



## Request for Proposal (RFP) Food Service Operator at Cazenovia Golf Course Concessions

### **Overview**

The Buffalo Olmsted Parks Conservancy ("Conservancy") is seeking to establish a creative partnership with a reputable food service operator for the Cazenovia Golf Course Concessions (aka "Concession") located in Cazenovia Park, 1 Willink Ave, Buffalo, NY 14210. The Conservancy is seeking one Vendor/Operator ("Operator") that is experienced in food service for an annual or multi-year agreement with option to renew.

### **Purpose**

The Conservancy would like to engage an Operation for the Concession area to serve golf patrons, park users and neighbors.

An Operator agreement is expected to be in place for the 2026 season; beginning on or about April/May 2026.

### **Conservancy, City & Facility Background**

#### *Conservancy - City*

In 2019, the Conservancy renegotiated an agreement with the City of Buffalo (the "City") to provide maintenance for the historic Buffalo Olmsted Parks as well as the management of the historic facilities therein. Pursuant to the City-owned and Conservancy-managed; therefore, all agreements must be in accordance with City regulations. A sample operating agreement is provided with this RFP which includes City regulations, expectations, etc.

#### *Cazenovia Golf Concession*

The Cazenovia Golf Clubhouse is a one-story building built in 1964. The building houses the Cazenovia golf pro shop as well as a small kitchen and space for tables for a concession operator.

### **RFP Objective**

The primary objective for this RFP is to identify an experienced, reputable, dependable Operator for the Concession area, which will be respectful to the Conservancy golf staff, the neighborhood and will abide by all City ordinances while providing the greatest benefit to Cazenovia Park and Cazenovia Golf Course.

### **Site Location Information & Premises**

Address: 1 Willink Ave, Buffalo, NY 14210 (Attachment 1)

#### *Concession Area Information:*

The Cazenovia Golf Concession Area is approximately 620 square feet (approximately 45% of the building space) and is accessed through the parking lot which serves golfers and park patrons.

The inside of the building is used by both golf operations and the Operator. Golf operations utilized a corner area of the main room for a golf check-in desk. The Operator is permitted to arrange the inside common dining area in coordination with golf operations. The Concession preparation area is separated from the open space by a roll down window that is locked when not in use. The Concession preparation area and dining area is the full responsibility of the Operator.

In addition, there is a large awning that covers the front patio area of the building that may be utilized as an additional dining area.

#### *Parking and Deliveries:*

Next to the building there is limited parking with spaces for handicapped vehicles only, therefore the Operator will need to have all staff, including management, park in the lot west of the building (Attachment 1). The Operator may use the driveway up to the building for 15-minute loading and unloading.

All deliveries of stock items, refreshments and other items used or sold by the Operator shall be made to the least inconvenience of Cazenovia golf operations. The Conservancy reserves the right to alter any delivery/schedule at any time, with prior notice to Operator, arrangements need to be made. The Conservancy is not responsible for attending to, nor assisting with, Operator deliveries.

#### *Amenities:*

Within the space available to the Operator there is a separate kitchen area with a triple sink, an indoor dining area and an outdoor dining area on the awning covered patio.

#### *Furniture, Fixtures & Equipment*

Currently there is a dining table and approximately six chairs for use by the Operator. Any other equipment and furniture to be utilized by the Operator must be supplied by the Operator. Equipment repair in the kitchen/dining area is the responsibility of the Operator.

#### *Hours of Operation*

The Operator will determine their specific hours of operation; however, they must be between the hours of 7am - 10pm (park open hours).

*Liquor License*

The Conservancy encourages the Operator to obtain a liquor license and must serve food that meets the requirements to obtain such license.

*Bathrooms:*

As the facility is a public park building, Operator shall comply with allowing public restroom access during business hours of operation.

*Storage:*

There is a storage area available to the Operator.

*Additional Information:*

- The concession area will be shared with the Cazenovia Park Golf Course Pro Shop run by the Conservancy
- The Operator is responsible for a base monthly utility fee of \$185 for gas and electric costs. Water is provided by the City of Buffalo at no additional cost
- The Operator must provide at their own expense any upgrades needed for internet services
- The Operator is responsible for the daily removal of trash and may choose between the following two options:
  - The Operator may choose to contract with the City to receive City approved totes (minimum of 6). The Operator shall be responsible to pay the fees associated with this service. The Operator is also responsible for placing the totes in the approved location (designated by the City) on the designated pick-up days and bringing the totes in when emptied.
  - Alternatively, the Operator may contract with a trash collections company acceptable to the Conservancy and the City for weekly trash pickup. Placement of a dumpster with a trash collection company must be acceptable to the Conservancy.
- All outdoor signage must be approved by the Conservancy and the City prior to installation
- Routine maintenance (cleaning) of the rented area will be the responsibility of the Operator
- The Conservancy will be responsible for the maintenance of the park grounds, clearing and snow removal of all approach paths and access to the building as well as any landscaping
- The Operator must comply with the insurance/indemnity requirements as listed in the sample operating agreement
- Additional furnishings, equipment not provided are the responsibility of the Operator
- A sample operating agreement with terms and conditions common to Conservancy agreements in relation to City requirements is provided as Attachment 2 to the RFP and should be reviewed carefully as to typical specifications.

