

**MECKLENBURG COUNTY  
PARK & RECREATION DEPARTMENT**  
5841 Brookshire Boulevard  
Charlotte, NC 28216  
704-336-8454

**CONCESSION AGREEMENT**

**AN AGREEMENT ENTERED INTO THIS THE \_\_\_\_ DAY OF \_\_\_\_\_  
BETWEEN THE COUNTY OF MECKLENBURG, HEREIN THE COUNTY, AND  
\_\_\_\_\_, HEREIN CONCESSIONAIRE, FOR THE PROVISION OF  
CONCESSION SERVICES AT COUNTY PARK (S) LISTED HEREIN.**

In consideration of the mutual promises and conditions herein, and recognition of your role as an independent contractor and not an employee of the COUNTY, do with the COUNTY agree as follows:

**I. DUTIES OF THE CONCESSIONAIRE:**

- A. The CONCESSIONAIRE shall provide all equipment, supplies, items and articles necessary for the provision of sales. **CONCESSIONAIRE must clean the area adjacent to the concession area, bag all trash and dispose of all trash in the appropriate area after each use.**
- B. The CONCESSIONAIRE shall provide and maintain the necessary inventory required to satisfy the public demand. All such products sold or kept for sale by the CONCESSIONAIRE shall be first class in quality and conform to the Federal, State and COUNTY laws, ordinances and regulations in all respects.
- C. The CONCESSIONAIRE shall not offer for sale any misbranded or impure products. **Glass containers are prohibited at all COUNTY recreation facilities.** All food items shall be stored and handled with due regard for sanitation.
- D. The CONCESSIONAIRE shall submit for the COUNTY'S approval a general listing of all products to be offered for sale during the term of the contract as an attachment to the contract. This listing shall also include estimated price ranges of each product to be offered for sale. The CONCESSIONAIRE shall notify the COUNTY in writing of any proposed price increases during the term of the contract.

- E. The CONCESSIONAIRE shall not sell or distribute alcoholic beverages including beer, wine and spirituous liquors and/or tobacco products.
- F. The CONCESSIONAIRE shall hire, employ, and pay the full compensation of all its employees engaged in the provision of aforementioned sales and shall provide the Department a complete listing of those employees.
- G. The CONCESSIONAIRE at its expense shall provide staff shirts to identify each worker as an employee of the CONCESSIONAIRE.
- H. The CONCESSIONAIRE shall abide by all local, state, federal, COUNTY and Department rules, regulations, instructions and ordinances.

1. The CONCESSIONAIRE shall hold a valid permit from the MECKLENBURG COUNTY HEALTH DEPARTMENT if food and/or beverages requiring such a permit are to be sold, and shall present the permit when applying for a concessions/vending contract. Health Department permits are required for a Push Cart or Mobile Food Units. All vendors must have their set-up plans approved by the Health Department before a permit can be issued by Park & Recreation:

- I. CONCESSIONAIRES will be categorized in one of the following foodservice establishment categories and must comply with all requirements of the NC Department of Environment, Health, and Natural Resources, Division of Environmental Health, hereinafter referred to as DEHNR, "Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments" (15A NCAC 18 A.2600):

A. Limited Concession Stand

- J. The CONCESSIONAIRE shall display the official, certified Mecklenburg COUNTY Health Department permit and a Mecklenburg COUNTY Park and Recreation Department vending permit in full view of the public at all times during operation.
- K. The CONCESSIONAIRE shall display a price list of goods sold in full view of the public at all times during the operation.
- L. The CONCESSIONAIRE agrees to pay the Department:

\_\_\_\_\_ 1) \$\_\_\_\_\_ PER MONTH PER CONCESSION STAND.

Pending COUNTY AND CONCESSIONAIRE negotiations and successful contract renewal in \_\_\_\_\_, CONCESSIONAIRE agrees to pay the

County \$\_\_\_\_\_ per month in \_\_\_\_\_ and \$\_\_\_\_\_ per month in \_\_\_\_\_.

The COUNTY and CONCESSIONAIRE may mutually agree to deviate from this fee schedule in special situations.

M. All payments are due on the 15<sup>th</sup> day of the month for payment of the preceding month. The CONCESSIONAIRE is responsible for the payment of all taxes to the applicable taxing authority.

1) Checks or money orders should be made payable to Mecklenburg COUNTY Park and Recreation Department and mailed or delivered to Division Director, Enterprise Services, Mecklenburg COUNTY Park & Recreation Department, 5841 Brookshire Blvd., Charlotte, NC 28216.

2) The COUNTY reserves the right to manage special event concession revenues via token sales, with the appropriate percentage paid to the CONCESSIONAIRE at the conclusion of the event.

N. The CONCESSIONAIRE shall not sublease or transfer this contract or any portion thereof to any other party. In the event of a change in control of the contractor (as defined below), the COUNTY shall have the option of terminating this contract by written notice to the CONCESSIONAIRE. Control as used in this contract shall mean the possession, direct or indirect, of either (I) the ownership of or ability to direct the voting of, as the case may be fifty-one (51%) or more of the equity interest, value of voting power in the CONCESSIONAIRE or (II) the power to direct or cause the direction of the management and policies of the CONCESSIONAIRE whether through the ownership of voting securities, by contract or otherwise.

O. The COUNTY reserves the right to suspend vendor permit and vendor operations if needed and County reserves the right to allow free promotional giveaways, events sponsored by the COUNTY and any partner (s), non-profit events and other special events at all COUNTY-owned facilities which may or may not prevent the CONCESSIONAIRE from vending during such promotional events. COUNTY will provide CONCESSIONAIRE advance notice of all events and CONCESSIONAIRE shall not receive any remittance from the COUNTY from such events.

P. The CONCESSIONAIRE shall submit copies of approved Health Department permits, if required to the COUNTY prior to participation in any special event.

Q. CONCESSIONAIRE at its expense shall be responsible for contacting the appropriate telephone/internet carrier to request service, if required in

CONCESSIONAIRE'S name. CONCESSIONAIRE shall be responsible for payment of all fees associated with the installation of telephone services. CONCESSIONAIRE shall be responsible for maintenance, repair and upkeep of all equipment in the concession stand.

- R. The CONCESSION at its expense is responsible for the installation of any/all additional equipment required to operate CONCESSIONAIRE'S business in the concession stand.

## II. INDEMNITY AND INSURANCE

- A. The CONCESSIONAIRE shall indemnify and save harmless the COUNTY, its agents and employees and assigns from and against all losses, costs, damages, expense and liability caused by an accident or other occurrence resulting in bodily injury, including death, sickness and disease to any person; or damage or destruction to property, real or personal; arising directly or indirectly from operations, products or services rendered under this contract.
- B. The CONCESSIONAIRE shall provide and maintain at its own expense during the term of this Management Agreement the following program(s) of insurance covering its operations. Such insurance shall be provided by insurer(s) satisfactory to the COUNTY as approved by the COUNTY'S Division of Insurance and Risk Management and evidence of such programs satisfactory to the COUNTY shall be delivered to the COUNTY or before the effective date of this contract. Such evidence shall specifically identify this contract and shall contain the condition that the COUNTY is to be given written notice of at least thirty (30) days in advance of any modification or termination of any program of insurance. Such insurance, with the exception of Workers' Compensation insurance, shall be primary to, and not contributing with any other insurance maintained by COUNTY, and shall name the COUNTY as an additional insured:

**INSURANCE:** Throughout the term of this contract, the contractor and any of his subcontractors will comply with the insurance requirements described in this section. In the event that the contractor fails to maintain required insurance, Mecklenburg County shall be entitled to terminate or suspend the contract immediately.

