



Request for Proposals:  
High Line Food Kiosk Operators  
for Chelsea Market Passage



**HIGH LINE** FOOD  
2024-2026

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RFP produced by:

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For additional information,  
please contact:

**Vanessa Tepi**

Food Program Manager

Friends of the High Line

[vanessa.tepi@thehighline.org](mailto:vanessa.tepi@thehighline.org)

No phone calls please.

Friends of the High Line (FHL) envisions interesting, seasonal, and sustainable food on the High Line as a public amenity that complements the High Line experience as well as the High Line's values. FHL seeks operators who have a track record of business sustainability, operational excellence, and strong ethics. Operators must have a deep commitment to partnering with FHL, and must provide high quality and accessibly priced food and beverage services.

**All proposals must be received by February 26, 2024, at 6pm.**

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## OFFERING SUMMARY

**Friends of the High Line, Inc. (FHL) requests proposals for the operation of three (3) vendor kiosks on the High Line (location detailed below) with a term beginning in the 2024 season. The selected concessionaires will be awarded a three year term with three (one) 1-year renewal options, if agreed to by both parties.**

FHL is seeking to receive individual proposals from distinct vendors for each of the three (3) kiosks in the Chelsea Market Passage “Permitted Premises,” on the High Line between 15th and 16th Streets. **The types of vendors FHL is seeking are as follows:**

- **Savory, or a mix of savory and sweet options.**
- **Full-service coffee/tea**

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## OFFERING SUMMARY

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### OFFERING TERM

The selected concessionaires will be awarded a three-year term with three one (1)-year renewal options, if agreed to by both parties.

No longer term will be considered at this time. This concession will be operated pursuant to a sublicense issued by FHL and approved by the City of New York (City) Department of Parks and Recreation (Parks) as permitted by

FHL's concession agreement with NYC Parks; no leasehold or other proprietary rights are offered. Each concessionaire will be required to sign FHL's standard sublicense agreement without edits or revisions.

FHL encourages small businesses and Women and Minority Owned Business Enterprises to submit proposals.

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### CONTACT

The Project Manager for the RFP process is Vanessa Tepi, Food Program Manager. Tour RSVPs should be made by email.

Proposals should be submitted in PDF format by e-mail to [vanessa.tepi@thehighline.org](mailto:vanessa.tepi@thehighline.org)

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### SCHEDULE

#### RFP Release Date

January 30, 2024

#### Site Tour

February 6, 2024

#### Proposal Due Date

February 26, 2024

#### Interviews & Tasting

March 4–12, 2024

#### Award Date

March 18, 2024

#### Start of On-Site Concession

May 1, 2024 (approx.)



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## **HIGH LINE FOOD & PROGRAM BACKGROUND**

The High Line is a public park built on an historic freight rail line elevated above the streets on Manhattan's West Side. It is owned by the City of New York, and maintained and operated by Friends of the High Line (FHL). Founded in 1999 by a group of community residents, FHL fought for the High Line's preservation and transformation at a time when the historic structure was under the threat of demolition. It is now the nonprofit conservancy working with the New York City Department of Parks & Recreation (NYC Parks) to make sure the High Line is maintained as an extraordinary public space for all visitors to enjoy.

FHL aims to reimagine, and be a leading civic and cultural innovator for, urban public spaces in the 21st century. Now into its second decade of existence as a physical structure, FHL is reaffirming its commitment as an organization that embraces the diversity of New York City and creates equity in its community. In addition to overseeing maintenance, operations, and public programming for the park, FHL works to raise the essential private funds to support nearly 100% of the park's annual operating budget.

The High Line's food program was established in 2011 in response to neighbors and visitors regularly requesting food and beverage during their visits. Since then, FHL has strived to create a food and beverage program that is high quality, interesting, sustainable, and fairly priced. This program is a vital public amenity that enhances the High Line experience in a positive and significant way for visitors.

Food and beverage vendors are often the first point of customer service interaction between visitors and people associated with the High Line, therefore FHL places a very high premium on the quality of customer service provided by operators. In exchange for that expectation, the High Line provides to vendors unparalleled exposure and access to a high-volume stream of potential customers, and a great deal of hands-on support and infrastructure. Proceeds from the operation of the concessions are an important source of revenue for FHL and directly support the maintenance and operations of this extraordinary public space.

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## **PRINCIPLES FOR HIGH LINE FOOD, AS PART OF THE HIGH LINE EXPERIENCE**

FHL is looking for concessionaires who will serve food that is as thoughtful and creative as the High Line itself, and who are interested in building a strong partnership and active collaboration with FHL. Success on the High Line is predicated as much by practicality and efficiency as it is by creativity, however, and the park's strongest vendors have historically been those who are able to mesh streamlined, responsive operations with unique and delicious foods.

**FHL has crafted five core principles for food and beverage service on the High Line. Successful proposals will thoroughly respond to these principles, listed below in no particular order of importance:**

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### **Make it extraordinary**

The food quality, menu design, and cart aesthetics should all reflect the High Line's ethic of outstanding stewardship. Each detail should impress and highlight the visitor's experience of being in a unique place within New York City.

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### **Make it equitable and accessible**

The menu design and foods offered should build on the High Line's welcoming and sociable qualities and should reflect the diversity of NYC. Offerings should be genuine, delicious, and accessible, and provide a range of price points for customers with different needs and resources.



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## OFFERING SUMMARY

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### Customer service is critical

Visitors to the High Line engage with the park's food and vendors for myriad reasons: a quick respite with a beverage, foodie experiences, directions to the bathroom, a full meal, etc. Concessionaires' everyday operations must be equipped to deal with these various types of interactions with grace, generosity, and the High Line's ethos in mind.

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### Make it sustainable

The High Line represents a commitment to the ethos of reduce, reuse, recycle, down to the structure it is built upon. Operators are expected to reflect this ethos by minimizing operating waste and offering compostable packaging and cutlery for customers. Operators are encouraged to further reflect sustainability through seasonal menus and locally-sourced ingredients as well as incorporating at least some of the following "integrated sustainability by design" goals where feasible:

- The fundamental goals of sustainability are to diminish the utilization of non-renewable energy, limit landfill waste, and create healthy, overall sustainable conditions. Proposers should include an organizational plan for sustainability that looks to decrease adverse effects on the climate and

improve the overall quality of life of its users. FHL is seeking proposals that include the following, as applicable and feasible:

*Enhance site potential through sustainably integrated design*

*Limit non-renewable energy utilization*

*Utilize ecologically ideal items*

*Conserve water*

*Upgrade indoor natural quality through biophilic designs, which can include incorporating natural materials, natural lighting, vegetation, and other elements of the natural world into the built environment, and*

*Optimize all maintenance and operations to follow concepts of sustainability*

- FHL is seeking proposals that include sustainable technologies such as:

*Use energy-efficient lighting & appliances*

*Use locally sourcing materials*

*Using sustainable/recycled materials*

*Include a Comprehensive Waste Management Plan, including recycling program and composting, if feasible.*

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## OFFERING SUMMARY

- Proposers should include a plan for integrating sustainability into everyday operations such as:

*Sustainability measurements, analytics, and performance reviews*

*A sustainable leadership system to ensure an operation that is sustainable at its core (via employee training or workshops)*

*“Clean” or “green” cleaning products to ensure cleaner (water) run-off for the surrounding community*

*A plan to organize composting or partner with a composting entity to ensure minimal trash to landfills*

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### **Simple and portable is best**

The High Line is a linear park where visitors rarely sit for very long. The most successful foods on the High Line are those that can be served quickly and that customers can enjoy while walking. Simple and streamlined menus that leverage off-site, DOH-approved facilities or commissaries for food and alcoholic beverage storage and preparation are vital for success.

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## **CHELSEA MARKET PASSAGE**

The Chelsea Market Passage (CMP) is located on the High Line in a semi-enclosed space that was once a loading dock for freight trains making stops at the industrial bakery of the National Biscuit Company, or Nabisco. The building itself was converted for public use as the Chelsea Market in the 1990s. The space runs for one city block on the High Line, between West 15th and West 16th Streets, and offers a cool refuge for park visitors on warm days.

FHL will provide each operator with a 10' x 8' kiosk. Each kiosk will include one refrigerator and hand wash sink. Operators will be responsible for providing any additional equipment required. Vendors are required to keep their kiosk and surrounding area clean, sanitary and organized throughout the season.

**See Exhibit A for more details.**

The concessionaire will have access to the following utility services, which will be connected to the vendor's kiosk electrical panel.

