receipts
C. Capital Improvement	1% of Gross Receipts

Combined Revenue Sharing for Temporary Services (A+B+C) _____ %

(Percentage may not exceed two (2) decimal points).

Guaranteed Minimum Temporary Concession Payment: In exchange for the privilege of real property access and use, for each month permitted, the Vendor shall guarantee payment to the Commission not less than the following, based on the approved operating schedule:

- Not less than \$ _____ Minimum Concessions fee, per month, per plaza as a minimum monthly guarantee.
- \$ _____ per month, per plaza for Common Area Maintenance Services.
 - *Typical CAM Fees billed are \$27,500 per month, per plaza.*