The contractor agrees to purchase and maintain the following insurance coverage during the life of the contract:

### A) **Automobile Liability**

Insurance with a limit of not less than \$1,000,000 per occurrence combined single limit each occurrence for bodily injury and property damage liability covering all owned, non-owned, and hired vehicles.

**B) Commercial General Liability**

Insurance with a limit not less than \$1,000,000 per occurrence/aggregate including coverage for bodily injury, property damage, products and completed operations, personal/advertising injury liability and contractual liability.

**C) Workers' Compensation**

Insurance meeting the statutory requirements of the State of North Carolina and any applicable Federal laws; and, Employers' Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

Mecklenburg County shall be named as an additional insured under the commercial general liability insurance for operations or services rendered under this agreement.

Mecklenburg County shall be a designated insured under the auto liability

The contractor shall not commence any work in connection with the resulting contract until it has obtained all of the types of insurance set forth in this section and furnished the project manager with proof of insurance coverage by certificates of insurance accompanying the contract. The contractor shall be responsible for notifying Mecklenburg County of any material changes (including renewals) to or cancellation of the insurance coverages required above. Notice to Mecklenburg County must be completed in writing within 48 hours of the changes.

The contractor shall not allow any subcontractor to commence work until all such subcontractors have obtained the same insurance coverages as described above.

All insurance policies shall be written by insurers qualified to do business in the State of North Carolina. If any of the coverage conditions are met by a program of self-insurance, the contractor must submit evidence of the right to self-insure as provided by the State of North Carolina.

Mecklenburg County shall be exempt from, and in no way liable for any sums of money that may represent a deductible or self-insured retention in any insurance policy. The payment of the deductible/retention shall be the sole responsibility of the contractor and/or subcontractor.

The contractor's insurance shall be primary of any self-funding and/or insurance otherwise carried by Mecklenburg County for all loss or damages arising from the contractor's operations under this agreement. The contractor and each of its

subcontractors shall and does waive all rights of subrogation against Mecklenburg County and each of the Indemnitees.

### **III. RIGHTS RESERVED BY THE DEPARTMENT**

- A. The COUNTY shall permit the CONCESSIONAIRE to conduct concession sales, as specified below, at the following facilities owned or controlled by the COUNTY:
  - 1. **(List park location)**
  - 2) Special events, if requested. COUNTY and CONCESSIONAIRE agree to negotiate the amount of payment to the COUNTY for any/all special events as they occur.
- B. The COUNTY reserves the right to grant or deny additional concession contracts if needed. The COUNTY reserves the right to contract for the number and types of vendors it deems necessary for a special event (s).
- C. The COUNTY reserves the right to conduct random, unscheduled inspections of CONCESSIONAIRE'S operations to inspect sanitation and safety procedures and equipment, sales receipts, cash collection procedures and vending spaces/apparatus.
- D. The COUNTY reserves the right to control revenue collection by conducting ticket or token sales for special events.
- E. The COUNTY reserves the right to order the removal of any item sold or kept for sale that is judged to be less than first class in quality by the COUNTY.
- F. The COUNTY is exempt from and not liable for any losses incurred by the CONCESSIONAIRE during the term of this contract.

### **IV. TERM OF THE CONTRACT**

The term of this contract shall be in effect as of the date as first written above through \_\_\_\_\_. Pending the COUNTY'S determination that all conditions and terms of this agreement have been successfully and satisfactorily performed, this agreement shall automatically renew for annual terms beginning on \_\_\_\_\_ and expiring on \_\_\_\_\_ annually thereafter unless COUNTY or CONCESSIONAIRE provides fourteen day (14) days written notice to cancel this agreement.

### **V. OPTION OF THE CONTRACT**

The COUNTY reserves the right to terminate this contract immediately and for any reason (including non-payment) COUNTY deems necessary by giving written notice to the CONCESSIONAIRE. CONCESSIONAIRE will immediately, upon receipt of a notification of cancellation, remove only CONCESSIONAIRE-owned operating equipment, materials and supplies and vacate COUNTY property. CONCESSIONAIRE is liable for payment for any damages to COUNTY property or removal of COUNTY-owned equipment.