- 60A/208V Electrical Service (single phase)
- 20A/120 V Quad Electrical Receptacle
- Dedicated cold water line for coffee/tea vendor

The operator will be responsible for obtaining all necessary permits, licenses, and approvals from all City, State and Federal Agencies having jurisdiction for the operation, maintenance and/or development of the concession.

# REQUIRED SUBMISSION MATERIALS



Photo by Hipolito Torres

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## **CONTENTS OF SUBMITTED PROPOSALS**

**Proposers should submit the following information for evaluation:**

- 1. Personal and business biography:** Please tell us who you are, when your company started, what we should know about your business and your professional background.
- 2. Monthly license fee:** The fee offer should state the highest sum each proposer is prepared to pay as a license fee, expressed as a guaranteed monthly minimum fee versus a percentage of gross receipts, whichever is greater. This monthly fee will be payable for each month that the concessionaire is permitted to operate on the High Line. The fee will be pro-rated for partial months.  
  
In the event of a renewal, FHL requires that there be an escalation of at least three percent (3%) per year above the initial guaranteed minimum fee. For example: a company could propose a \$X dollar minimum monthly fee and Y% of monthly gross revenues, and would pay the higher of the two to FHL each month. The minimum monthly fee would be \$X in the first year and \$X times 1.03 the second year, etc.
- 3. Food and beverage concept and menu:** Include a detailed description of style, dishes, sourcing, and prices, as well as sample menu.
- 4. Single-season pro-forma:** Include income and expense projections for each month of operation. Please explain any assumptions used in the pro-forma.
- 5. Signage design:** Illustrations of brand logo.
- 6. Plating, dish, and packaging design:** Include information on materials, compostability, and sizes. Please include photographs of containers if possible.
- 7. Operational plan:** Please specify hours of operation (within park hours), opening and closing procedures, cleaning schedule, provisions for removal of trash, storage requirements, internal controls, safety and security plans including cash management, and anything else relevant to daily operations.

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## REQUIRED SUBMISSION MATERIALS

8. **Staffing plan:** Please specify plans for staffing, including regular service personnel as well as management oversight.
9. **Food and beverage receiving plan:** Including times of day (within park hours), days per week, receiving staff, and projected space requirements per delivery (e.g. number of cases, hand-trucks, etc.).
10. **Utility and electric needs:** Please provide an equipment schedule showing intended uses, model numbers, voltage requirements, and amp ratings.
11. **Point-of-sale system:** Please identify the POS system that will be used by the concessionaire.
12. **Financial reporting:** Please include a sample of the daily and monthly sales reporting provided by the selected POS system.
13. **Opening plan:** Please outline ramp-up plan to be open for business no later than May 2024.

**In addition, proposers must include as part of their application the following:**

- Refundable proposal deposit: A check in the amount of \$750 must be submitted with the proposal. In the event of the failure of a successful proposer to execute a concession agreement

in accordance to the terms of this proposal, the deposit shall be retained by FHL unless the proposal has been permitted to be withdrawn. Proposal deposits will be returned to unsuccessful proposers after agreements are signed with the successful proposers. Proposal deposits should be mailed to:

**Friends of the High Line**  
**Attn: Vanessa Tepi**  
**820 Washington Street**  
**New York, NY 10014**

- Three business references: References should be recent, relevant to the High Line concession opportunity, and list persons with whom the proposer has previously worked and/or who can describe such matters as the proposer's financial and operational capabilities. Please include the name of the reference entity, a description of the nature of the listed reference's experience with the proposer, and the name, title, address, and telephone number of a contact person at the reference entity.

**Failure to comply with the above reference request may result in the automatic disqualification of a submission from further consideration.**



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## **REQUIRED SUBMISSION MATERIALS**

**FHL recommends that applicants speak to the following qualities in their proposal:**

- Demonstrate experience managing a concession in an outdoor location that meets the standards of quality and excellence the High Line seeks.
- Demonstrate a company ethic of progressive labor practices, competitive wages, and investment in the community.
- Demonstrate a strong brand compatibility with the High Line.
- Interest in and capacity for limited event catering (menus rather than service staff) in cases when special event clients seek food offerings from existing High Line vendors.

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## REQUIRED SUBMISSION MATERIALS

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# PROPOSAL SUBMISSION INSTRUCTIONS

Please submit one (1) electronic version of your proposal in PDF format. Each proposal should be contained in a single PDF file, including all required attachments. If file is too large to email, you may alternately send a file link (e.g. Dropbox, Google Docs) to:

**Vanessa Tepi**  
[vanessa.tepi@thehighline.org](mailto:vanessa.tepi@thehighline.org)

**All proposals must be received by  
February 26, 2024, at 6pm.**

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## **EVALUATION & SELECTION PROCEDURES**

Finalists in the process will be required to meet with FHL's selection committee and provide a sampling of their menu items. FHL anticipates holding interviews for finalists from **March 4–12, 2024**.

**Proposals will be evaluated based on the criteria below.**

- Monthly license fee offered
- Operating experience in the field, specifically in concessions with similar logistical and traffic challenges
- Proposed food and beverage concept, with an emphasis on:

*Food and beverage concept and quality*

*Food and beverage fit with the High Line experience*

*Sample menu, including selection and pricing*

*Sustainability in sourcing (local, seasonal, and sustainably-sourced ingredients)*

*Sustainability in packaging and general operations*

*Operating plan for food production*

- Additional factors such as quality of presentation, interview, business references, giving back to or working with local communities, and marketing ideas.

FHL will only consider proposals that meet satisfactory levels of the above criteria. FHL is not required to accept the proposal that includes the highest license fee offer.

The acceptance of a proposal does not imply that every element of that proposal is acceptable, and FHL will actively work with the selected partner(s) to finalize all elements of the proposals.

Proposals will be evaluated by a selection committee composed of FHL staff, and will be based on the criteria listed below. The concession will be awarded to the proposer whose submission best meets these criteria.

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## **PROPOSAL EVALUATION RATIONALE**

In evaluating proposals, the  
Selection Committee will use  
the following criteria:

**Fee offer:** 10%

**Operating experience:** 40%

**Proposed food and menu concept:** 40%

**Additional factors referenced in the  
'Evaluation and Selection Procedures':** 10%

# ADDITIONAL DETAILS & CONSIDERATIONS



Photo by Hipolito Torres

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## **ABOUT OPERATING**

### **Concession Season**

In the 2024 season, FHL expects the concessionaire(s) to operate from **May through the end of October**. However, these dates may change depending on weather, FHL staffing, and other factors.

### **Season Opening**

FHL requires a target opening for the season of **no later than May 2024**.

### **Hours of Operation**

All hours of operation are subject to FHL's and NYC Parks' prior written approval, and will require the concessionaire to close 30 minutes to one hour in advance of the park's closing. Current park hours are:

December 1–March 31:  
7am to 8pm

April 1–November 30:  
7am to 10pm

### **Cleaning and Maintenance Schedules**

The concessionaire will be required to keep their concession and shared spaces clean and well-maintained at all times.

### **Storage**

The concessionaire's operating materials must be neatly stored out

of sight of the general public. There is VERY limited storage on the High Line; concessionaires will need to supply the High Line location from their headquarter kitchens to the concession location. The concessionaire is responsible for, at its sole cost and expense, obtaining any additional storage space required for the operation of the concession. Operator must provide a detailed delivery schedule.

### **Waste Removal and Recycling**

A dedicated trash and recycling receptacle will be provided by FHL and kept directly beside or behind the vendor's area. The concessionaire is responsible for placing waste and recycling in designated locations each day. The concessionaire will be responsible for covering the cost of waste recycling and grease trap cleaning on a prorated basis, as applicable.

### **Deliveries and Parking**

FHL requires food vendors to make deliveries before 11am due to traffic on the High Line. No accommodations are provided for delivery and parking. Delivery schedule is flexible depending on the concessionaire schedule. Load in/out and any very large deliveries are required to use the freight elevator at 820 Washington Street, but smaller daily deliveries may use the passenger elevators.



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## **ADDITIONAL DETAILS & CONSIDERATIONS**

### **Licensing and Permits**

The concessionaire will be required to obtain any and all necessary approvals, permits, and licenses for the operation of this concession. This includes all relevant Department of Health & Mental Hygiene (DOHMH) permits for the High Line location as well as commissary, as applicable. Each vendor must have one person on-site at all times with a valid DOHMH Food Handler's License.

The concessionaire(s) will be required to obtain applicable DOHMH permits before the start of the season.

- H25
- Tax Authorization Certificate

Concessionaire must submit all related paperwork, such as standard operating procedures (SOP), delivery schedule, and name(s) of employees that have a food handler's license. Concessionaire must provide FHL with copies of all food handler's licenses.

The concessionaire will be required to operate their food service operations in such a manner as to maintain the highest New York City Department of Health inspection rating.

### **Staffing**

Every concessionaire is required to have a dedicated manager who is the primary contact for FHL.

The concessionaire will be required to have a sufficient number of staff to ensure proper operation of the concessions. Staff is expected to wear presentable uniforms and/or attire that are suitable for working with the public, operating outdoors, and representing FHL.

### **Supply**

The concessionaire will be required to maintain adequate inventory to ensure a constant supply of food and beverages.

### **Special Events and FHL Events**

The concessionaire will be required to cooperate with FHL during special events. FHL reserves the right to schedule a reasonable number of private events and programs over the season. When an event is scheduled, the concessionaire will usually be required to close. Whenever appropriate and possible, FHL will seek to include concessionaires in the event with agreement from the event client. The concessionaire will have the opportunity to present a catering menu to FHL for selected events. Whenever possible, FHL will provide the concessionaire with 14 days' notice of these events.

### **Alcohol**

This location will not be permitted to serve alcohol of any kind.

## **SIGNAGE, MARKETING & ADVERTISING**

### **Signage and Advertising**

The concessionaire will be required to display signage at the premises listing all prices, rates, and hours and days of operation, as well as a NYC Parks decal. The design and placement of all signage will be subject to FHL approval. Any changes in the design of signage will also be subject to FHL approval.

The concessionaire will be prohibited from placing or permitting the placement of advertisements of any type without the prior written approval of FHL.

### **Promoting the Concession:**

FHL will ask successful proposer(s) to work with FHL to promote the concession. Vendors are expected to market the location on social media and other networks.

With FHL's written approval, concessionaire is permitted to promote the concession off-site through print and electronic media. The manner of such use of an entity name in combination with the name "High Line" or any other approved mark shall be approved in advance by FHL.

## **SECURITY DEPOSITS & FINANCIAL REPORTING**

### **Reporting and Fiscal Transparency Requirements**

The concessionaire will be required to maintain a revenue control system to ensure the accurate and complete recording of all revenue in a form and manner acceptable to FHL and to the City.

This revenue control system must maintain detailed sales information from each sales transaction. Specifically, sales information must be recorded electronically, via a computerized point-of-sale system, and must include, but is not limited to, details on each sales transaction, the item(s) sold, time, date of sale, and price of the item sold.

In addition, concessionaire must also document each of concessionaire's Special Events via signed sequentially pre-numbered contracts that capture event information, including the time and date of the event, the number of attendees and required payment.

Concessionaire shall also establish a dedicated bank account for all deposits related to this concession's generated revenue. All accounting and internal control related records shall be maintained for a minimum of ten (10) years after the date of creation of the record.

Additionally, all books and records maintained pursuant to this Concession Agreement shall be appropriately segregated from other business matters of concessionaire and shall include, but not be limited to: all federal, state and local tax returns and schedules of the concessionaire; records of daily bank deposits of the entire receipts from transactions in, at, on or from the Licensed Premises; sales slips, daily dated point of sale receipts, and sales books; and duplicate bank deposit slips and bank statements.

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## **ADDITIONAL DETAILS & CONSIDERATIONS**

### **Gross Receipts**

The concessionaire will be required to submit monthly statements of gross receipts to FHL by the 15th of each month following the end of the prior month. FHL will provide a format that all vendors are expected to follow. The concessionaire will be required to use an electronic POS system to ensure the accurate and complete recording of all revenue and transactions.

Gross receipts shall exclude the amount of any Federal, State, or City taxes that are paid by the concessionaire against their sales.

FHL and NYC Parks must approve all fees, prices, and any subsequent increases in advance.

At the end of each operating year, the concessionaire will be required to submit detailed income and expense statements. The concessionaire will be required to pay all taxes applicable to the operation of the concession.

### **Security Deposit**

The concessionaire will be required to submit a security deposit equal to one month's proposed base minimum fee.

### **Inspections & Liquidated Damages**

Inspectors from Parks will visit the site unannounced to inspect operations and ensure proper maintenance of the concession site, and must be granted access. Based on their inspections, Parks may issue directives regarding deficiencies the concessionaire will be obligated to rectify in a timely fashion. Violations of the terms of the Sublicense Agreement may result in the assessment of liquidated damages which, if not paid promptly, may be deducted from the concessionaire's security deposit. If the concessionaire fails to provide the cleaning, maintenance, and operational services required by the Sublicense Agreement, Parks shall notify the concessionaire in writing, and the concessionaire shall be required to correct such shortcomings within the timeframe set forth in such notice. If the concessionaire fails to cure the violation within the timeframe set forth in the notice, Parks may, at its option, in addition to any other remedies available to it, assess liquidated damages and/or suspend or terminate the Sublicense Agreement. Parks may impose a \$250 administrative fee for reinstatement of a suspended license. Liquidated damages may be assessed in accordance with the following schedule:

## **ADDITIONAL DETAILS & CONSIDERATIONS**

<b>Provision</b>	<b>Damages per occurrence</b>
Unauthorized Menu Items or Merchandise	\$150
Missing or Unauthorized Price List	\$250
Overcharging	\$350
Expanding	\$350
Blocked Paths, Exits	\$350
Improper Disposal (noxious liquids, debris, etc.)	\$350
Equipment or Structures Leaking Fluids	\$250
Unauthorized Advertising	\$350
Roving or Vending at Unauthorized Location	\$250
Improper Storage	\$350
Graffiti, Dirty Facility or Seating Area	\$350
Vending without valid DOHMH License	\$350
Equipment Obviously Damaged or in Poor Repair	\$350
Unauthorized Vehicular Activity	\$350
Unauthorized tapping into utilities used, operated or owned by the City	\$350
311 Sign not Displayed	\$250

Any fines FHL received from the Department of Health for violations due to improper use of the commissary will be reimbursed by food vendors to FHL.

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## **ADDITIONAL REQUIREMENTS**

### **Sales Tax**

The concessionaire will be required to pay all taxes applicable to the operation of the concession. Gross receipts shall exclude the amount of any federal, state, or city sales taxes which are paid by the concessionaire.

### **Removal of Trees**

The concessionaire will be prohibited from cutting down, pruning or removing any trees on the Permitted Premises without prior written approval from FHL and Parks. Any attachments to the trees, such as lights, will not be permitted.

### **Unanticipated Events**

The concessionaire will be required to cooperate with FHL and Parks during special and other anticipated events.

### **Use of Tobacco**

Smoking of tobacco products, non-tobacco smoking products, or electronic cigarettes is strictly prohibited at the Permitted Premises. Concessionaire shall adhere to and enforce this policy.

### **Packaging**

The use of polystyrene packaging or food containers will be prohibited in the operation of the concession.

### **Sale of Cigarettes**

The selling and/or advertisement of cigarettes, cigars, electronic cigarettes or any other tobacco or non-tobacco smoking products is strictly prohibited. The concessionaire will be required to adhere to and enforce this policy.

### **Use of Single Use Plastic**

Concessionaires may not provide single-use plastic beverage straws, except upon request. Concessionaire may provide beverage straws that are compostable and not made of plastic (Ex. Bamboo, paper). The sale of drinks in single use plastic bottles 21 fluid ounces or less is prohibited. Plastic bottle alternatives, such as aluminum or boxed beverages, are permitted.

**Concessionaires must not sell single-use plastic beverage bottles per Executive Order 54, signed by Mayor Bill de Blasio on February 6, 2020.**

### **Indemnification**

The concessionaire will be required to indemnify FHL and the City for claims arising out of the concessionaire's operations under the Sublicense Agreement, pursuant to a provision to be included in the Sublicense Agreement.



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## **ADDITIONAL REQUIREMENTS**

### **Marketing and Sponsorship Agreements**

The concessionaire must obtain the prior written approval of FHL and Parks prior to entering into any marketing or sponsorship agreement. In the event that the concessionaire breaches this provision, the concessionaire shall take any action that the City may deem necessary to protect the City's interests.

### **Insurance**

The concessionaire will be required to carry the minimum levels of insurance **set forth in Exhibit C hereto**.

### **Identification and Address**

The successful proposer(s) for each vending location will be required to present picture identification (such as a driver's license or a passport) and proof of address (such as a utility bill) in order to execute the permit. In addition, all proposers will be expected to provide FHL with at least two (2) telephone numbers for contact purposes.

