

CITY OF HERMISTON – FOOD POD MANAGEMENT AGREEMENT 2019

THIS agreement made and entered into this _____ day of _____, 2019 by and between the City of Hermiston, a municipal corporation, hereinafter referred to as "City" and

Monica Todd
O.O.T. Café
1000 S Highway 395 PMB
Hermiston, OR 97838

hereinafter referred to as "Concessionaire."

Whereas, Hermiston owns two public parking lots at the intersection of SW 3rd Street and W Orchard Avenue, and

Whereas, the City desires to enhance the public dining experience by making available food and beverage concessions, and

Whereas, the City desires to have the concession operated by the private sector and to provide quality food and beverages to the public, and

Whereas, the Concessionaire is experienced in food concessions and meets the requirements described herein, and

Whereas, the Concessionaire is licensed by the Umatilla County Department of Health and has agreed to remain licensed during the time of this contract.

Now, therefore, based upon mutual covenants to be derived the parties agree as follows:

1. **Services Provided:** The Concessionaire agrees to provide and operate a food pod at XXX SW 3rd Street (also described as Lots 5 and 6 Block 13, Original Town of Hermiston) at the times set forth below and under the conditions set forth below.
2. **Non-Assignability:** This is in response to a request for proposals and is personal to the Concessionaire and cannot be assigned without the specific consent of Hermiston.
3. **Licensing Requirement:** The Concessionaire and the facility operated at XXX SW 3rd St shall, at all times, be licensed and comply with all provisions of the State of Oregon and Umatilla County Department of Health and Regulations including, but not limited to all employees of Concessionaire and all vendors located on-site.
4. **Sanitation Compliance:** Concessionaire shall at all times keep the premises, including both the interior of each vending unit and the grounds, sanitary. The grounds shall include asphalt and tables. All areas on the grounds shall be kept neat, clean and free of debris, and in compliance, at all times, with health regulations. Trash will immediately be deposited in the appropriate container. One thirty-two gallon trash can shall be provided per vendor and shall be emptied when the can is $\frac{3}{4}$ full or at the end of each business day, whichever is sooner. Concessionaire shall

be responsible for registering with Sanitary Disposal and scheduling appropriate trash collection at least once per week. The concessionaire shall be responsible for all expenses related to Sanitary Disposal service.

5. **Equipment:** Concessionaire shall provide and be responsible for all equipment associated with the concession activity, except as noted in 5(a) below. Any losses, damage, and/or repairs are at the sole expense of Concessionaire. Any claims by any persons for injuries from any equipment utilized by Concessionaire shall be Concessionaire's responsibility of which Concessionaire shall indemnify and hold harmless the City of Hermiston from any and all claims as a result of damages resulting from the use of Concessionaire's equipment.
 - (a) The City shall provide 8 picnic tables and bench sets for use as a central seating and eating area on the grounds. Concessionaire will pay a refundable deposit of \$500 on April 1, 2019 for the use of the tables. The deposit will be refunded upon the determination by city staff that no damage has occurred to the tables as of the close of the season on October 31, 2019.
6. **Insurance Requirements:** Concessionaire shall provide insurance coverage to provide that the City be named as an additional insured. Insurance coverage shall be for food services and general liability and shall contain minimum liability amount of \$1,000,000.00 per single occurrence and \$2,000,000.00 aggregate. Insurance shall include, but not be limited to, insurance coverage for any claims that may result from food contamination including but not limited to E-Coli.
7. **Product:** Concessionaire agrees to maintain a minimum of five vendors and no more than 8 vendors at all times on the grounds, except during scheduled closure periods. It is anticipated that all vendors will vacate the premises one day per week in order to service the grounds and to allow each vendor to service the vending unit. Selection of vendors shall provide the maximum variety of dining options possible. To implement this requirement no more than three vendors may offer similar menu items at any time. For example, no more than three vendors may offer pizza at any one time. In the event of a conflict over determining similar menu items, the City and concessionaire shall meet and reach a mutually agreeable solution.
8. **Daily Supervision and Cleaning:** Concessionaire or their assignee shall schedule daily cleaning of the grounds and immediately deposit litter from the ground into an appropriate receptacle. Special care shall be taken to note locally windy conditions and insure that debris does not leave the grounds. All trash cans shall be emptied at the end of each business day and sealed with a lid overnight. Spills shall be washed down within one hour
9. **Season, Hours of Operation:** The season of operation shall run from April 1 to October 31, 2019. Hours of operation will be from 10 am to 8 pm. The food pod will operate six days per week. All units will vacate the premises on the same day for a twenty-four-hour period. The date of vacation shall be negotiated between

concessionaire and City.

10. **Compensation:** In consideration of the supervision and cleaning of the Hermiston food pod, the Concessionaire is hereby authorized to operate concession sales as described within this agreement. The City will provide the installation of parking lot lighting and electrical service. The City will retain ownership of these facilities during operation and invoice concessionaire for electrical service each month.
11. **Damage and Performance Deposit:** The City requires that a performance deposit of \$500.00 be posted with the commencement of this contract. All or portions of the deposit shall be refunded at the expiration of each season per the terms of this contract. The concessionaire is responsible for returning the areas of use to the original condition or forfeit all or portions of the deposit. Some or all of the deposit shall be returned to the concessionaire at the end of the season.
12. **Reporting:** The concessionaire shall report to the Director of Hermiston Parks and Recreation.
13. **Termination:** This agreement shall be from April 1 to October 31, 2019. The City may terminate this agreement for cause with thirty (30) days written notice.
14. **Attorney Fees and Costs:** In the event enforcement action is taken under this contract, the prevailing party shall be awarded its reasonable attorney fees and costs.
15. **Jurisdiction and Venue:** This agreement shall be interpreted under the laws of the State of Oregon and venue shall lie in Umatilla County Circuit Court.

Monica Todd
O.O.T. Cafe

Dated: _____

CITY OF HERMISTON:

By: Larry Fetter
Its: Director of Parks and Recreation

Dated: _____