## **Operator Responsibilities**

### *Expectation*

- All costs of operations and management
- All cost of goods and services
- Licenses for operation, sales taxes on products or services that are provided hereunder, any other federal, state, and local taxes which the business is liable, NYS worker's compensation, unemployment insurance, payroll, and other taxes with respect to employment
- Base fee for utilities (gas and electric) for the approximate 45% usage of the building
- Cleaning and general upkeep of the space including the public restrooms
- Any costs associated with equipment repair, general improvements, and facility upgrades, as approved by the City and the Conservancy
- Trash disposal and recycling as stated above
- Operational reports
- Compliance with Indemnification/Insurance requirements - per agreement (Attachment 2)

## **Facility Improvements & Marketing**

The Cazenovia Golf Concession Area is rented as is and the Operator will be responsible for any items/equipment necessary to operate, as well as any/all leasehold improvements. Any Operator proposed improvements, as identified in the proposed business plan, must be approved by the Conservancy and the City of Buffalo prior to any implementation and in accordance with all City requirements. Business partnerships and/or subcontracts may also be included in the overall strategy, however, must be identified and approved. Operator must comply with all federal, state, and local rules, regulations, licensing and permitting requirements.

Marketing or advertising the operation will be the responsibility of the Operator and should occur in collaboration with the Conservancy for seamless information and coordination opportunities. Any proposed signage must conform to the Conservancy's design guidelines and City requirements and must be approved by the Conservancy and the City of Buffalo prior to installation.

## **RFP Criteria, Guidelines and Submissions**

### *Minimum Criteria for Respondents*

- At least 2 years' experience in the food service industry
- Liquor license eligible
- Experience working in partnership with not-for-profits and/or City of Buffalo

### *Proposal Guidelines and Instructions*

- Only entities that meet the minimum criteria should apply. Respondents that do not meet the minimum criteria may not be considered
- All proposals should be submitted according to the instructions listed below

*Proposal Format and Scope*

Successful proposals will include the following information:

- Section A: Profile and Description of Respondent (weighted at 25% in evaluation)
  - Name and address of respondent.
  - History in business and/or event service
  - Entity owner's professional background and years in the food service business
  - Name and bio of manager for this venture
  - MWBE qualifications, if/as available (see sample operating agreement language Attachment 2)
- Section B: Business Plan (weighted at 40% in evaluation)
  - Proposed length of lease (including extensions)
  - Proposed base rent by year (excluding utilities and trash fees)
  - Proposed commissions/sharing percentage
- Section C: Business Plan (Weighted 25% in evaluation)
  - Include a detailed business plan which shall include:
    - Staffing plan
    - Marketing plan
    - Expected hours of operation
    - Sample food/beverage offerings
    - Projected profit & loss statement
- Section D: Capital Improvements/Additional Investment (Weighted 10% in evaluation)
  - Please list any proposed capital improvements for which the bidder will incur the costs; including the estimated cost of such improvements and the timeframe for the proposed improvements; if any.

**It is mandatory that candidates participate in a site walkthrough.** All submittals will be reviewed by the Conservancy. Finalists may be invited to make a formal presentation and proposal. If selected, the finalist will meet with the Conservancy for further discussions, and a formal negotiated agreement will be developed in contract form. Ideally the new agreement will be available to be executed on or about April 1, 2026.

**RFP Schedule**

Issue Request for Proposal	February 6, 2026
<b>Mandatory Site Visit &amp; Questions</b>	<b>February 19, 2026 (1pm)</b>
Proposals due by 4pm	March 6, 2026
Final decision	March 13, 2026
Final contract	April 1, 2026 or By mutual decision

*No Proposals will be accepted after March 6, 2026 @ 4pm*

### **RFP Submission**

RFP responses and questions should be directed to Ivy Cornell at [Ivy@bfloparks.org](mailto:Ivy@bfloparks.org), by March 6, 2026, no later than 4pm, and can be sent by either electronic or hardcopy as noted below:

*Electronic* submissions can be sent to [Ivy@bfloparks.org](mailto:Ivy@bfloparks.org) with “RFP: Operator – Cazenovia Golf Course Concession” in the subject line.

*Hardcopy* submissions can be directed to:

Buffalo Olmsted Parks Conservancy, Inc.  
Attn: Ivy Cornell  
84 Parkside Ave.  
Buffalo, NY 14214

