

**CITY AND COUNTY OF DENVER**

**DEPARTMENT OF PARKS AND RECREATION**

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**SECOND AMENDMENT TO CONCESSION LICENSE**

The City and County of Denver, hereinafter referred to as the “City”, acting by and through its Executive Director of Parks and Recreation, and pursuant to the authority granted in Section 2.4.4(C) of the Charter of the City and County of Denver, and pursuant to the manner, terms and conditions fixed by the Mayor’s Cabinet, hereby amends the Concession License dated June 21, 2011, as amended August 15, 2014 (assigning the Concession License to TR Park Central LLC) (PARKS-RC720140) (“Concession License”), by which the City granted to Concessionaire the license or privilege of operating a concession or selling goods and providing services in the park or recreational facility hereinafter described or to sub-license, subject to the terms and conditions of this Concession License, to commercial tenant(s) of the Concessionaire. Concessionaire, by execution of the Concession License and this Second Amendment to Concession License, has accepted all of the terms and conditions thereof and agrees to comply with the same. Despite any understanding that Concessionaire may have with its sub-licensee, the Concessionaire shall be responsible and liable for the full and faithful performance of all obligations under the Concession License and this Second Amendment. Furthermore, Concessionaire agrees to pay the compensation to the City and to perform such duties and responsibilities, as specified in the Concession License.

1. Sub-paragraph 18.c. of the Terms and Conditions attached to and part of the Concession License is hereby amended to read as follows:

Workers’ Compensation/Employer’s Liability Insurance: The parties recognize and agree that the Concessionaire is an independent entity and is free from control and direction in the performance of its services and operations consistent with that mandated by C.R.S. § 8-40-202(2)(a). It is understood and agreed by the parties that the provisions separately stated in Exhibit A, “Separate Declaration Regarding Independent Status”, constituting the writing mandated by C.R.S. 8-40-202(2)(b), are accurate must be signed and notarized by Concessionaire and the Executive Director of Parks and Recreation. The Mayor hereby delegates to the Executive Director the authority to execute on behalf of the City Exhibit A, “Separate Declaration Regarding Independent Status.”

2. Excepted as amended herein, the Concession License shall remain in full force and effect and is hereby ratified and affirmed.

**[REMAINDER OF PAGE DELIBERATELY LEFT BLANK.  
SIGNATURE BLOCKS ON NEXT PAGE.]**

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_



By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: PARKS-RC72014-02


Contractor Name: TR Park Central LLC

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

Name: Duncan Walker  
Vice President  
(please print)

Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

By: 

Name: Kevin H. Johnson  
(please print)

Title: Assistant Secretary  
(please print)



**EXHIBIT A**  
**Separate Declaration Regarding Independent Status**

It is understood and agreed by and between the City and County of Denver (“City”) and TR Park Central, LLC (“Concessionaire”) that the status of the Concessionaire shall be that of an independent entity which has engaged on contractual basis to perform certain obligations and services for limited periods of time, and it is not intended, nor shall it be construed, that the Concessionaire or any employee or Concessionaire is an employee, officer, or agent of the City under Chapter 18 of the Denver Revised Municipal Code (“DRMC”) for purposes of unemployment compensation, workers’ compensation, or for any purpose whatsoever.

Without limiting the foregoing, the parties hereby specifically acknowledge that the Concessionaire and its employees and Concessionaires are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Concessionaire or some other entity besides the City, that the Concessionaire and its employees and Concessionaires are not entitled to workers’ compensation benefits from the City, and that the Concessionaire or its employees and Concessionaires are obligated to pay federal and state income taxes on any monies earned pursuant to this Concession License, to the extent applicable.

The parties recognize and agree that the Concessionaire is engaged in an independent entity and is free from control and direction in the performance of the services contracted for herein consistent with that mandated by C.R.S. §8-40-202(2)(a). It is understood and agreed by the parties that the City does not (a) require the Concessionaire to work exclusively for the City, provided that the Concessionaire may have elected to work for exclusively for the City for the period of time specified in the term of this Concession License; (b) establish a quality standard for the Concessionaire, provided that the parties agree that while the City may provide plans regarding its expectancy of the Work to be performed by the Concessionaire, the City will not oversee the actual work of the Concessionaire or instruct the Concessionaire as to how the Work will be performed; (c) pay a salary or hourly wage to the Concessionaire instead of the fixed contract rate stated herein; (d) terminate the work of the Concessionaire for cause during the term of this Concession License unless the Concessionaire violates the terms of this Concession License or fails to produce the Work or result that meets the specific terms provided in the Concession License; (e) provide any training for the Concessionaire other than minimal orientation to the site or other parameters of the Concessionaire activity; (f) provide tools or

benefits to the Concessionaire; (g) dictate the time of performance, except that the Concession License completion date together with the range of negotiated and mutually agreeable work hours has been established herein; (h) pay the Concessionaire personally instead of making City warrants payable to the professional name of the Concessionaire, except that in this Concession License the Concessionaire is an individual and sole proprietor; and (i) combine the regular operations of the City in any way with the professional or business operations of the Concessionaire instead of maintaining office operations separately and distinctly.

TR Park Central, LLC

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

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

**"Concessionaire"**

STATE OF \_\_\_\_\_ )  
 )ss  
 COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_, by  
 \_\_\_\_\_ as the \_\_\_\_\_.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

\_\_\_\_\_  
 Address

Accepted By: \_\_\_\_\_  
Lauri Dannemiller, Executive Director  
Denver Parks and Recreation Department

STATE OF COLORADO            )  
CITY AND                            )ss  
COUNTY OF DENVER            )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by  
Lauri Dannemiller as Executive Director of the Denver Parks and Recreation Department.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Address