### **Vending Locations**

Vendors may only vend in the vending location specified. All locations are subject to FHL's written approval.

### **Earned Sick Time Act**

Concessionaire will be required to comply with the Earned Sick Time Act, also known as the Paid Sick Leave Law, as a concessionaire of the City of New York as set forth in the Paid Sick Leave Law Concession Rider **included herewith as Exhibit B**.

### **Other**

All plans, including but not limited to schedules, menus, designs, prices and fees, and hours of operation are subject to FHL's prior written approval. Concessionaire may be fined if unapproved materials are found.

## **OTHER GENERAL RFP REQUIREMENTS & CONDITIONS**

FHL reserves the right to postpone or cancel this RFP or reject all proposals if, in its judgment, FHL deems it to be in the best interest of the FHL to do so.

FHL reserves the right to award concessions at additional locations on the High Line. Nothing in this RFP shall be deemed to give any party an exclusive right to operate concessions in the park.

Proposers are advised that FHL has the option of selecting the proposer without conducting discussions or negotiations. Therefore, proposers should submit their best proposals initially, since discussions or negotiations may not take place.

All RFP submissions and materials become property of FHL.

### **Confidentiality**

The information and data contained in this RFP constitutes FHL's confidential information. You and your firm/organization agree not to disclose any information contained herein or any subsequent information supplied by FHL without prior FHL's written approval. No press release, public announcement,

denial, or confirmation of any part of the subject matter of this request shall be made without the prior written consent of FHL. In addition, FHL's name shall not be used as a potential customer of the firm/vendor without FHL's prior written consent.

### **Respondent's Proprietary Data**

Your proprietary data and/or pricing information will be protected by FHL with the same degree of care and protection that FHL exercises with its own proprietary data. Any such proprietary data presented in the response must be clearly identified in your RFP.

### **Costs Associated with RFP Response**

FHL assumes no liability or responsibility for any costs associated with the production or presentation of your firm's response to this RFP.

### **RFP Property**

All RFPs submitted will become the property of FHL and will not be returned.

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## **OTHER GENERAL RFP REQUIREMENTS & CONDITIONS**

### **Response Compliance and Rejection of Submission**

FHL reserves the right to determine if a response complies with the requirements of the RFP to accept or reject all or part of any RFP response. This request shall not be deemed to be an offer by FHL, and FHL reserves the right to reject for any reason any and all responses received, and to negotiate separately with any source in any manner so desired. FHL is not under any obligation to award a contract for this request.

# EXHIBIT A: KIOSK DIMENSIONS



Photo by Hipolito Torres

## EXHIBIT A: KIOSK DIMENSIONS

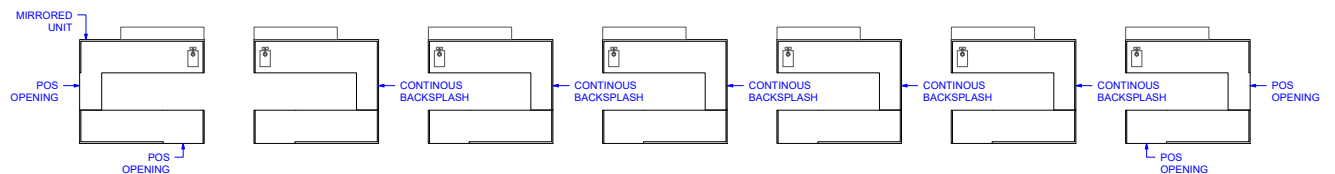
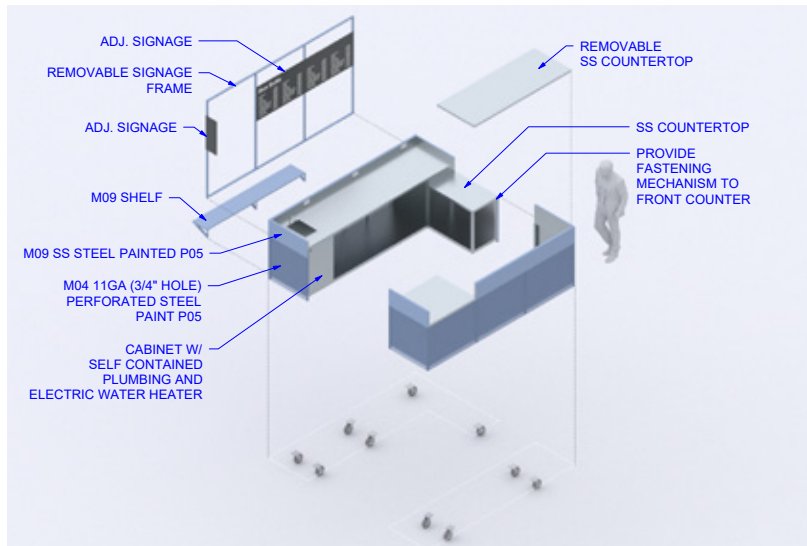
# CHELSEA MARKET PASSAGE KIOSK DIMENSIONS

### Specs

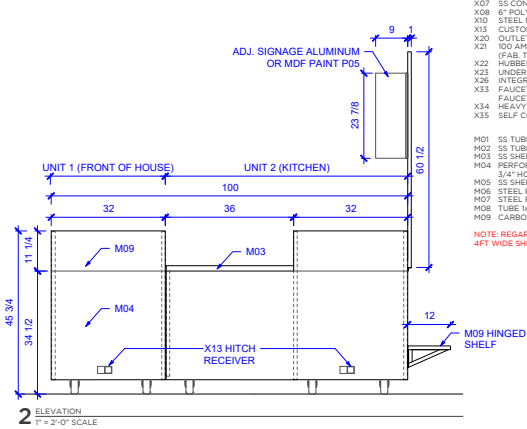
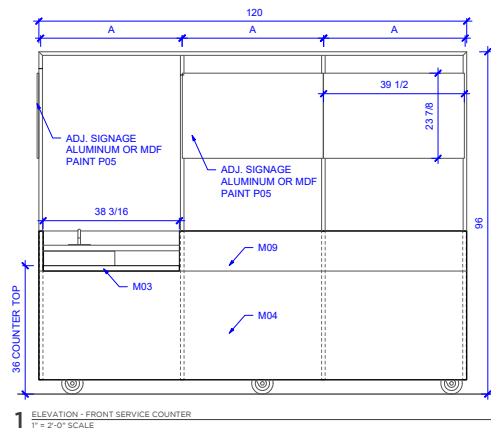
FHL will provide each operator with a 10' x 8' kiosk. Each kiosk will include one refrigerator and hand wash sink. Operators will be responsible for providing any additional equipment required. Vendors are required to keep their kiosk and surrounding area clean, sanitary and organized throughout the season.



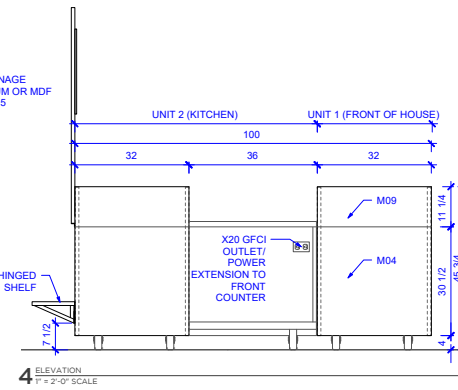
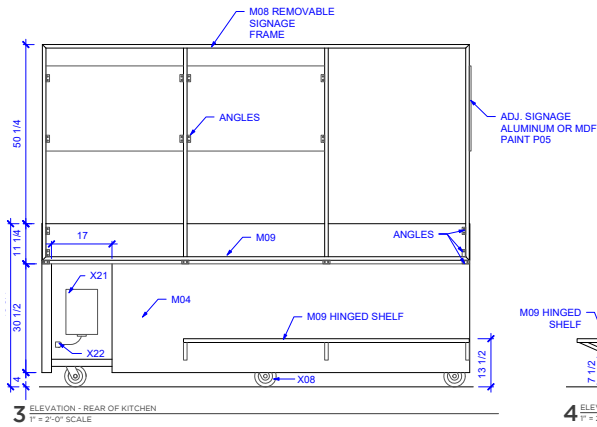
## EXHIBIT A: KIOSK DIMENSIONS