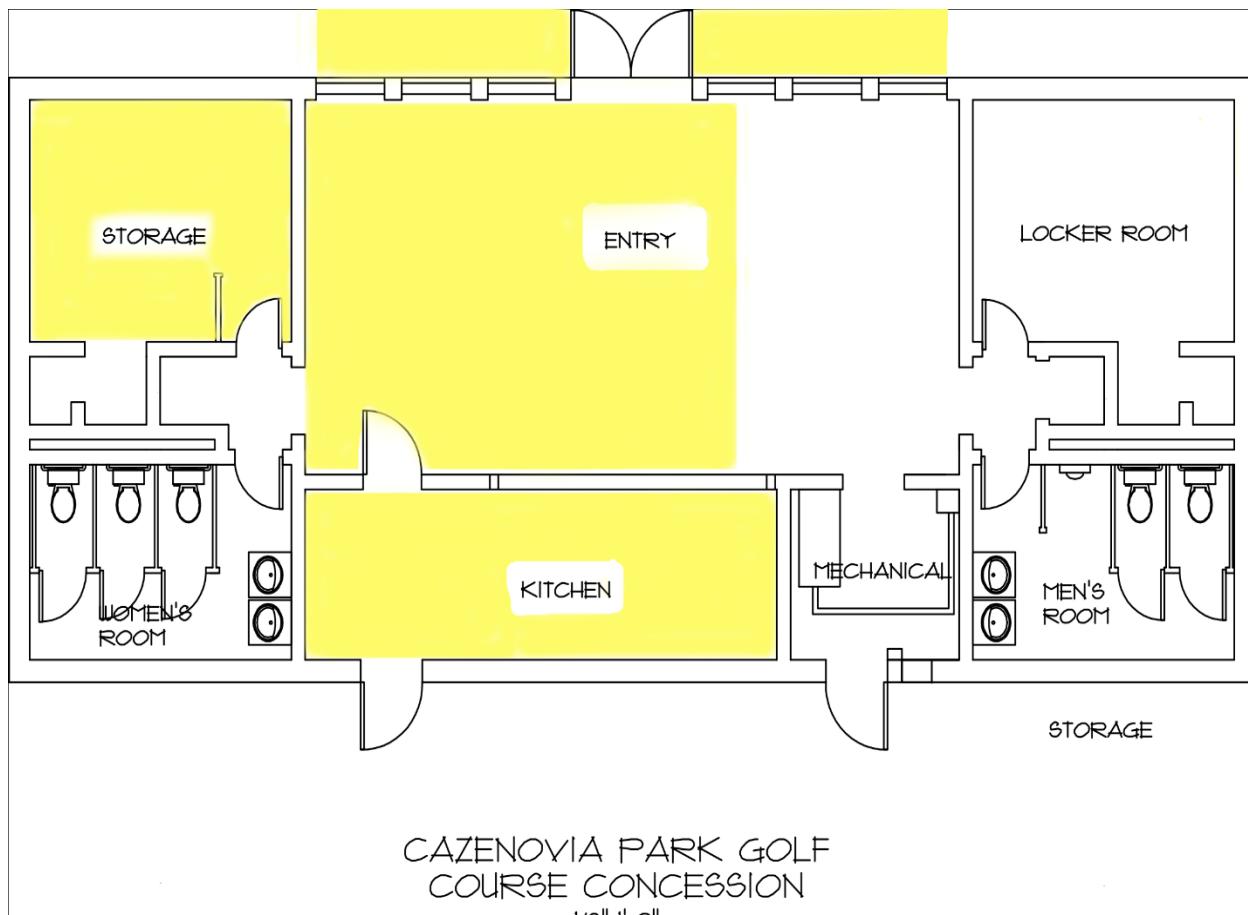
“RFP: Food Service Operator – Cazenovia Golf Course Concession” must be stated on the outside of the response package.

*An evaluation of the submitting businesses will be conducted internally, and a list of businesses that meet criteria may be interviewed, as necessary. The Conservancy reserves the right to reject proposals or parts thereof. The Conservancy also reserves the right to waive irregularities and inconsistencies or take whatever other action that is in the Conservancy’s best interest. Statement of Non-Commitment Issuance of this RFP does not commit the Buffalo Olmsted Parks Conservancy, Inc. to award a contract or to pay any costs incurred in preparation of proposals responding to the RFP. Buffalo Olmsted Parks Conservancy, Inc. reserves the right to reject any or all proposals and re-advertise. All proposals become the property of the Conservancy.*

### **Additional Documentation**

Included with the RFP is a sample operating agreement attached as Attachment 2, which includes specific details related to requirements and City of Buffalo expectations for operation of the facility and premises.

Buffalo Olmsted Parks Conservancy, Inc.  
Per Request for Proposal  
Food Service Operator for the Cazenovia Golf Concessions  
*Attachment 1*



The agreement between BOPC and any entity selected as a result of this Request For Proposals process, if an entity is selected, will contain but not be limited to the following provisions:

**Buffalo Olmsted Parks Conservancy, Inc.  
Per Request for Proposal  
Food Service Operator for the Cazenovia Golf Concessions  
Sample Operating Agreement**

*Attachment 2*

THIS AGREEMENT is made by and between the Buffalo Olmsted Parks Conservancy, Inc. a not-for-profit corporation, 84 Parkside Avenue, Buffalo, NY 14214 (hereafter referred to as "Conservancy" or "BOPC") and TBD (hereafter referred to as "Operator").

Whereas the City of Buffalo ("City") is the sole property owner and landlord for Cazenovia Park and the Cazenovia Golf Clubhouse located at 1 Willink Avenue, and requires primary approvals for all proposed alterations or improvements to the building or property, and

Whereas the Conservancy as operator of the parks by contract with the City warrants and represents that it has authority to enter into agreements for concession operations in Cazenovia Park, including the occupancy and operation of the Cazenovia Golf Clubhouse located in Cazenovia Park, City of Buffalo, NY, hereinafter referred to as "Premises" and

Whereas the Conservancy has, following a competitive request for proposals process, selected (Operator) as sole caterer/restaurateur on record effective (insert date), to manage the Premises and administer concessions on the Premises (see map attachment Exhibit A), and this Agreement is intended to extend the Operator's rights for the term specified in this agreement and shall supersede and replace any prior agreements or understandings between the Conservancy and Operator.

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**General Terms and Conditions**

1. Premises – The Premises which are subject to this agreement shall be approximately 45% of the Cazenovia Park Golf Clubhouse plus the patio area directly in front of the building (see map attachment Exhibit A/floor plans Exhibit B). The remaining space will be utilized by the Cazenovia Park golf course operations run by the Conservancy.

2. Purpose: The Operator shall use the Premises for all lawful purposes with the main function being a food concessionaire within a golf clubhouse feature, which may serve food, beverages, and alcoholic beverages to the public.

Operator shall not allow the use of the Premises for any other purpose without the express, written consent of the Conservancy, which consent may be withheld in the sole discretion of the Conservancy. The Conservancy may disapprove of a use proposed by Operator if such use violates Park rules and regulations or any municipal, state, or federal law, or is not within the theme or character of the park, or sacrifices public health, safety, or welfare, or for any other reason.

3. Property Condition and Due Diligence - The Premises are provided to the Operator in "AS IS" condition as of the Effective Date. The Operator will be responsible for performing its own due diligence in assessing the current condition of the building and site prior to executing this Agreement. A schedule of routine maintenance will be determined between the Operator and the Conservancy as to general responsibilities; referring to Section 26.

4. Contract Term - The term of the Operator's use of the Premises shall be for a period from the Effective Date through (TBD the "Term") as per negotiation and/or RFP stipulation. The Term may be extended by mutual agreement of the Operator and the Conservancy, and with community input considered, with such mutual agreement to be confirmed in a written amendment to this Agreement signed by Operator and the Conservancy, and approved in writing by the City (as per terms of the Conservancy and City agreement), no later than (date TBD).

5. Fees - In consideration of the right to use the Premises as provided in this Agreement, Operator shall pay a monthly fee of \$185 monthly for utilities plus the trash collection fee to the City. In addition, the Operator shall pay a monthly fee to the Conservancy of (Base Rent TBD), hereinafter referred to as the "Base Fee." The amounts payable by Operator to the Conservancy pursuant to Section 5I of this Agreement shall be in addition to the Base Fee.

I. For concession services provided by Operator pursuant to this Agreement, Operator shall pay to the Conservancy (% TBD as negotiated) of food and beverage sales (including alcoholic beverages), which shall be accounted for and paid to the Conservancy monthly within 15 days after the end of the applicable month.

6. Reports and Annual Financial Review

I. The Operator is responsible for keeping, and may be required by the Conservancy and City to submit, an Annual Report including but not limited to the following:

- ii. Revenues
- iii. Expenses
- iv. Financial variance report against budget - monthly / year to date
- v. Marketing promotions

- vi. Routine maintenance expenses
- vii. Non-routine expenses
- viii. Authorized capital improvements
- ix. Insurance claims
- x. Litigation
- xi. Safety and environmental incidents

7. Concession Business Plan

I. The Concession operations to be conducted by the Operator must adhere to a park ambiance in its concept, theme, and promotional image. As of 2025, the Conservancy's approved Concession business plan is light refreshments, sandwiches, etc., beverages for take-out or dining options, alcoholic beverages may be served with the caveat that such beverages shall be consumed on premises.

II. Operator must provide any updates to theme, menu, or other suggested alterations from the original plan of operations. Menu pricing must be consistent with comparable prices in the immediate area.

8. Menu - The Operator, subject to the Conservancy's review and approval, shall provide food and beverage items to the public consistent with the menu and pricing prominently displayed, along with accurate publicly posted hours of service operations.

9. Functionality - The Operator must obtain, at its expense, any and all regulated and required permits and authorizations required by the City, County and State consistent with its operations. The Operator shall be required to keep the Premises in an orderly, healthy and attractive condition at all times. The Operator shall provide prompt courteous service and have sufficient employees available to properly serve the public.

10. Conservancy Use of Facility - the Conservancy will share the concession space for use of its golf operations.

11. Parking & Access

I. The Operator is allowed to use of the upper parking space to load and unload supplies, etc., but then must be promptly moved to the main parking lot. This will allow access to the handicapped spaces in the upper lot. The Conservancy will have the authority to call the City parking enforcement for ticketing if Operator violates the parking areas.

12. Dates & Hours of Operation - The Operator shall maintain publicly posted business hours of operation for the Premises within park hours and City ordinances as follows, noting the Golf closes at Sunset.:

I. Hours: Standard hours of operation will be included and agreed upon in the annual business plan and must be publicly and correctly posted as current with onsite and website notice.

13. Personnel

I. The Operator will hire, train, supervise, discipline, and if need be, dismiss any and all persons necessary to conduct its operations hereunder and will use reasonable efforts to assure that its employees continually practice high standards of cleanliness, safety, courtesy and service.

II. The Operator shall comply with all wage practices and laws of all applicable jurisdictions and shall also comply with all laws governing employment and conditions of employment including without limitation the Workers' Compensation Act of the State of New York and any amendments thereto.

