

CONCESSION STAND AGREEMENT

THIS CONCESSION STAND AGREEMENT (the "Agreement") is made as of this ___ day of _____, 20__ (the "Effective Date"), by and between The City of Frederick, a Maryland municipal corporation, with its principal place of business at 101 North Court Street, Frederick, Maryland 21701 (the "City") and _____, a Maryland _____ with its principal place of business at _____ (the "User").

WHEREAS, the City owns a public park known as _____ (the "Property"); and

WHEREAS, the User has requested that it be allowed to use a concession stand (the "Concession Stand") located on the Property; and

WHEREAS, the City desires to allow the User to use the Concession Stand, subject to certain terms and conditions.

NOW, THEREFORE, in consideration of the mutual promises made herein, the City and the User agree as follows:

- 1. License.** The City hereby grants the User the exclusive use of the Concession Stand, subject to the terms and conditions of this Agreement, for the purpose of selling concessions during regularly scheduled league games. The Concession Stand may be operated by the User, through its agents, officers, employees, volunteers, and members. Notwithstanding the foregoing, the City reserves the right to use the Concession Stand when it is not being operated by the User.
- 2. Condition of City Property.** During the entire term of this Agreement, the User shall maintain the Concession Stand in substantially the same condition as it was in on the Effective Date, with the exception of normal wear and tear. No improvements or alterations are permitted without the prior written approval by the City.
- 3. Interior.** The User shall maintain the interior of the Concession Stand, including but not limited to all appliances and equipment necessary for the storage, preparation, or serving of food and drinks, in clean and sanitary condition at all times.
- 4. Compliance with other laws.** The User shall obtain any necessary licenses or permits and shall comply with all applicable laws and regulations, including but not limited to state and county regulations governing the public sale of food and drink.
- 5. Refuse.** The User shall properly dispose of all refuse of any kind generated by its use of the Concession Stand. Refuse must be placed in receptacles provided by the City and placed at a designated site for pick-up.
- 6. Winterizing.** The City will perform any needed off-season winterizing of plumbing fixtures. If weather conditions necessitate winterizing during the term of this Agreement, the City will notify the User as soon as possible.
- 7. Appliances.** The User shall keep only the essential appliances plugged in during periods the Concession Stand is not actively being operated. The User shall ensure that all appliances

are unplugged and associated are water lines unhooked during the off-season. Storage of any kind is prohibited in and around irrigation controllers and electrical breakers.

8. **Hazardous Materials.** The User agrees and represents that it shall not store or dispose of on the Property any hazardous materials as defined by Federal, State or local law. The User hereby further agrees that it shall indemnify and hold harmless the City for any injury, loss, costs, fines, penalties, and/or damages arising out of the User's failure to comply with this provision. The indemnification provision of this paragraph shall survive the termination of this Agreement.
9. **Security.** The User is responsible for the security of the Concession Stand. The City is not responsible for the loss or theft from the Concession Stand of any property belonging to the User. The User is responsible for securing any insurance for the contents of the Concession Stand and for paying the associated insurance premiums.
10. **Vehicles.** Delivery trucks and other vehicles may only enter the park or concession areas on designated service drives leading directly to the Concession Stand. At fenced facilities, delivery trucks are prohibited from pulling inside the fenced-in area.
11. **Term and Termination.** The term of this Agreement begins on the Effective Date and ends on December 31, 20___. However, either party may terminate this Agreement upon 10 days' prior written notice to the other party. Notwithstanding the foregoing, the City may immediately terminate this Agreement if the City, in its sole discretion, deems such termination necessary to protect the public health, safety, or welfare.
12. **Indemnification.** The User shall, to the fullest extent permitted by law, indemnify and hold harmless the City, its agents and employees, from and against all claims, damages, losses, and expenses (including attorneys' fees) directly caused by the negligence of the User during its use of the Concession Stand, including but not limited to claims for injury to the person or property of any employee, agent, or volunteer of User or of any third party.
13. **Waiver.** Except as may otherwise be specifically provided by this Agreement, failure of either the City or the User to require performance of any of the provisions of this Agreement shall not limit either party's right to enforce the provision, nor shall any waiver of any breach of any provision be construed or treated as a waiver of the provision itself or any other provision.
14. **Notices.** All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

City: Deputy Director for Parks and Recreation
Division of Parks and Recreation
121 North Bentz Street
Frederick, MD 21701

User: _____

- 15. **Jurisdiction and venue.** This Agreement shall be governed by the laws of the State of Maryland, and the parties agree that the venue for the resolution of any disputes will be in the courts of the State of Maryland located in Frederick County.
- 16. **Severability.** If any term or provision of this Agreement is determined by a court to be invalid or unenforceable, such finding will not affect the remaining terms and provisions of this Agreement, which shall remain in full force and effect.
- 17. **Modification.** This Agreement may not be waived, modified or amended, unless in writing signed by both parties hereto.
- 18. **Assignment.** The User shall not make any assignment or transfer of any of its rights, obligations or duties to a third party without the express written permission of the City.

WITNESS: the hands and the seals of the parties to this Agreement.

WITNESS:

THE CITY OF FREDERICK

By: _____
Michael C. O'Connor, Mayor

USER

By: _____

Approved for Legal Sufficiency:
