



REQUEST FOR PROPOSAL

Licensee for "Park Grille" and
Food Services at
The Park at East Hills
(RFP 1-2013)

PREPARED BY:

**VILLAGE OF EAST HILLS
209 HARBOR HILL ROAD
EAST HILLS, NEW YORK 11576**



REQUEST FOR PROPOSALS

For the "Park Grille" and Food Service at the Park at East Hills
209 Harbor Hill Road, East Hills, New York, 11576

I. INTRODUCTION AND STATEMENT OF PURPOSE

The Incorporated Village of East Hills ("VEH") seeks proposals from interested Proposers to provide and serve food and beverages in the grills during the summer months. The services may include breakfast and late afternoon snacks, but must include lunch. In addition, on warm summer evenings when the pool is open late, the Successful Proposer may also provide dinner. The area must close no later than 8:30 p.m. In addition to these services, the Successful Proposer must include the ability, and show extensive experience in catering parties, receptions, brunches, dinners, functions, and special events for up to 3500 guests ("Catering Services") at the Park at East Hills ("The Park"). These functions and special events may include birthday parties for children, and sports, tennis, and pool parties. These parties will be primarily held at the picnic area, the sports fields, the playgrounds, the auditorium, the tennis center, the pool and in Village Hall. If the Successful Proposer cannot, or does not want to provide any service(s), then VEH shall have the right to hire and retain another vendor for the purposes deemed needed by VEH in its sole discretion.

II. CONTRACT PERIOD

A Concession and Licensing Agreement will be executed by VEH and the Successful Proposer will be for a period of one year, renewable each year for five (5) additional one (1) year terms by mutual consent of the parties. The obligations, rights and responsibilities of both parties shall be contained in the contract and shall conform to the provisions of this Request for Proposal.

III. STANDARDS OF REVIEW

The Board of Trustees retains full discretion to select the Proposer which it feels will best provide the services and products required to fulfill the needs of VEH. However, in determining the Successful Proposer, the Board will apply the following formula to its decision-making process.

- 30% Quality of Food and Services to be Offered
- 15% Depth of Experience in Restaurant/Catering Business
- 25% Established Reputation
- 10% Profit to VEH
- 10% Proven, affable, and experienced Supervisors(s) with preference to an owner being on premises directing all activities.
- 10% Uniqueness, as well as creative food, drinks, and products or services.

The Board of Trustees shall be free, in its sole and absolute discretion to apply the information contained in the proposals it receives to the formula above shall to determine who is named and declared to be the Successful Proposer.



IV. HOURS OF OPERATION AT PARK GRILLE

The Successful Proposer must have staff in place to provide food and beverages at all times the pool is in operation. The established hours for the pool are 10 A.M. to 6 P.M. Monday through Friday and 10 A.M. to 7:30 P.M. weekends and holidays from May 24, 2014 until June 21, 2014, and 10 A.M. to 7:30 P.M. every day starting on June 22, 2014 (“Hours”). The morning hours may be set as earlier upon mutual consent. Additionally, the Mayor or Park Director shall have full and complete authority to alter the hours which the pool shall be open.

The season in which the operation must remain open shall be from May 24, 2014, the Saturday of Memorial Day Weekend, until the date of closing, which will be determined, but shall be no earlier than September, 1, 2014, the Monday of Labor Day Weekend (“Summer Season”). The Successful Proposer shall remain open seven days a week and all holidays during the Summer Season. These dates of operation shall, however, be finally determined by the Parks and Recreation Commissioner (“PRC”) and the Successful Proposer agrees that the dates will be established each year by the PRC and will be binding on the Successful Proposer.

V. SCOPE OF LICENSE

A. Grant of Authority:

VEH will grant to the Successful Proposer:

- (1) The Exclusive Right to operate a concession at the pool at The Park to sell food and beverages at all times the pool is open during the Summer Season; and
- (2) The Exclusive Right to sell food and beverages at the sports fields and at any sports and special events at the fields and held by VEH during the term of this license and any agreed upon renewals, except for vending machines and paragraph “B” below; and
- (3) A Non-Exclusive right during the term of this license and any agreed upon renewals to be one of the caterers which provides food and beverages at parties, events and functions held at The Park, including the theatre.

B. Limitations and Restrictions on License

- (1) **Use by and for VEH:** VEH has the right, in its sole discretion, to provide its own food and beverages or retain another caterer or food service for its senior brunches, senior events, and Kids in the Park events, and for breakfasts, brunches or lunches for its functions. New Residents Day, or any meeting or function scheduled by VEH. However, all community-wide functions, including, but not exclusively sports competitions, Labor Day weekend functions and concert and shall be catered by the Successful Proposer.



- (2) **No Solicitations:** VEH has determined that The Park and its premises shall be used solely for the residents of East Hills and their guests as allowed by the VEH. No food, commitment, arrangement, or catering shall be prepared on premises for sale or distribution to other than East Hills residents, unless guests of a resident. No food shall be prepared on premises for serving or catering off premises to non residents. The Successful Proposer agrees not to solicit, invite, contract with anyone who is not a VEH resident for any food prepared or served at the Park. VEH shall determine, in its sole discretion, which parties, functions, or catering will be conducted, and which facilities are used for its residents. Nothing in this agreement shall be interpreted to allow the Successful Proposer the right to use, solicit, invite, contract with or agree to allow the use of any facility without the approval of the Mayor or the Park Director.
- (3) **Products:** VEH has the right, in its sole and absolute discretion, to set limit or require products to be sold for any purpose and at any time at the Park. If VEH directs the Successful Proposer to discontinue, or provide any food or beverage products, The Successful Proposer agrees to add or delete any product within 72 hours of the direction in writing from VEH. VEH shall have the right, in its sole and absolute discretion to regulate and control the menu offered by The Successful Proposer at any facility at the Park. In addition, VEH shall also have the right to direct and control all aspects of catering, including but not exclusively the products, prices, terms, time, servers, and conditions. Sale of glass containers is prohibited. No tobacco or alcohol may be sold at the Park.
- (4) **Prices:** VEH has the right, in its sole and absolute discretion to set the prices for each and every item, including, but not exclusively food, beverages, products and merchandise sold at the Park. VEH also has the right to deny the sale of any food product, beverage, merchandise or any item whatsoever, in its sole discretion. "Blow Pops," "gum," "Tootsie Rolls," "Lollypops," are not permitted.

Employee Discount: All VEH officials and employees shall be granted a 15% courtesy discount on their total bills at the Park Grille and at any store owned by the Successful Proposer at all times this license remains in effect. No complimentary food or beverages shall be given to any official or employee of VEH of any kind or of any nature. No further or greater discount shall be offered or applied by the Successful Proposer to or for any official or employee of VEH.

- (5) **Name and Designation of The Facilities:** The name of the pool restaurant shall be called "The Park Grille" or a new name selected at the discretion of the VEH. No right, whether implied or express, exists to license this name to The Successful Proposer and the name selected is owned by the VEH.



VI. TERMS OF LICENSE

The term for this license shall run from the 1st day of January, 2014 up to October 1, 2014.

Renewal of License for period January 1, 2015 up to October 1, 2015 shall be upon mutual consent. The terms of the renewal of the license must be finalized by November 15, 2014; otherwise there shall be no renewal. The average increase expected, if the license is granted, would be 10%.

Renewal of License for period January 1, 2016 up to October 1, 2016 shall be upon mutual consent. The terms of the renewal of the license must be finalized by November 15, 2015; otherwise there shall be no renewal. The average increase expected, if the license is granted, would be 10%.

Renewal of License for period January 1, 2017 up to October 1, 2017 shall be upon mutual consent. The terms of the renewal of the license must be finalized by November 15, 2016; otherwise there shall be no renewal. The average increase expected, if the license is granted, would be 10%.

Renewal of License for period January 1, 2018 up to October 1, 2018 shall be upon mutual consent. The terms of the renewal of the license must be finalized by November 15, 2017; otherwise there shall be no renewal. The average increase expected, if the license is granted, would be 10%.

Renewal of License for period January 1, 2019 up to October 1, 2019 shall be upon mutual consent. The terms of the renewal of the license must be finalized by November 15, 2018; otherwise there shall be no renewal. The average increase expected, if the license is granted, would be 10%.

VII. LICENSE PAYMENTS

The Successful Proposer will pay to VEH the sum of at least twenty five thousand dollars (\$25,000). The Successful Proposer must also include monthly payments to VEH of *no less* than \$4000 per month. If the premises are expanded, \$10,000 shall be due on the first day of Operation, \$20,000 on the first say of June, and \$10,000 on the first day of July. VEH retains the right to credit these funds against any costs of public events held.

VEH must also receive a 20% fee for all items sold which have either VEH or Park logo on the merchandise. The Successful Proposer must not sell any tennis equipment, products, merchandise, and clothing. Sweatshirts, tee shirts, and hats may only be sold with the express written consent of the Board of Trustees which in its sole discretion shall determine."

The books and records of every kind and every nature regarding the Park Grille shall be available to any VEH official or designee at any time to VEH. There is neither a minimum nor maximum license fee that shall be required under this license. VEH shall be free to station a representative at



the facility to scrutinize the receipt of funds. The licensing fee shall be due on the 1st day of each month for the previous month, except that the final licensing fee shall be due for September on or before September 14th.

No offsets shall be permitted. All bills, costs and indebtedness by VEH shall be paid for by VEH separately and billed separately.

It is further acknowledged and agreed that nothing contained in the license agreement shall be read to restrict or prohibit any person from bringing in food to the park and pool area. However, deliveries from outside vendors, except for parties, staff-members, gatherings and events, shall be prohibited.

VIII. SERVICES PROVIDED BY INCORPORATED VILLAGE OF EAST HILLS

VEH will not charge and shall absorb for the Successful Proposer the following costs and charges:

- (1) Rent
- (2) Taxes
- (3) Garbage pick-up and removal on a daily basis
- (4) Heating
- (5) Electricity
- (6) Gas
- (7) Tables, chairs and umbrellas which exist at the Park Grille and The Park Theatre
- (8) Equipment which exists to cook, prepare and refrigerate food in the kitchen
- (9) Maintenance of the equipment, except cleaning of air conditioning and equipment at the beginning of the season and at the close.
- (10) Repairs or replacements, other than those caused by The Successful Proposer, if they become necessary, VEH shall have a reasonable amount of time to repair or replace any item or any and all equipment.

IX. SERVICES PROVIDED BY SUCCESSFUL PROPOSER

The Successful Proposer will:

A. Staff, Supplies, Equipment and General Issues:

- (1) Supply all food, condiments, plates, utensils, drinks and beverages



- (2) Provide all staff to run, operate, and serve at the Park Grille, including waiter services
- (3) Provide all staff during the day to clean the Park Grille area
- (4) Provide all staff, including cooking staff, servers and waiters
- (5) Provide all administration, billing, cooking, preparation, oversight, serving of residents.
- (6) Clean all facilities in the evening and during the day in all areas where food is prepared and served.
- (7) Provide pre-approved uniforms for all its employees that has an embroidered logo on shirts

B. The Park Grille: The Successful Proposer will sufficiently stock, prepare and serve all residents at the Park Grille. The food at every facility and venue at The Park shall be of the highest quality. The menu shall have some special items or be varied to the satisfaction of the Mayor or Park Director. If the quality of the food is inadequate, VEH shall have the right, in its sole and absolute discretion, to cancel this license upon 72 hours notice.

C. Sports Fields: The Successful Proposer will provide and service the Sports Fields with food and beverages and help to clean the fields so that the products sold, once used are deposited into the receptacles and ready for disposal.

D. Exceptions from License:

The Successful Proposer shall have no right to provide food, beverages and catering services to the following individuals, groups, functions and events who are specifically excluded from this license:

1. VEH functions, where the Board of Trustees, in its sole discretion, directs that service, food and beverages be provided by another outside caterer or provided directly by VEH, such as at meetings and gatherings.
2. Senior Activity Committee functions, meetings, programs and activities.
3. Orders of food and beverages on a "Take Out" basis placed directly by, or brought in by employees, independent contractors, consultants, agents, committee members, or police at the police substation.
4. Food and Beverages in the picnic area which may be brought and consumed by residents.
5. As specifically set forth in the Agreement with the Roslyn Little League, water and



drinks to refresh the players during a game and snack foods may be brought to games. However, all other products, foods, and drinks may not be consumed during Little League games.

X. CLOSING OF FACILITIES

Any or all of the facilities at The Park, including The Park Grille or the pool, may be closed the discretion of the Park Director/or the PRCC. There shall be no fee or offset when any or all of the facilities are closed, at any time for any reason, except if for more than three consecutive days in a row. It is also understood that if, at any time, the Facilities are closed due to inclement weather and the weather returns to normalcy at any point during regular operating hours, the Successful Proposer will be available to open the Park Grille facilities. However, a reasonable standard will be applied by the VEH in determining whether once closed the Grille facilities will be re-opened.

However, if the Park Grille is closed during pool season for longer than three days, then a pro rate dollar amount of rent equal to \$100 per day for each day thereafter shall be credited for each day over three days in a row that the Park Grille is closed. In order to trigger this provision with a credit the three day period must be continuous days in a row and not three independent and separate days over a longer period of time.

VEH recognizes that the Successful Proposer intends to ensure the Park Grille a profitable operation; both parties also recognize that the Park Grille is a service to the residents of VEH. The Successful Proposer therefore agrees that the Park Grille will remain open not only during high income times, but also at times when income may not warrant opening of the Park Grille. The Successful Proposer agrees to operate Park Grille during slow hours as well as the peak hours.

On days with inclement weather, the closing of the Park Grille will be solely at the discretion of the Park Director. However, it is understood that if at any time the Park Grille is closed due to inclement weather and the weather returns to normalcy at any point during normal operating hours, the Successful Proposer will be available to open the concession.

XI. SERVICE AND STAFFING

The service during the Summer Season will be waiter/waitress service, with a central cashier ringing up sales and self service by the residents and guest. However, the Park Director shall be free to order a change in the service, at anytime to cafeteria style or combination of cafeteria style and waiter service. For special events and parties special arrangements will be made through the Park Director.

VEH shall also have the final approval of any and all staff to be used, and the Successful Proposer agrees not to hire or use anyone deemed objectionable by VEH. In all matters of employment VEH shall have absolute authority, in its full and complete discretion to approve all personnel who will work at The Park.

Any staff-member of the Successful Proposer, shall be replaced within 48 hours of notification by



the Park Director that the employee is not, in his full and absolute discretion, fitting to continue employment at the Park at East Hills. Neither the Park Director nor any other employee or consultant of VEH shall be required to provide written notice or warning. The Park Director's decision shall be final. Failure to comply with this provision shall be deemed a material breach of the agreement.

XII. RESPONSIBILITIES FOR SANITARY AND CLEANLINESS OF FACILITY

The Park Grille shall be operated in a spotless manner and with a clean operation at all times. Areas of responsibility of the Successful Proposer includes the counter area, waiter service tables and floors, self-service tables and floors, service trays, the floor area behind and under the counters, all refrigeration equipment, all storage areas, all cooking surfaces. After each working day all of the above shall be thoroughly cleaned before closing for the evening. If, at the discretion of the Park Director, the facilities are not properly maintained, it shall be the Park Director's duty to close the operation until the conditions of cleanliness are restored. All personnel working with the Successful Proposer shall be clean and neat in appearance. If uniforms are required, then each staff-member shall wear the uniform at all times they are working. Each employee who is serving or cooking shall wear a white apron, and appropriate blouse or shirt if a uniform is not provided. The Park Director is fully authorized to enforce all regulations promulgated by the Nassau County Department of Health for operation of Park Grille. The Successful Proposer shall be familiar with all, such regulations applicable to its operations and obtain and maintain all necessary permits from the Board of Health. At least one worker shall be specifically designated to clean-up and ensure that the floor is clean on the patio, that the chairs and tables are clean and that the entire eating area is broom clean and cleanly at all times. This provision is a material part of this agreement. The staff must wear appropriate attire as determined by the Park Director.

XIII. FOOD QUALITY

Without exception, all food sold at the Park Grille shall be first quality grade and, if applicable, be fully approved first quality by both State and Federal Agencies of the Department of Agriculture and Markets. Hamburgers are to be All Beef with a maximum of 6 patties per pound. Frankfurters are to be All Beef. Condiments shall be individually wrapped. All food products which are not prepared when sold shall be individually wrapped and sold in a sealed container. Paper plates shall be provided by the Successful Proposer. During the summer months, suitable snack trays of either paper or plastic nature shall be provided by the Successful Proper as a service to the residents.

XIV. VENDING MACHINES

VEH has the sole and exclusive right to all vending machines on the property. The successful Proposer may not provide vending machines at the property.

XV. MENUS

It is understood that all items sold at the Park Grille must first be approved by the Parks and Recreation Commission regarding quality, prices and suitability. All items to be sold shall be set forth as a menu with prices indicated and presented to the Parks and Recreation Commission for



approval. A menu consisting of Frankfurters, Hamburgers, light sandwiches, sodas, cakes, yogurt and hot drinks will be considered to be core products. The sale of milk must be dispensed in a manner approved by the Board of Health. It is understood that the Park Grille is operated in the concept of a Snack Bar and that the physical set-up does limit what can be prepared and sold. The proposed menu will be submitted along with this RFP.

XVI. RIGHT TO SET PRICES AND SELECT PRODUCTS

The Successful Proposer will provide food, service, and machines where permitted and catering for The Park at prices and products which are approved in advance the Board of Trustees. The Successful Proposer shall offer such foods, products, condiments, supplies, and substitutions as required by VEH in its full and unfettered discretion.

XVII. BUSINESS DECORUM

The Successful Proposer shall, at all times, conduct his, her or its business in a manner consistent with the highest standards of professionalism. Furthermore, the Successful Proposer shall adhere to all the rules and regulations adopted, or which become adopted at any time. The Successful Proposer shall, at all times, employ the necessary help to provide fast, efficient, and effective service to the residents. The Park Director shall have the right to demand a change of any or all personnel who are deemed, in his full discretion to be inadequate or inferior. The Successful Proposer and his, her or its staff shall at all times be courteous and respectful to all residents and guests. The Successful Proposer shall operate the licensed facility with an attitude and policy that the customer is always right. Any disputes which cannot be settled amicably and courteously shall be referred to the Park Director whose decision will be final. All guests, including staff who wish to enter or use The Park, must first receive permission from the Park Director.

XVIII. MAINTENANCE AND EQUIPMENT

VEH will provide the basic fixtures, furniture, equipment and other apparatus for the Park Grille. In effect, the Park Grille operation is a “turn-key” operation. Any other fixtures and equipment that the Successful Proposer may feel necessary to conduct business, may, in the discretion of VEH, be provided to the Successful Proposer. Electricity and gas for business shall be furnished. However, VEH shall not be liable for any disruption in service to the gas and electricity which occurs at no fault of VEH.