III. M/WBE Requirements: This Agreement is subject to the City of Buffalo's Minority/Women Business Enterprises Goals (sometimes herein referred to as "M/WBE Goals"). Operator accordingly shall be contractually obligated to utilize good faith efforts to obtain Minority Business Enterprise (MBE) Project wide participation in the amount of at least twenty-five percent (25%) of the total contract(s) value(s), and Women Business Enterprise (WBE) participation in the amount of at least five percent (5%) of total contract(s) value(s). Operator must make demonstrable good faith efforts consistent with the City of Buffalo Mayor's Office of Diversity, Equity, and Inclusion's "Good Faith Policy" to achieve the above stated goals, and as a prerequisite to Operator's use of any contractor, such contractor shall complete a form confirming that it will employ the City of Buffalo's good faith policy in achieving the above-stated diversity and inclusion goals. Every January and July, and additionally as the City of Buffalo may request, Operator, shall provide the following to the City of Buffalo: (i.) a listing of all Licensed Premises related contracts into which it has entered or which it is about to enter, (ii.) diversity and inclusion data related to each of those contracts, and (iii.) documentation demonstrating Operator's use of good faith efforts in attaining and enforcing diversity and inclusion goals. The City of Buffalo will provide the Operator with informational assistance in meeting the diversity and inclusion goals, including, but not limited to, lists of relevant MBE and WBE contractors, sending email communications via B2GNow software informing MBE and WBE contractors of opportunities available, referring Operator to technical assistance agencies and other agreed-upon methods. The City of Buffalo will monitor goal progress frequently and as the City of Buffalo deems advisable. In addition, all MBE/WBE Goals for the Licensed Premises, including but not limited to those for contracts for services, equipment, materials, and or supplies, must be done in conformance with the foregoing goal expectations. To the extent that any MBE/WBE goals and or requirements and or diversity requirements of any project grant funding or other Licensed Premises funding source or sources are stricter or different than those required or described above, the stricter rules shall be deemed to apply. It shall be the Operator's responsibility to manage and coordinate and track down all reporting and follow-up requirements and documentation assemblage and certifications in connection with all MBE/WBE related and diversity goals.

IV. Licensed Premises Workforce Requirements: Operator shall utilize good faith efforts to attain the following goals regarding Operator's exempt and nonexempt workforce and regarding

the workforce of all contractors: (i.) that self-identified minority group members, as defined under NYS Executive Law Article 15 A Section 310, shall work a minimum of twenty-five percent (25%) of total hours available, (ii.) that self-identified females shall work a minimum of five percent (5%) of total weekly hours available, (iii.) that City of Buffalo residents shall work a minimum of thirty percent (30%) of total hours available for contracts over \$250,000 and twenty five percent (25%) for contracts under \$250,000, and (iv.) Pursuant to City Code Chapter 96-13(H)(2), any contractor or subcontractor entering into a construction contract with the City of Buffalo that exceeds \$100,000 shall participate, at the time of bid, in a NYS Department of Labor Registered Apprenticeship Training Program and registered apprentices shall work a minimum of 10 percent (10%) of total hours available. Operator shall cooperate fully with the City of Buffalo to maximize minority participation in its workforce. The City shall have the right, with reasonable notice, to inspect Operator operations, hold discussions with Operator staff leadership, and examine Operator Premises-related payroll files for purposes of confirming compliance with this section.

14. Deliveries - All deliveries of stock items, refreshments and other items used or sold by the Operator shall be made to the least inconvenience of Cazenovia Park Golf operations. The Conservancy reserves the right to alter any delivery schedule at any time, with prior notice to Operator, should arrangements need to be made. The Conservancy is not responsible for attending to, nor assisting with, Operator deliveries, event set up, or other labor requests.

15. Utilities/Other Services

- I. The Operator shall be solely responsible for:
  - i. Contract and payment of telephonic access/use and any additional WIFI requirements or cable.
  - ii. Utility Fee of \$185 per month
  - iii. Trash collection
  - iv. Fire alarm is property and responsibility of the City, including system repairs
  - v. Security system is managed by the Conservancy

16. Security & Fire Suppression Plan

- I. Within 10 days after the Effective Date, the Operator shall furnish a comprehensive security plan to maintain safe and secure operations, subject to review and approval by The Conservancy.
- II. Fire suppression needs and equipment will be reviewed annually and routinely maintained by Operator and communicated to the Conservancy/City.

17. Service of Alcoholic Beverages - The Operator may serve alcoholic beverages provided that the Operator obtains the appropriate license and/ or licenses from the New York State Liquor Authority (SLA) and operates lawfully under that license. Alcoholic beverages may only be served for consumption on Premises.

18. Advertising Restrictions - The Operator shall not advertise or affix signage in any manner other than as pre-approved by the Conservancy in writing, and the Operator shall have no right to use the trademarks, symbols, or trade name or name of the Conservancy or City of Buffalo, directly or indirectly, in connection with any production, promotion, service or publication without prior written approval of the Conservancy and City of Buffalo. The foregoing shall not be construed to limit the Operator's right to use the Operator's logos in the ordinary course of its business on its uniforms, menus, cups, and products. All outdoor or public advertising is subject to regulations as per Chapter 133, Article 1 of the City Charter, and approval of the Conservancy.