# EXHIBIT A: KIOSK DIMENSIONS

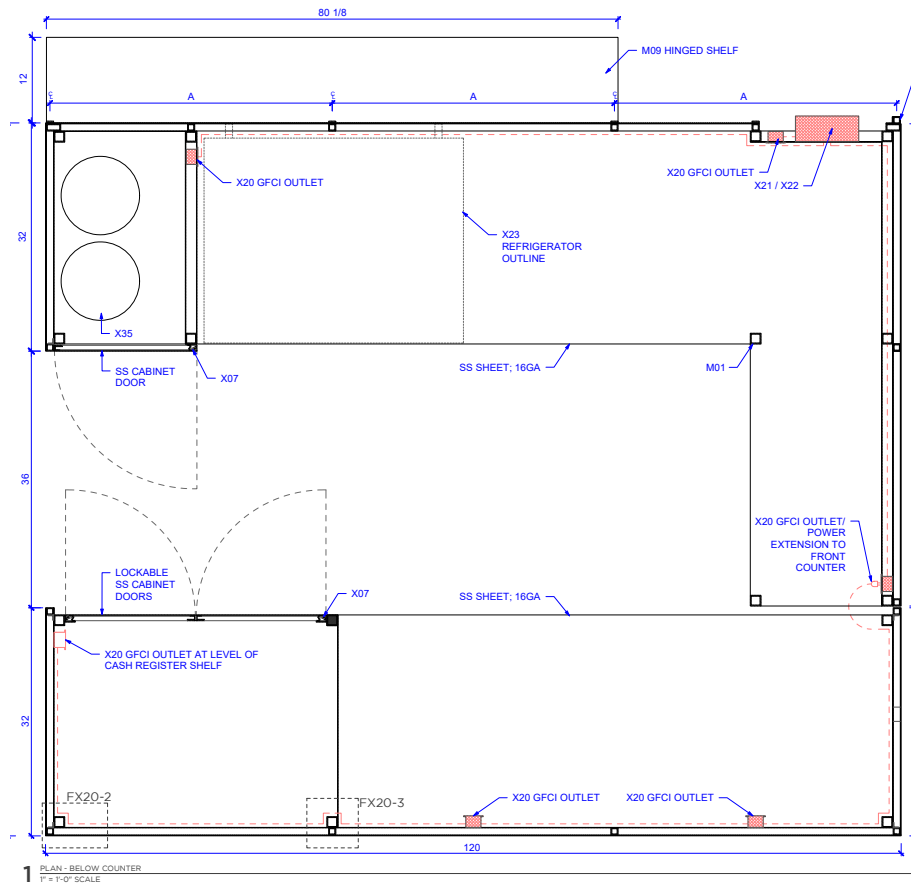


- X07 SS CONCEALED HINGE EMKA 1032-U2
- X08 6\"/>

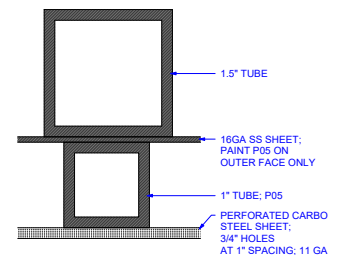
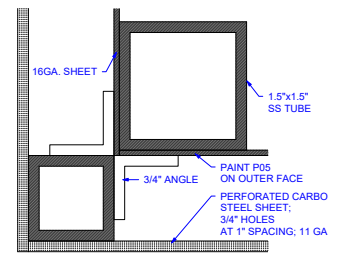




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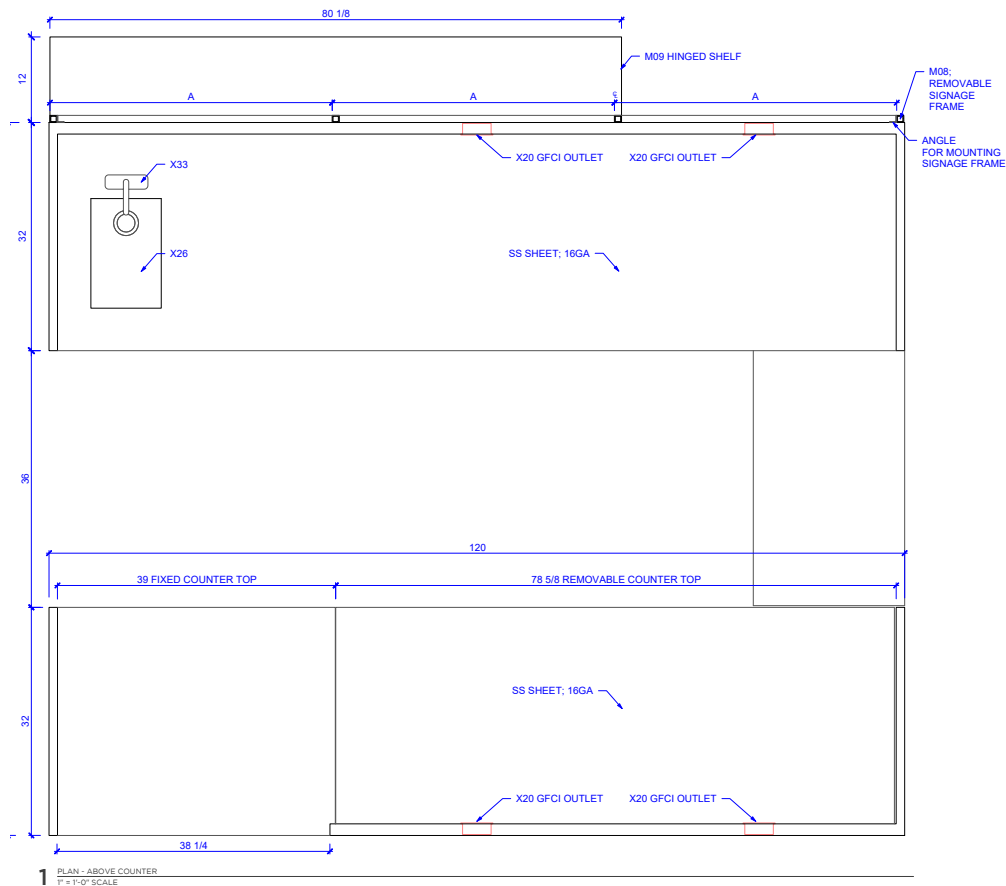


- X07 SS CONCEALED HINGE EMKA 1032-U2
- X08 6" POLYURETHANE KINGPINLESS CASTERS
- X10 STEEL MASTER 1960 CASH DRAWER
- X13 CUSTOM DESIGNED TRAILER HITCH
- X20 OUTLET BOXES, SS GFCI OUTLETS / CABLES ETC.
- X21 100 AMP BREAKER PANEL, 10 SPACE / BREAKERS (FAB. TO CONFIRM SELECT, REQ.)
- X22 HUBBEL TWIST LOCK CONNECTION FROM BREAKER PANEL
- X23 UNDERCOUNTER REFRIGERATOR (DESIGNER TO PROVIDE)
- X25 INTEGRATED SINK 10" X 15.5" X 8" (OR SIMILAR)
- X35 FAUCET (FAB. TO TO RECOMMEND SUITABLE LOW FLOW FAUCET FOR SELF CONTAINED PLUMBING SYSTEM)
- X34 HEAVY DUTY WATERPROOF CUSTOM VINYL COVER
- X35 SELF CONTAINED PLUMBING W/ ELECTRICAL WATER HEATER
- M01 SS TUBE 1.5x1.5, GA. TO BE SPEC.
- M02 SS TUBE 2x1.5, GA. TO BE SPEC.
- M03 SS SHEET, GA. TO BE SPEC.
- M04 PERFORATED CARBON STEEL SHEET, 3/4" HOLES AT 1" SPACING, 11 GA.; PAINTED P05
- M05 SS SHEET, PAINTED P05 ON OUTER FACE ONLY
- M06 STEEL PLATE, 1/4" THICK
- M07 STEEL PLATE, 1/2" THICK
- M08 TUBE 1x1, GA. TO BE SPEC. - PAINT P05
- M09 CARBON STEEL SHEET, 11 GA., PAINTED P05