The COUNTY reserves the right to terminate this contract immediately if: (1) Health Department inspection scores fall below a passing score at any time during the term of this contract or (2) concession stand or stands is/are operated under conditions that will result in an immediate suspension or revocation or intent to suspend or revoke the operational health permit; (3) CONCESSIONAIRE fails any type of inspection associated with operations of the concession stand (s). Conditions created by imminent hazards are exempt. An imminent hazard is defined as fire, loss of power/water, earthquake, etc.

COUNTY also reserves the right to terminate this contract immediately for any violation(s) for improper temperatures, improper handling, poor sanitation including hand washing, discovery or storage of chemicals, improper dishwashing and sanitizing.

The COUNTY reserves the right to terminate this contract immediately if the CONCESSIONAIRE disposes of grease and grease products in any/all drain (s) or grease traps.

### **CONDUCTING SALES ON COUNTY PROPERTY IS A PRIVILEGE**

By signing this document, the CONCESSIONAIRE acknowledges that he/she has voluntarily applied to the Park and Recreation Department to conduct sales of food and/or non-food items within the COUNTY Park and Recreation System. CONCESSIONAIRE further acknowledges and understands that this agreement can be instantly canceled for any reason including the following:

- A. Selling at any unauthorized location.
- B. Inaccurate (intentional or otherwise) reporting.
- C. Quality of goods, condition of equipment, appearance of employees, or any other factor whatsoever which does not represent the COUNTY in the highest manner.
- D. Failure to submit any report which may, from time to time be required by COUNTY.

- E. Failure to properly service any assigned event and/or failure to maintain regular business hours as noted above.
- F. Failure to remove any trash associated with sales on park property including trash which may have been inappropriately placed by customers.
- G. Sales of any drink item where the customer is given a glass container.
- H. CONCESSIONAIRE damages grass or other public property.
- I. The Department is notified of unpaid taxes or other legal matters by any branch of local, state, or federal government or its associated agencies.
- J. Expired or inadequate insurance.
- K. Operating on non-park property in such a manner that park patrons are drawn off park property to purchase items from vendor. EXAMPLE: CONCESSIONAIRE is not allowed to sell in a particular park but chooses to park vending vehicle on adjacent street and draw customers off park property to his/her vending unit.
- L. Failure to comply with any local, state or national health and/or safety law, rule, regulation, or instruction.
- M. Failure to comply with any Mecklenburg COUNTY Park and Recreation rule, regulation, or instruction.
- N. Failure to pass any County, State or Federal Health Department inspection.

**Violation of any of the above will be grounds for immediate termination of the contract with the COUNTY.**

*The Department reserves the right to assign concessionaires to specific parks and other sites within parks to ensure a controlled sales environment appropriate for public property. Concessionaires are not permitted to show up at parks unannounced and are not allowed to park trailers or carts without advance approval by the appropriate staff.*

In WITNESS WHEREOF, the parties have duly executed this Contract as of the date first above written.

**CONTRACTOR:**

**ATTEST:**

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
(N/A for Sole Proprietor)



\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

**MECKLENBURG COUNTY:**

**ATTEST:**

\_\_\_\_\_  
County Manager/General Manager  
Commissioners

\_\_\_\_\_  
Clerk to the Board of County

This instrument has been pre-  
audited in the manner required  
by the Local Government Budget  
and Fiscal Control Act.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
County Attorney

\_\_\_\_\_  
Finance Director

**APPROVED AS TO INSURANCE  
REQUIREMENTS:**

No Pre-Audit Required.

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Director, Charlotte-Mecklenburg  
Division of Insurance Risk  
Management

\_\_\_\_\_  
Director of Park and Recreation