19. Naming Rights - The Operator does not have the right to change the name "Cazenovia Park Golf Concessions." The Operator will operate the Concession "TBD @ Cazenovia Park" or "TBD @ Cazenovia Park Golf " The Conservancy reserves the right to consider any proposed renaming and any correlated funding, however, the City's Common Council will have authority over any/all such official approved naming.

20. Sales - All concession sales must be receipted and registered with an independently tested Point-of-Sales (POS) system. The Operator shall be responsible for the furnishing and ongoing maintenance of this system.

21. Promotion of Sales - The Operator shall use all reasonable efforts to enhance, maintain and improve profitability of the Premises and to perform such acts as may be necessary to promote sales, as agreed upon with the Conservancy in conjunction with sections 2., 8., 18. and 19., of this Agreement.

22. Website - The Operator shall keep an updated website providing basic information and promoting operations.

23. Capital Expenses - Any improvement to the Premises which is assigned a useful life under New York State local finance law and is a bondable expenditure shall be deemed a Capital Improvement. The Conservancy will assess capital needs and make a recommendation to the City annually. Capital Improvements shall be the responsibility of the City. Notwithstanding the foregoing, the City is not obligated to make any capital improvements at any time.

24. Modifications and Improvements to Facilities – Any proposed permanent changes to the property or buildings must be approved by the City. In collaboration, the Conservancy Design Review Committee is required to review any alterations if proposed, along with any operating concerns for the facility in keeping with the historic context of the site. The Committee will make recommendations and present any concerns or modifications to the City and the Operator. All modifications and improvements will be made so at the sole cost of the Operator unless deemed by the City as capital in nature (see item 24). The City is not obligated to make any capital improvements at any time.

I. The Operator will specify in a proposal any intended modifications/improvements to the property/buildings both in the interior and on the exterior. The specific information shall include a detailed list and itemized budget for both interior and exterior improvements. The Operator shall identify the cafe theme and call-out specific elements of the design to be used in order to convey the restaurant theme.

II. All intended improvement plans must be pre-approved by City and must be submitted to the Conservancy's Design Review Committee prior to any approvals and will require permits to be obtained through the City of Buffalo Permits and Inspections Department.

III. The Operator shall not alter, add to, or in any way vary the Licensed Premises, make any material alterations, or effect any material installations, without having first obtained the consent in writing of City & Conservancy. All alterations made as proposed to the Licensed Premises will be made at the Operator's expense.

IV. If the Operator is proposing changes to the Licensed Premises, they shall provide a detailed specific timeline for the start and completion of any proposed Operator improvements, for approval by the Conservancy and City. This timeline shall include a firm date for the concession to be open and operating.

V. All improvements, modifications, as well as any permanently installed equipment, permanent furniture, permanent lighting, and fixtures, shall become property of the City upon placement at Premises unless otherwise permitted by the City. A list of Operator property that is non-permanent, and would be removed at conclusion of term, will be provided as part of this Agreement.

VI. If any locks are changed, the new keys must be provided to the Conservancy Director of Operations immediately.

25. Maintenance and Repair of Equipment & Structures - The Operator, at its sole expense, shall be responsible for the routine maintenance and ordinary repair of the facility, replacements, renovation of equipment, for all amenities and of-service-ware at the Premises as needed and in accordance with industry standards and codes.

I. The Conservancy shall be responsible for the maintenance of the park grounds, clearing and snow removal of all approach paths and access throughout the area, as well as any landscape improvements or redesign. The Conservancy staff is not responsible for set up, clean up or prep,

watering plant material owned by the Operator, or providing/loaning any equipment to the Operator for their operations.

26. **Mechanics Lien** - The Operator shall protect and keep the improvements and equipment, free and clear of all mechanics and other liens, attachments, encumbrances, or claims arising out of the Operator's operations hereunder, its performance under this agreement, and/or its use of same. In the event any such lien is placed, or any such encumbrance is created, the Operator shall use all reasonable efforts to attempt to have it removed, and if necessary, shall provide a performance bond or other reasonable security. All additional costs incurred not directly related to operations hereunder shall be borne by the Operator.

27. **Refuse & Housekeeping** - The Operator shall use reasonable efforts to keep the Premises neat and clean as is consistent with its operation. The Operator shall be responsible for cleanup and removal of all garbage, refuse, rubbish, and litter from the Premises.

I. Operator shall be responsible for all commercial waste and may establish an account with the City for disposal.

II. The Operator shall comply with all City, State, and Federal regulations regarding recycling. City of Buffalo recycling totes will be provided. Specifically, used lamps (incandescent light bulbs) that are accumulated for recycling should be stored in packaging that minimizes lamp breakage. Used Lamps may be stored in drums, boxes or the cartons they originally came in. The packaging must remain closed unless the lamps are being added or removed. Any broken lamps must be stored separately in a sealed container. Used lamps must be clearly labeled as "Universal Waste Lamps" or "Used Lamps." The City will remove such waste on a monthly basis.

28. **Pest Control** - The Operator, at its sole cost and expense, shall provide regular pest control inspections and extermination as needed for the exterior and interior of the Premises.