It is the obligation of the Successful Proposer to collect, compact and remove all waste and rubbish created by the preparation of food, etc. to a container designated by the Park Director. Once placed in the container, it shall be the responsibility of VEH to remove and dispose of all garbage. It is the obligation of the Successful Proposer to have exhaust ducts leading from the Park Grille cleaned by a licensed cleaning company in accordance with the regulations set forth by the Nassau County Fire Marshall's office. A certificate of cleaning shall be filed every six (6) months with the Park Director.

All equipment owned by VEH and used by the Successful Proposer will be maintained in good working order at all times the Successful Proposer provides services at the Park Grille. The



equipment owned by VEH shall be returned at the expiration of the Contract Period in good order and repair, less ordinary - wear and tear.

XIX. RECORD KEEPING

The Successful Proposer shall bill and record through its own bookkeeper all receipts and payments. The Successful Proposer will collect, record and control all funds received from the Park Grille and all other catering, services, food and beverages sold at The Park. VEH shall not be involved or responsible for the safekeeping of the funds or any federal, state, or other taxes paid on these funds. The Successful Proposer shall allow payment by cash or credit card.

XX. INSURANCE

The Successful Proposer must take out and maintain during the life of the contract the following policies of insurance:

- A. Workers' Compensation and Employer's Liability Insurance for its employees employed at the Park Grill; and
- B. Insurance including Products Liability Insurance in the amount of not less than \$2000,000 for bodily injuries, including wrongful death, for any one occurrence, and an amount of no less than \$1,000,000 for property damage, in the aggregate; and
- C. Sign a Hold Harmless Agreement which states:

(Name of Successful Proposer) agrees to indemnify and hold harmless the Incorporated Village of East Hills, its elective and appointed officials and officers, representatives, agents, boards, commissions and employees from any and all damages or claims whatsoever occasioned or caused to any person, partnership, resident, guest, association or corporation, or occasioned or caused to any property including damage arising out of or in any way connected with the use, occupancy, service at or operation of the Park Grille, or from the negligence or absence of care of the (Name of Successful Proposer) its representatives, respective agents, servants and employees in the performance of the contract between (Name of Successful Proposer) .

XXI. ASSIGNMENT

The Contract which is executed between the Successful Proposer and VEH may not be assigned. Successful Proposer may employ the necessary employees, but the Successful Proposer shall be involved with, and manage the staff.

XXII. SECURITY POSTED FOR FAITHFUL PERFORMANCE

To ensure the full and faithful performance of all duties and obligations the Successful Proposer shall obtain a Certificate of Deposit or Savings Account from a financial institution acceptable to



VEH in the sum of TWO THOUSAND (\$2,000) DOLLARS. The accounts shall be assigned to the order of the Incorporated Village of East Hills. The certificate and assignment shall be held in escrow by VEH pending the faithful performance of the Contract by the Successful Proposer. Upon the full and faithful certification of the Contract by the Successful Proposer, said assignment and certificate shall be returned by VEH to the Successful Proposer. Should the Successful Proposer fail to faithfully perform his, her or its duties and obligations in accordance with the Contract then, in this event, said certificate and assignment shall be retained by VEH as liquidated damages. In the event that these proceeds do not cover all obligations, costs and expenses incurred by VEH under this agreement which are the responsibility of the Successful Proposer, then VEH has the right to proceed against the Successful Proposer for all funds due it in excess of the sums posted as security for the faithful performance of the agreement between the parties.

In addition to all other rights and remedies which accrue to VEH, if the Successful Proposer fails to make any License Payment on or before its due date, the Successful Proposer shall pay to VEH interest on the License Payment not timely paid at the rate of eighteen percent (18%) per annum from the date on which the License Payment was due up to and including the date said License Payment is fully paid. Any payment received shall first be applied to any interest due and then to the License Payment or Payments due, in the inverse order of the original due date.

In the event that the Park Grille closes down due to mechanical failure or damage to the facilities not caused or permitted by the Successful Proposer, then, after a period of three (3) consecutive days of inoperability, the Successful Proposer will be credited towards his The Successful Proposer Agreement payments for the applicable period the amount of one hundred dollars (\$100.00) per day for each day closed commencing on the first day and ending the last day closed.

XXIII. LICENSES AND PERMITS

The Successful Proposer is solely responsible for obtaining all license or permits from the Nassau County Department of Health with respect to the operation of the food establishment, and shall be solely responsible for any fines, penalties or other such sanctions imposed upon the operation of the Park Grille.

XXIV. AGREEMENT

The Successful Proposer acknowledges that the Agreement which shall be executed by the Successful Proposer and VEH is not a lease, but merely a license and privilege granted by VEH. The agreement and the License granted cannot be sold, assigned, transferred or conveyed in any way without the express prior written consent of the Parks Commission. Any attempted assignment shall be null and void, and of no force or effect.