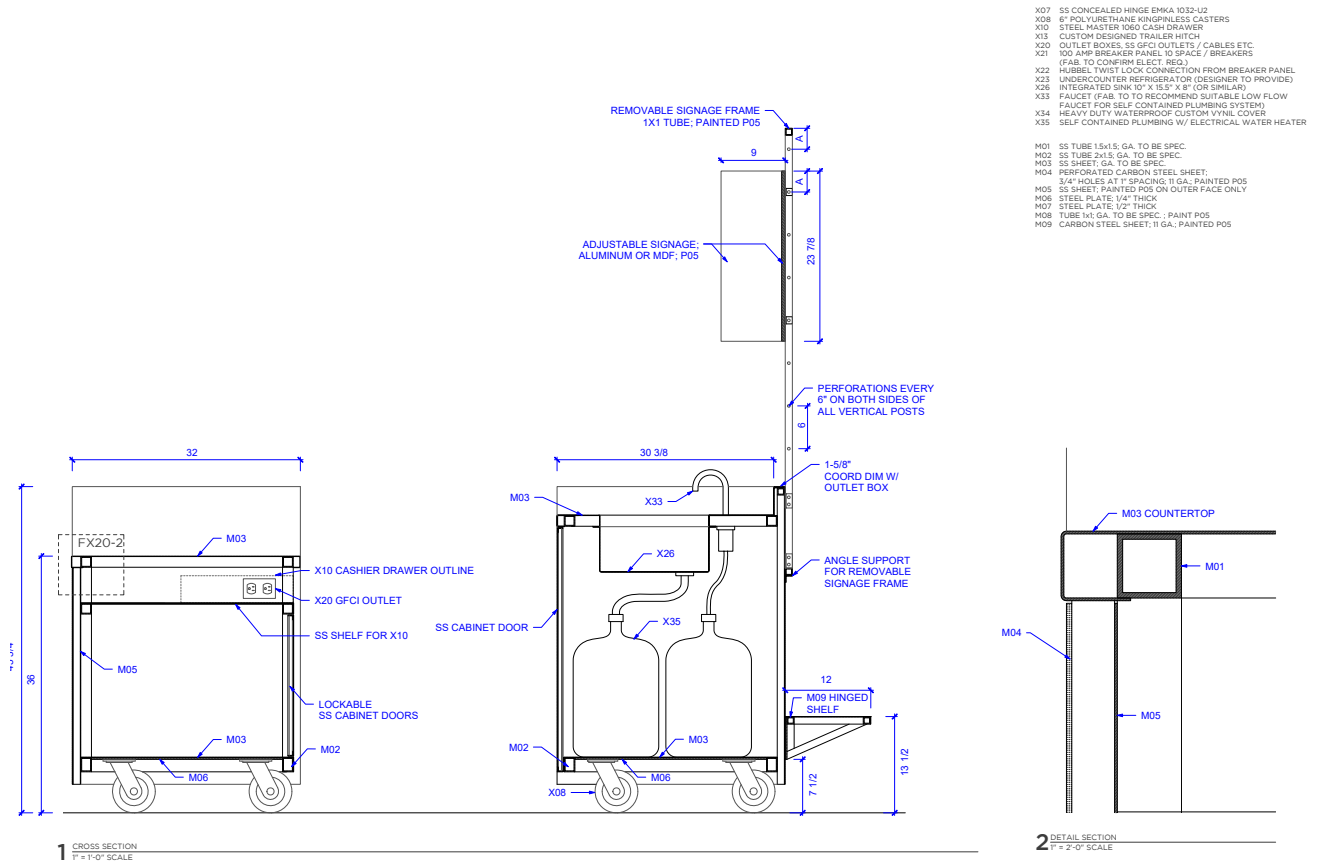


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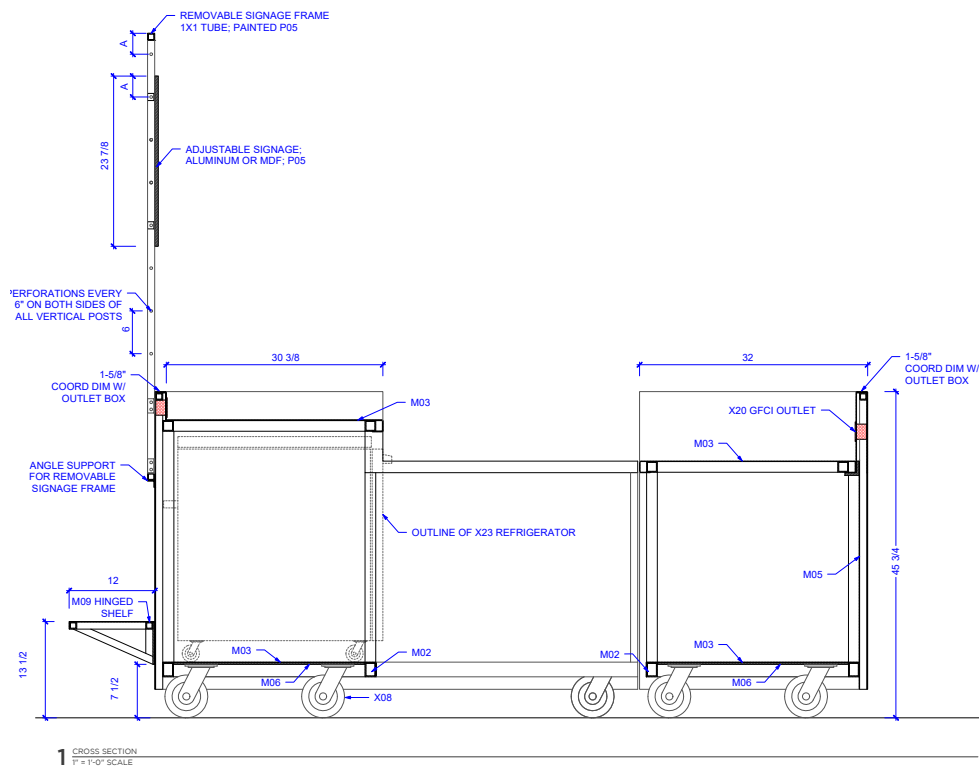


- X07 SS CONCEALED HINGE EMKA 1032-U2
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- X22 HUBBEL TWIST LOCK CONNECTION FROM BREAKER PANEL
- X23 UNDERCOUNTER REFRIGERATOR (DESIGNER TO PROVIDE)
- X26 INTEGRATED SINK 10" X 15.5" X 8" (OR SIMILAR)
- X35 FAUCET (FAB. TO TO RECOMMEND SUITABLE LOW FLOW FAUCET FOR SELF-CONTAINED PLUMBING SYSTEM)
- X34 HEAVY DUTY WATERPROOF CUSTOM VINYL COVER
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- M01 SS TUBE 1.5x1.5, GA. TO BE SPEC.
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- M03 SS SHEET, GA. TO BE SPEC.
- M04 PERFORATED CARBON STEEL SHEET, 1/4" HOLES AT 1" SPACING, 11 GA., PAINTED P05
- M05 SS SHEET, PAINTED P05 ON OUTER FACE ONLY
- M06 STEEL PLATE, 1/4" THICK
- M07 STEEL PLATE, 1/2" THICK
- M08 TUBE 1x1 GA. TO BE SPEC. - PAINT P05
- M09 CARBON STEEL SHEET, 11 GA., PAINTED P05