29. **Taxes, Licenses and Permits**

I. The Operator shall pay all license fees, sales taxes on products or services that are provided hereunder, including, but not limited to, all federal, state and local taxes, New York State Worker's Compensation payments, unemployment insurance, payroll and other taxes with respect to services provided under this agreement and all other taxes arising from the operations hereunder.

II. The Operator shall obtain and maintain in force during the term of operation, all necessary food, liquor, and other licenses and permits and renewals thereof, and shall pay all fees and taxes which may be due and owing, from time to time, to federal, state or municipal authorities

incidental to its operations. The Operator shall furnish the Conservancy with copies of all applicable licenses, permits, and renewals thereof.

III. The Operator shall advise the Conservancy in writing of any pending or threatened actions against the Operator, whether by governmental authorities or otherwise, which seek, or could result in, the suspension or revocation of any license or permit necessary for its performance of this agreement.

30. Compliance with Laws, Policies, Programs and Public Access

I. In connection with its operations hereunder, the Operator shall comply with all laws and City ordinances (including without limitation fire, building, health, sanitation and environmental codes and regulations, and liquor control laws and regulations, noise regulations, park hours, and any/all City permitting for special events and activities).

II. As the facility is a public park building, Operator shall comply with allowing public restroom access during business hours of operation, no exceptions.

III. The Conservancy specifically grants to Operator:

a. The right to enforce all New York State Laws, rules, regulations, or orders relating to the Licensed Premises and the right to enforce all rules, regulations or orders of the New York State Liquor Authority or other regulatory agencies relating to the Licensed Premises.

b. Full right, power, and authority to take any and all actions necessary to enable and to ensure compliance with all laws, rules, regulations, and orders concerning the sale and consumption of alcohol on the Premises

31. Violations

I. In connection with its operations and in compliance with terms above in item 30, Operator consequences of confirmed and recorded violations of any City Ordinance will activate breach of Agreement if more than three (3) cited violations occur in any one calendar year.

II. Breach may be assigned by the Conservancy at its discretion to cancel the operations of the restaurant as a secondary function of the Operator, while affording the catering operations to continue as intended.

32. Indemnification

The Operator shall be liable and responsible for all damages to persons or property arising in any manner in connection with Operator's operations of the Premises and or caused by or arising out of the actions, obligations, or omissions of the Operator, its employees, agents, representatives,

or other persons acting under the Operator's direction or control in connection with the use or occupancy of the Premises.

Further, Operator shall indemnify, defend, and save harmless the Conservancy and City of Buffalo and their respective officers, agents, servants and employees from and against any and all claims, demands, suits, proceedings, liabilities, judgments, losses, costs, or damages, including but not limited to attorneys' fees, in any way arising out of, relating to or in connection with the Operator's operations of the Premises and or performance of or failure to perform this Agreement. This provision shall include but not be limited to all losses, costs, and damages that the Conservancy and/or City of Buffalo may suffer by reason of injury to the person or property of another resulting in any manner whatsoever from said operations and or from or in connection with the negligence or carelessness, active or passive, of the Operator and or those under the direction and or control of the Operator. Operator shall also defend, indemnify, and hold harmless the Conservancy and City of Buffalo, their agents, officers, servants and/or employees against all claims or losses for personal injury resulting in any manner whatsoever from said operations and or from the negligence, active or passive, of employees of Operator or persons working for Operator.

The provisions of this section shall survive the expiration or termination of this Agreement; and shall not be limited by reason of any insurance coverage provided hereunder or the limits of any insurance requirements; and shall be separate and independent of any other requirement of this Agreement.

33. Insurance - The Operator shall secure policies of NYS Workers' Compensation and NYS Disability, Professional Liability, General Liability Insurance and Automobile Liability Insurance, and shall maintain said policies in force during the life of this Agreement in no less than the Dollar coverage limits set forth as follows:

All policies of insurance required by this Agreement shall be provided and maintained at no cost or expense to either the Conservancy or to the City of Buffalo and all shall name the Conservancy and City of Buffalo each as Additional Insured and Certificate Holders with respect to the Operator's activities.

General Liability: With respect to all operations the Operator shall carry Commercial General Liability insurance providing for a Dollar coverage limit of at least one million dollars (\$1,000,000) per occurrence and \$2,000,000 aggregate for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification provided under this Agreement. Excess umbrella coverage liability insurance

coverage over the general liability insurance coverage and over the automobile liability insurance coverage shall be in the Dollar coverage amount of at least three million dollars (\$3,000,000). Conservancy and City shall each be named as additional insureds and certificate holders under the general liability insurance and under the excess umbrella general liability insurance.

**New York State Workers' Compensation & New York State Disability Insurance:** Operator shall secure Workers' Compensation Insurance and shall keep Workers' Compensation Insurance in place during the life of this Agreement, for the benefit of such employees as are necessary to be insured in compliance with the provisions of the State of New York Workers' Compensation Law. Evidence of workers' compensation insurance shall be shown on the New York form. The Operator shall also provide evidence of Disability Insurance on the New York form. The Conservancy and City shall each be named as certificate holders.