XXV. NON EXCLUSIVE LICENSE

Nothing contained in the agreement which will be signed by the parties shall limit or restrict VEH's right to select another caterer for its village functions or for its resident's parties, events and functions. VEH retains the discretion to hire whoever it chooses to cater any and all functions, events, parties, competitions, performances and meetings whether held by VEH or its residents at



any facility or location in the park.

XXVI. CONFIDENTIAL INFORMATION

The New York State “Freedom of Information Law”, Public Officers Law, Article 6, permits access to government records. However, Proposals submitted in response to this RFP may contain technical, financial, or other data whose public disclosure would cause substantial injury to a Proposer’s competitive position, or constitute disclosure of a trade secret. To protect this information and data from disclosure under the State Freedom of Information Law, the Proposer should specifically identify the pages of its Proposal that contain such information (by properly marking the applicable pages and inserting the following notice in front of its Proposal).

“NOTICE: The data and information on pages ___ of this Proposal, identified by an asterisk (*) marked along the margin with a vertical line, contain technical or financial information which are trade secrets and/or whose disclosure would cause substantial injury to the Proposer’s competitive position. The Proposer requests that such data and/or information be used only for the evaluation of the Proposal, but understands that disclosure will be limited to the extent that the Village determines to be proper under the law. If a Notice of Award is issued to a Proposer, the Village shall have the right to use or disclose the data and/or information, as provided for under the terms of the Contract, unless otherwise obligated by law.”

VEH assumes no responsibility for disclosure or use of unmarked data for any purpose. In the event properly marked data is requested pursuant to the Freedom of Information Law, the Proposer will be advised of such request. In response thereto, the Proposer may expeditiously submit to VEH a detailed statement indicating any and all reasons it might have for believing that the marked information is exempt from disclosure under the law. This statement will be used by VEH in making its determination as to whether or not disclosure is proper under the law, which determination shall be binding on the Proposer.

XXVII. RIGHTS AND OPTIONS

This RFP constitutes merely an invitation to make Proposals to VEH. Accordingly, VEH reserves, holds, and may (in its sole discretion) exercise any or all of the following rights and options with respect to the notice of RFP, this RFP, and the Contract, without any liability to VEH:

- (1) To select and enter into a Contract with the Proposer whose Proposal in the full and absolute discretion of the Board of Trustees of the Village best satisfies the overall interests of VEH.
- (2) This RFP process is a unique process, not a strictly competitive "bid" process based on highest license payment, and the Proposer submitting the highest dollar Proposal will not be automatically selected. VEH instead reserves the right to select the Proposal it believes in its discretion to be most beneficial to VEH, without having the financial compensation being the sole determinative factor therefore. VEH's decision-making/selection process will be discretionary and be based upon a variety of factors. By submission of its Proposal, it is expressly understood, acknowledged, and accepted



by the Successful Proposer that this is not a bid, and that VEH is under no obligation to award a Contract through competitive bidding (or at all). The discretion of the Board of Trustees on each qualification, rating, or evaluation shall be final.

- (3) VEH reserves the right to accept a Proposal that does not offer the highest monetary consideration to VEH. Monetary consideration is only one factor and is far outweighed by VEH's concern for quality and established reputation of food and service.
- (4) VEH reserves the right to waive any informalities, requirements, or guidelines set forth in the notice of RFP regarding the deadline for requesting the RFP (if any), or in this RFP regarding the submission or evaluation of Proposals, including postponing the submission deadline.
- (5) VEH reserves the right to reject any and all Proposals at any time, in its sole discretion, for any reason whatsoever.
- (6) VEH reserves the right to extend the date for the opening of RFPs for any reason, in its discretion, it deems advisable.
- (7) VEH reserves the right to accept any Proposal, in part or in whole.
- (8) VEH reserves the right to interview any or all Proposers, which interviews may be conducted privately, without the other Proposers being present (thereby excluding from the presentation/interview process those Proposers whose Proposals are not the subject of the interview).
- (9) VEH reserves the right to conduct investigations with respect to the qualifications of each Proposer; to make field investigations with respect to such Proposals (including visits to the Proposer's business offices or field operations); and, if so decided, to hold public hearings with respect to the merits of each Proposal.
- (10) VEH reserves the right to request additional information from any Proposer and to rely upon any information obtained through VEH's own investigations.
- (11) VEH reserves the right to cancel this RFP at any time whatsoever, for any reason in its discretion it deems advisable, with or without the substitution of another RFP.
- (12) VEH reserves the right to supplement, amend, or otherwise modify this RFP at any time whatsoever.
- (13) VEH reserves the right to issue additional or subsequent RFPs with regard to this effort to enlist a The Successful Proposer.
- (14) VEH reserves the right to negotiate with any Proposer, or all, or none of the Proposers, for amendments, modifications, or other changes and further reserves the right to discontinue any such negotiations, at any time and in the Village's sole discretion, for any or no reason.