## EXHIBIT A: KIOSK DIMENSIONS

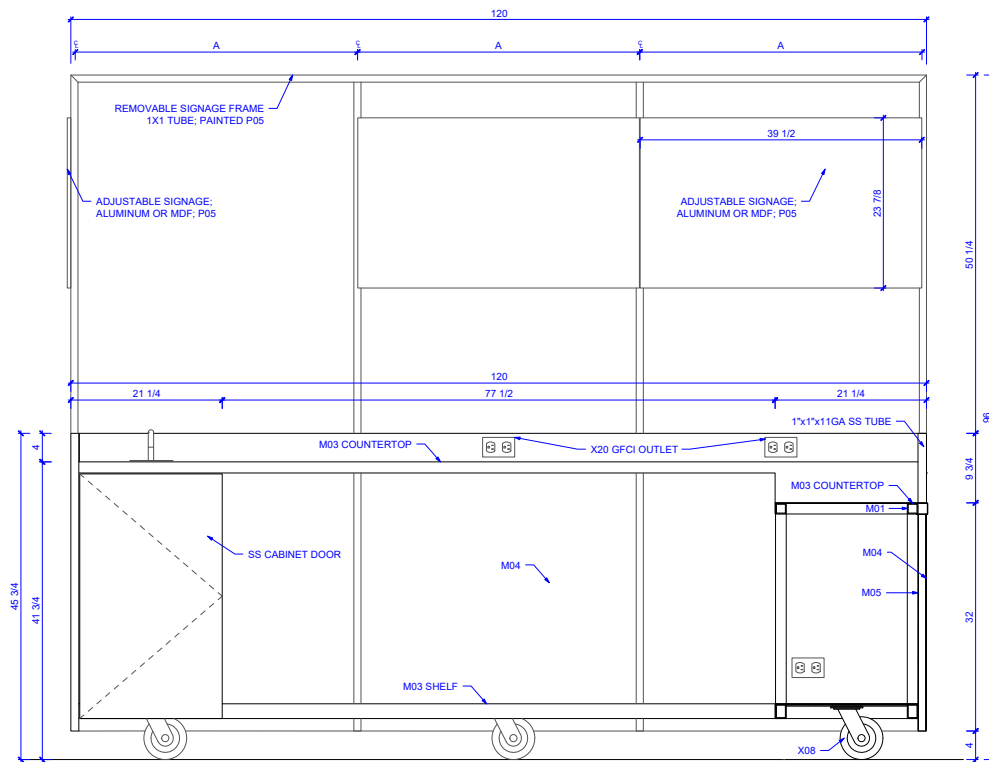


## EXHIBIT A: KIOSK DIMENSIONS



- X07 .55 CONCEALED HINGE EMKA 1032-U2
  - X08 6" POLYURETHANE KINGPINLESS CASTERS
  - X10 STEEL MASTER 1960 CASH DRAWER
  - X11 CUSTOM DESIGNED TRAILER HITCH
  - X20 OUTLET BOXES: .55 GFCI OUTLETS / CABLES ETC.
  - X21 100 AMP BREAKER PANEL, 10 SPACE / BREAKERS  
(FAB. TO CONFIRM ELECT. REQ.)
  - X22 HUBBEL TWIST LOCK CONNECTION FROM BREAKER PANEL
  - X23 UNDERCOUNTER REFRIGERATOR (DESIGNER TO PROVIDE)
  - X25 INTEGRATED SINK 10" X 15.5" X 8" (OR SIMILAR)
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  - X34 HEAVY DUTY WATERPROOF CUSTOM VINYL COVER
  - X35 SELF CONTAINED PLUMBING W/ ELECTRICAL WATER HEATER
- M01 .55 TUBE 1.5x1.5, GA. TO BE SPEC.
  - M02 .55 TUBE 2x1.5, GA. TO BE SPEC.
  - M03 .55 SHEET, GA. TO BE SPEC.
  - M04 PERFORATED CARBON STEEL SHEET:  
1/4" HOLES AT 1" SPACING, 11 GA.; PAINTED P05
  - M05 .55 SHEET, PAINTED P05 ON OUTER FACE ONLY
  - M06 STEEL PLATE, 1/4" THICK
  - M07 STEEL PLATE, 1/2" THICK
  - M08 TUBE 1x1 GA. TO BE SPEC. - PAINT P05
  - M09 CARBON STEEL SHEET, 11 GA.; PAINTED P05

## EXHIBIT A: KIOSK DIMENSIONS

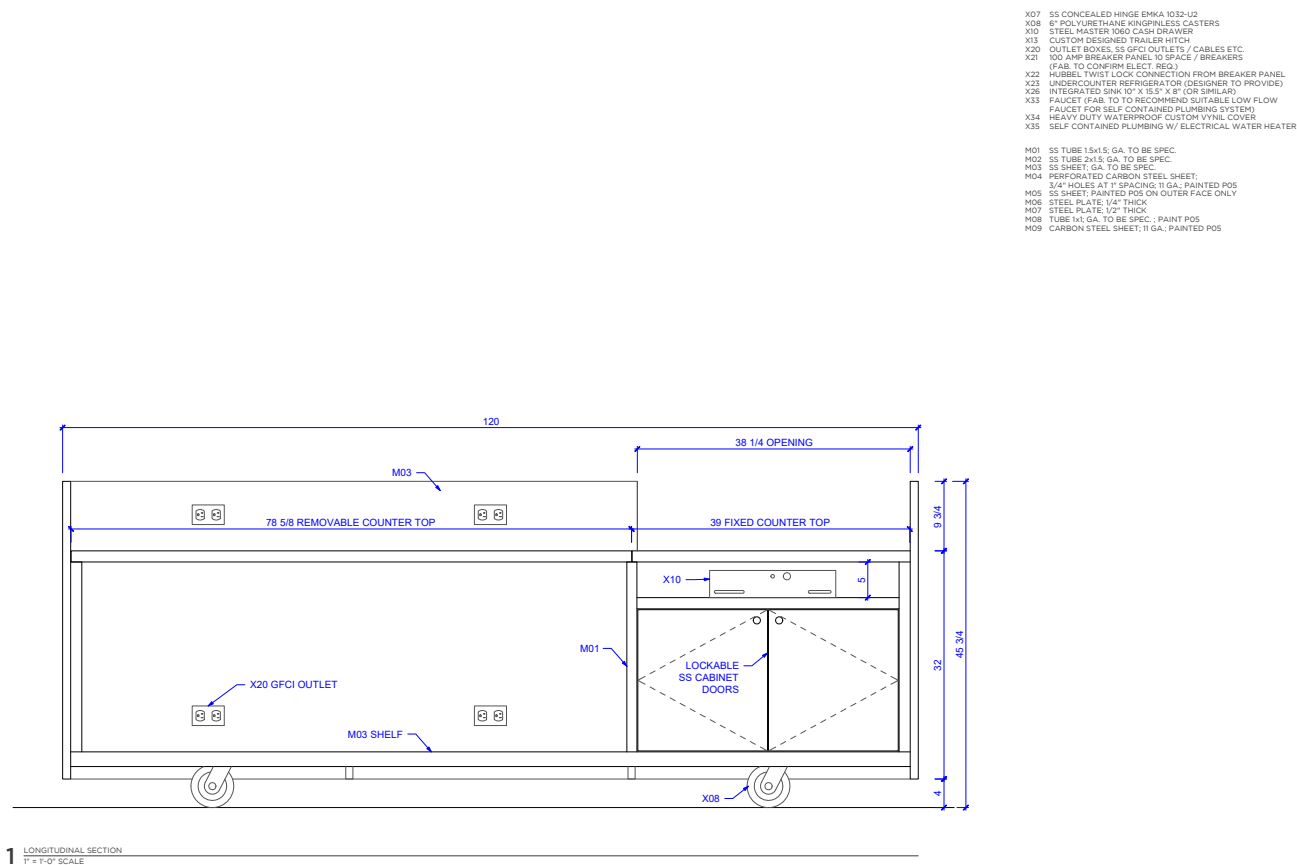


- X07 .55 CONCEALED HINGE EMKA 1032-U2
- X08 6" POLYURETHANE KINGPINLESS CASTERS
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- X11 CUSTOM DESIGNED TRAILER HITCH
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- M01 .55 TUBE 1.5x1.5; GA. TO BE SPEC.
- M02 .55 TUBE 2x1.5; GA. TO BE SPEC.
- M03 .55 SHEET; GA. TO BE SPEC.
- M04 PERFORATED CARBON STEEL SHEET; 1/4" HOLES AT 1" SPACING; 11 GA.; PAINTED P05
- M05 .55 SHEET; PAINTED P05 ON OUTER FACE ONLY
- M06 STEEL PLATE; 1/4" THICK
- M07 STEEL PLATE; 1/2" THICK
- M08 TUBE 1x1 GA. TO BE SPEC. - PAINT P05
- M09 CARBON STEEL SHEET; 11 GA.; PAINTED P05

1 LONGITUDINAL SECTION  
1" = 1'-0" SCALE

EXHIBIT A: KIOSK DIMENSIONS



The diagram is a longitudinal section of a kiosk. The total width is 120. The counter top is divided into a 78 5/8 removable section and a 39 fixed section. The fixed section contains a sink (X10) and a faucet (X33). Below the counter is a shelf (M03) and a lockable stainless steel cabinet with doors (M01). The kiosk is mounted on casters (X08). Dimensions include a 38 1/4 opening, a 9 3/4 height for the counter, a 32 height for the cabinet, and a 4 height for the base. Callouts include M03, X20 GFCI OUTLET, M01, LOCKABLE SS CABINET DOORS, X10, X08, and X06.

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LONGITUDINAL SECTION  
1" = 1'-0" SCALE

# EXHIBIT B: PAID SICK LEAVE LAW



Photo by Hipolito Torres

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## **EXHIBIT B: PAID SICK LEAVE LAW**

### **Introduction and General Provisions**

The Earned Sick Time Act, also known as the Paid Sick Leave Law (“PSLL”), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.<sup>1</sup> Concessionaires of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City’s Department of Consumer Affairs (“DCA”); DCA’s rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York (“Rules”).