**Automobile Insurance:** With respect to any owned, non-owned, or hired vehicles the Operator shall carry Automobile Liability insurance providing for a Dollar coverage limit of at least one million dollars (\$1,000,000) per occurrence and \$2,000,000 aggregate for bodily injury and property damage. The Conservancy and City shall each be named as additional insureds and as certificate holders.

**Professional Liability:** The Operator shall also carry Professional Liability insurance in the Dollar coverage amount of no less than \$2,000,000. The Conservancy and City shall each be named as certificate holders.

**Liquor Liability:** If liquor shall be served, the liquor liability insurance policy shall be in the Dollar coverage amount of at least two million dollars (\$2,000,000).

All policies of insurance shall be provided by a company or companies admitted in the State of New York and authorized to do business in the State of New York. Prior to Agreement execution, the Operator shall furnish to the Conservancy all certificates of insurance, and shall thereafter provide all renewal certificates, as appropriate, evidencing such coverage written by a company or companies acceptable to Conservancy and Corporation Counsel of the City of Buffalo. All certificates of insurance shall be subject to approval by the City's Corporation Counsel. Such certificates and renewal certificates shall provide for a notice of cancellation, change, lapse or restrictive amendment by certified or registered mail of at least thirty (30) days.

Any subcontractor engaged by Operator to perform any work under this Agreement shall procure and maintain statutory insurance and other insurance as determined by the Operator so

as to properly cover the liability of the Operator and such subcontractor. The insurance policy(ies) Dollar coverage limits shall be no less than a hose limit required of the Operator under this Agreement; and the subcontractor certificates of insurance shall be delivered to the Operator. Notwithstanding the foregoing, no assignment, subletting, and/or subcontracting in full or in part is permitted without effectuating an Access, Indemnification And Insurance Agreement on the City's preferred form per the City policy, and any such subcontractor must receive the prior written consent of the Conservancy to be given, denied, or conditioned in the Conservancy's sole discretion.

34. No Title Vested- This Agreement is not intended to and shall not vest Operator any title to real estate, permanent fixtures, or property now located or hereinafter located in or around the Casino or on the Premises.

35. Force Majeure Event -

I. If a Force Majeure Event occurs during the Term of this Lease which reasonably precludes Operator from opening or operating the Permitted Use at the Premises and Operator in fact ceases such operation in the Premises, then Rent shall abate for the period commencing on the later of (a) the date on which such Force Majeure Event occurs or (b) the date on which Tenant ceases operation of the Permitted Use at the Premises, and ending on the earlier of (c) the date on which such Force Majeure Event concludes or (d) Tenant resumes operating the Permitted Use at the Premises.

II. The Conservancy and The City of Buffalo reserves the right, exercisable in Conservancy and City's reasonable discretion, to impose reasonable requirements on operators of the Building, their employees and invitees, for the purpose of reducing the presence of bacteria, viruses, contagions and diseases in the Building, provided, however that in no event shall Landlord's enactment or enforcement of such requirements (or failure to do the same) impose any duty or liability on Landlord or imply any warranty made by Landlord in connection therewith.

36. Breach of Agreement/Contract- Any breach of any provision of this Agreement by the Operator, including but not limited to cancellation of insurance, failure to remit fees, fraudulent record-keeping, board of health violations, disregard for city ordinance, and/or unauthorized/inappropriate use of facilities, may result in termination of this agreement. In the event of such breach, after written notice to Operator, and the expiration of a reasonable opportunity to cure not to exceed 60 days, and in the event the Operator fails to cure such breach within such period, the Conservancy may at its discretion, immediately terminate this Agreement in its entirety. Breach, as stated in item 31, may also be segregated between restaurant and catering operations as determined by Conservancy. If the City materially restricts or impairs the Operator's ability to fulfill the terms of this Agreement, Operator may terminate this Agreement with and upon (60) sixty days written notice to the Conservancy.

37. Competitor Exclusion- the Conservancy agrees not to rent or enter into agreements for the use of any portion of the Premises with any business which directly competes with Operator's business or activities without express written permission in advance from Operator. Additionally, the allowance of Food Trucks is not permitted on the Premises, and no permits will be allowed or issued to the contrary by the City of Buffalo, unless as specified through standard Special Events protocols.

38. Intent and further Extension - Intent and language of this Agreement will survive any change in leadership at the Conservancy for the term of the Agreement. Any granted extension, if granted, will be dependent on service quality and Agreement term compliance as determined by the City and Conservancy. Any change to language terms must be mutually agreed upon. However, should the City or Conservancy terminate their 2019-2031 agreement, any and all intentions, extensions or rights of this agreement fall to governance by the City.

39. Entire Agreement- This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior negotiations or agreements, and may only be modified by a written instrument signed by all parties.

40. Notwithstanding anything in this Agreement which could be construed to the contrary, the Operator shall not have the right to assign and or sublet this Agreement in part and or in full without the prior written consent of both the Conservancy and City, which said consent shall be given, withheld or conditioned in the sole respective discretion of both the Conservancy and City.

Buffalo Olmsted Parks Conservancy, Inc.

By: \_\_\_\_\_ Date\_\_\_\_\_

Title: \_\_\_\_\_

TBD

By: \_\_\_\_\_ Date\_\_\_\_\_

Title: \_\_\_\_\_