- (15) VEH reserves the right to request new or revised Proposals, including monetary offers from any Proposer at any time.

XXVIII. PROPOSAL PROCEDURES AND CONDITIONS

- (1) Expenses of Proposal Preparation. Each Proposal prepared in response to this RFP will be prepared solely at the cost and expense of the Proposer with the express understanding that there will be no claim whatsoever for reimbursement from VEH for any cost or expense incurred in its preparation. Nor will there be any claims whatsoever for reimbursement from VEH for any other costs or expenses incurred by any Proposer.
- (2) Amendments. Except as provided, no officer, agent, or employee of VEH is authorized to amend any of the provisions or specifications contained in this RFP. Accordingly, all changes, if any, must appear as a written addenda attached to this RFP.
- (3) Changes to this RFP. VEH reserves the right to make any additions, deletions, corrections, or changes to the RFP package. In addition, VEH may issue an interpretation or clarification of Proposal submission requirements, or procedures, or of any terms and conditions of any document contained in or required by the RFP package.
- (4) Extensions. VEH retains the authority to extend any date which has been set so long that the new extended date is uniformly set and enforced for all parties.
- (5) Addenda to this RFP. Any addenda by VEH will be written and delivered to all Proposers who have requested an RFP package and/or returned a completed RFP submission. All such Proposers will be required to acknowledge receipt of any such addenda issued by VEH, by returning and/or attaching a signed and dated copy of the addenda transmission cover sheet as may be instructed in the addenda transmittal.
- (6) Modifications of Proposals. A submitted Proposal may be modified by the Successful Proposer, in part or in whole, by a written document executed in the same manner and in the same number as the original, submitted Proposal (i.e., with original verification and original supporting forms), provided such modification is received prior to the stated submission deadline. Such modification must be submitted by such valid means as set forth herein for submission of a Proposal, and which is endorsed on the front with the words "Park Grille/Food Services: - Proposal Modification."
- (7) Withdrawal of Proposals. A Proposer may, by written request (made with an original stipulation), withdraw its Proposal, provided such request is received by the individuals named in the RFP, prior to the submission deadline or any extensions. A request must be submitted in an envelope clearly showing the return address of the Successful Proposer, and which is endorsed on the front with the words "Park Grille/Food Services: – Withdrawal Request."
- (8) Late Filings. Proposals, modifications of Proposals, and withdrawal requests received



by VEH after the submission deadline will not be considered, and will be returned to the Proposer unopened. However, VEH is free to extend the date for submissions for all proposals.

- (9) Proposer's Exceptions to the RFP. Should a Proposer take exception to any provision of this RFP, the exception must be clearly stated (referencing the affected section, paragraph, and page in this RFP), must set forth the reason(s) for the objection, and indicate what (if any) alternative is being offered by the objecting Proposer to VEH as to a substitute provision. When exception(s) are taken, VEH shall determine (in its sole discretion) the acceptability of the proposed exception(s). Exceptions may be accepted or rejected, and VEH is under no obligation to accept any such exceptions or proposed alternatives. Where exceptions are rejected, VEH may insist that the Proposer negotiate an acceptable alternative. In the event of an impasse, VEH may permit a Proposer to withdraw its Proposal; however, in such circumstances, the Proposer will be disqualified from any further proceeding under the RFP. If no exceptions are stated, VEH shall assume that the Proposer has accepted all the terms and conditions of the RFP package.
- (10) Oral Presentations/Modification. VEH may require Proposers to give oral presentations in support of their Proposals, and to exhibit or otherwise demonstrate the information contained in the RFP. All presentations will be conducted privately, one Proposer at a time. Non-presenting Proposers will be excluded from any other Proposers' presentation. No oral presentation will be permitted, unless a Proposer has timely filed a complete written Proposal. If VEH decides, in its own discretion to request adjustments or modifications, it shall notify all proposer(s) being finally considered and present all proposer(s) who are finalists an opportunity to modify and amend their proposal to be more satisfactory to VEH. If one finalist is chosen then VEH may also meet with the finalist to ascertain if additional benefits can be obtained for VEH. Nothing contained in this paragraph shall be interpreted to restrict VEH's discretionary right to decline any and all Requests for Proposals at any time.
- (11) Negotiations. VEH may issue its Notice of Award on the basis of initial Proposals received without discussions or negotiations. Accordingly, VEH reserves the right to enter into Contract (and/or Contract negotiations) with any selected Proposer. If VEH and the selected Proposer cannot successfully negotiate a Contract acceptable to VEH, then VEH may declare that the negotiations are terminated and begin negotiations with an alternate selected Proposer. No Proposer shall have any rights against VEH (for purchase of the Property or otherwise) arising from such negotiations, termination or selection. The final selection is made by the Board of Trustees which, in its sole and absolute discretion, deems in the best interest of VEH..
- (12) Conflicting Provisions. The Contract will constitute the entire understanding and agreement between VEH and the selected Proposer, and shall set forth all terms and conditions. In the case of a conflict between this RFP, any notification, and the Contract, the Contract shall control.
- (13) Proposal Award. VEH intends to enter into contract negotiations with a Proposer selected by



VEH Board of Trustees. If the selected Proposer (who shall receive a “Notice of Award” letter from VEH’s Mayor) fails to enter into negotiations or fails to execute and return the tendered Contract (together with any necessary documents, attachments, affidavits, and/or deposits) within ten (10) days after the issuance of such Notice of Award letter, then VEH, at its sole option, may determine and declare that said Proposer has abandoned the Contract, forfeited its \$2,000.00 good faith deposit, and a Notice of Award may be issued to the next most qualified and selected Proposer for the purchase of the Property. Neither the issuance of a Notice of Award nor the negotiation of the Contract with the selected Proposer shall constitute VEH’s acceptance of the Proposal or a binding commitment on behalf of VEH to enter into a Contract with such Proposer. VEH retains the right at any time before acceptance in its sole discretion to reject and/or accept all of the proposals, or cancels the RFP for any reason it deems appropriate.

XXIX. DOCUMENTS TO BE SUBMITTED WITH REQUEST FOR PROPOSAL

Each submitted Proposal must include, without limitation, the following information to be furnished by the submitted Proposer:

- (1) Name of the Proposer.
- (2) Contact person for the Proposer.
- (3) The Proposer’s and contact person’s business address (including the address of its primary business operations, and that of its office that will be handling this transaction).
- (4) The Proposer’s and contact person’s main telephone, facsimile numbers, e-mail address and relevant cell numbers.
- (5) A general background of the Proposer, and its business organization, including:
 - A summary description of its organization, its history (including information on the date of its formation and the State, i.e., New York, of its formation), its management and ownership structure (including the name and an address of each of person, directly or indirectly, holding a five (5%) or greater ownership interest therein, and each and every officer thereof), and its organizational status (i.e., proprietorship, joint venture, partnership, corporation, Limited Liability Company, or other).
 - A description of the Proposer’s existing business operations.
 - At least three (3) general business references, including major catering corporations and businesses.
 - The names and identify all criminal (including all arrests), bankruptcy and regulatory actions brought against your proposer and note any adverse determinations against your firm, or its employees or persons acting on its behalf, with respect to actions, proceedings, claims or complaints concerning violations of federal, state or County equal employment opportunity laws or



regulations.

- An answer to whether your firm, or any of its principles has ever been convicted of any crime or offense arising directly or indirectly from the conduct of your firm's business, or ever been convicted of any crime or offense involving financial misconduct or fraud? If so, please describe any such convictions and surrounding circumstances in detail.
 - An answer to whether your firm, or any of its employees, or anyone acting on its behalf, been indicted or otherwise charged in connection with any criminal matter arising directly or indirectly from the conduct of your firm's business which is still pending, or has any of your firm's partners, associates, employees or persons exercising substantial policy discretion been indicted or otherwise charged in connection with any criminal matter involving financial misconduct or fraud which is still pending? If so, please describe any such indications or charges and surrounding circumstances in detail.
- (6) A Proposed Menu at the Park Grille with proposed prices.
- (7) A Statement and Explanation of the means and methods to manage and operate the Park Grille.
- (8) A Statement and Explanation of the means and methods to manage and operate the greater catering needs at the Park. Please include a proposed menu with suggested prices.

XXX. TERMINATION

VEH has the right to terminate the Agreement between the Successful Proposer and VEH immediately upon delivery of written notice to the Successful Proposer if:

- A. The Successful Proposer fails to make full and timely payment of any payments owing or to become owing; or
- B. The Successful Proposer fails to maintain in full force and effect any insurance policy required; or
- C. The Successful Proposer fails to obtain and maintain in good standing any licensing or premise required by any governmental agency in connection with the conducting the Park Grille; or
- D. The Successful Proposer defaults in, or fails to perform any of its obligations under any agreement with VEH, and fails to cure any default or failure within ten (10) days after delivery, by the Park Director to the Successful Proposer of written notice of a default or a failure to perform; or



- E. The Successful Proposer makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or be adjudicated as bankrupt or insolvent, or if a permanent receiver or all or any portion of its property shall be appointed in any judicial proceeding.

XXXI. SUBMISSION DEADLINE

The final date for the submission of Proposals shall be January 6, 2013.

Completed Proposals may be submitted to:

The Incorporated Village of East Hills
Attn: William Gavin, Park Director
209 Harbor Hill Road
East Hills, New York 11576