The Concessionaire agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. The Concessionaire further acknowledges that such compliance is a material term of this agreement and that failure to comply with the PSLL in performance of this agreement may result in its termination.

The Concessionaire must notify the Concession Manager in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding

the PSLL involving the performance of this agreement. Additionally, the Concessionaire must cooperate with DCA’s education efforts and must comply with DCA’s subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of the Concessionaire.

The Concessionaire is advised to review the PSLL and Rules in their entirety. On the website [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Concessionaire can get more information about how to comply with the PSLL. The Concessionaire acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

### **Pursuant to the PSLL and the Rules:**

#### **Applicability, Accrual, and Use**

An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer

<sup>1</sup> Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.



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## EXHIBIT B: PAID SICK LEAVE LAW

as its “calendar year” pursuant to the PSL ( “Year”) must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee’s regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSL may use sick time for any of the following:

- such employee’s mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee’s need for medical diagnosis or preventive medical care;
- such employee’s care of a family member (an employee’s child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee’s spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee’s place of business by order of a public official due to a public health emergency; or
- such employee’s need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use

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## EXHIBIT B: PAID SICK LEAVE LAW

of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

### Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of

employee under section 190(2) of the New York State Labor Law;

- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

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## **EXHIBIT B: PAID SICK LEAVE LAW**

- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

### **Retaliation Prohibited**

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

### **Notice of Rights**

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at [www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml](http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml).

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed fifty dollars for each employee who was not given appropriate notice.

### **Records**

An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

### **Enforcement and Penalties**

Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

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## **EXHIBIT B: PAID SICK LEAVE LAW**

### **More Generous Policies and Other Legal Requirements**

Nothing in the PSL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

# EXHIBIT C: INSURANCE REQUIREMENTS



Photo by Hipolito Torres

## EXHIBIT C: INSURANCE REQUIREMENTS

1. Concessionaire shall procure and maintain the following insurance listed below throughout the Term of the Agreement.
2. All required insurance must be issued by an insurance company or companies that have an A.M. Best rating of at least A-7 or a Standards & Poor rating of at least AA and are licensed to do business and issue policies of insurance in the State of New York, and must be in effect and continue so during the period described above in not less than the following amounts:
  - a. *Comprehensive General Liability coverage in occurrence form with a \$1,000,000 Combined Single Limit 1 per occurrence and at least \$2,000,000 aggregate (per location or per project) for bodily injury (including death) and property damage arising out of, or related to, Concessionaire's performance of Services. This insurance shall also include contractual liability coverage, products liability, and completed operations coverage. The Commercial General Liability coverage shall provide coverage at least as broad as the most recently issued Insurance Services Office (ISO) Form GC 00 01, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence" based rather than "claims-based." The Commercial General Liability insurance will be required to name the City of New York, including its officials and employees (and any entity listed in the relevant entry of Exhibit A, including that entity's officials, employees, and volunteers (collectively the "Indemnitees"; each an "Indemnatee") as additional insured, with coverage at least as broad as the most recently issued Insurance Services Office (ISO) Form GC 20 26, and the additional insured's limits will be no lower than Concessionaire's.*
  - b. *Umbrella/Excess Liability coverage in occurrence form with a \$3,000,000 Combined Single Limit with such coverage to include Employer's Liability, General Liability (including defense costs) and Automobile Liability as underlying policies.*
  - c. *By specific endorsements to its primary and umbrella/excess liability, Concessionaire shall:*
    - i. *provide additional insured status to "The City of New York, The City of New York Department of Parks & Recreation, and Friends of the High Line, Inc." and their respective agents, employees, officers and directors; coverage shall apply on a primary and*

## **EXHIBIT C: INSURANCE REQUIREMENTS**

*non-contributory basis. Such insurance shall include coverage for any and all losses, liabilities, obligations, fines, damages, penalties, claims, charges, costs, or expenses, including reasonable attorney's fees, for which they, or any of them, are or may be liable as a result of any personal injuries, death, or property damage arising, in whole or in part, from any negligent or intentional conduct on the part of Concessionaire, or others, in connection with the Event; and the property and equipment of the City of New York against damages caused by Concessionaire's negligence or willful misconduct.*

*ii. Cause the coverage afforded FHL and the Department of Parks and Recreation and the City of New York thereunder as Additional Insureds to be primary and noncontributory to other valid and collectible insurance available to FHL, the Department of Parks and Recreation and the City of New York;*

*iii. Cause the coverage afforded thereunder to include blanketed written contractual liability coverage for all indemnity agreement(s) set forth in this Agreement and any addenda hereto;*

*iv. Cause the coverage thereunder to include products liability coverage throughout the period that FHL will be using the product(s) / materials provided under the Agreement as well as completed operations coverage for at least five years after completion of the Services;*

*v. Provide that defense costs are not to be considered as damages so as to erode the policy limits required under the paragraphs above; and*

*d. Worker's Compensation required by New York State law and Employer's Liability of not less than \$1,000,000 per accident.*

*e. Automobile Liability Insurance of not less than \$1,000,000 including owned, hired, and non-owned vehicles on an occurrence basis and any such other insurance coverage as required by law.*

<sup>1</sup> It is also acceptable for Concessionaire to provide \$2,000,000 of coverage for each occurrence (with a \$4,000,000 aggregate limit) and have \$2,000,000 in umbrella coverage.



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## EXHIBIT C: INSURANCE REQUIREMENTS

- f. Liquor liability insurance with combined limits of not less than \$1,000,000 insuring for any and all damage and liability which may be caused by, related to or arise out of the sale, furnishing, giving, distribution or consumption of alcoholic beverages on the premises.*
3. The certificate shall list **“Friends of the High Line, Inc. (820 Washington Street, New York, New York 10014 ) and The City of New York Department of Parks & Recreation, ATTN: Commissioner (The Arsenal, Central Park, 830 Fifth Avenue, New York, NY 10065) and The City of New York (The Arsenal, Central Park, 830 Fifth Avenue, New York, NY 10065)”** each individually as Certificate Holders. A separate certificate must be issued for each of the three entities. as the Certificate Holders.
4. The policies shall provide the amounts of insurance requested, and all certificates of insurance shall be submitted to the Commissioner of Parks and Recreation (the **“Commissioner”**) at the address set forth in paragraph 3 above for Commissioner’s approval and retention. Each policy shall also provide that the insurer is obligated to provide coverage for Concessionaire’s contractual indemnification obligations hereunder. If, at any time, any of said policies shall terminate or become unsatisfactory to Commissioner as to form or substance, or if a company issuing any such policies shall become unsatisfactory to Commissioner, Concessionaire shall promptly obtain a new policy, and submit the same to Commissioner for written approval, which shall not be unreasonably withheld.
5. With respect to general liability and worker’s compensation insurance, the Concessionaire (and the Concessionaire’s insurer) waive all rights of subrogation against The City of New York, The City of New York Department of Parks & Recreation, and Friends of the High Line, Inc. and their officers, trustees, agents and employees.
6. These coverages and limits are to be considered minimum coverages under this Agreement and shall in no way limit the liability or obligations of the Concessionaire. The parties may alter the foregoing coverage amounts for specific Services, on a project basis, by specifying the agreed upon coverage limits in an addendum. All Services shall otherwise be subject to the terms of the applicable Agreement,

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## **EXHIBIT C: INSURANCE REQUIREMENTS**

including without limitation, the indemnity and insurance provisions herein.

7. Before commencement of the Services, Concessionaire shall furnish FHL with certificates from Concessionaire's insurance carriers showing that Concessionaire has complied with the above-referenced insurance requirements, and that said insurance policies will not be cancelled or changed except upon thirty (30) days prior written notice to FHL and the City of New York. Concessionaire further agrees that the aforesaid insurance will be maintained throughout the Term of the Agreement (and if any products / materials have been sold to FHL under the Agreement, for as long as such product(s) / materials are in use by FHL). If, at any time during the term of this Agreement, Concessionaire does not provide insurance coverage as set forth above, FHL shall have the right, at its option, to procure same and deduct the cost from any sums due or to become due to Concessionaire hereunder. In the event FHL does not request, and/or Concessionaire fails to provide evidence of coverage as set forth herein prior to commencing the Services, such

failure shall not be construed as a waiver of Concessionaire's obligation to obtain and maintain all coverages set forth above, or of FHL or the Parks Department or the City of New York's rights as Additional Insureds.