

CONCESSIONAIRE AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20__ by and between the **CITY OF SYRACUSE**, a Utah municipal corporation, hereinafter referred to as the City, and _____ a _____, hereinafter referred to as Concessionaire.

RECITALS:

WHEREAS, the City owns and operates several City parks, including the _____ City Park, located at _____ Syracuse, Utah, hereinafter referred to as the Park; and

WHEREAS, Concessionaire desires to provide and operate a concession stand at the Park for the purpose of selling food, drinks, candy and snacks to the Park patrons; and

WHEREAS, the City is willing to permit the Concessionaire to provide and operate a concession stand at the Park in accordance with and subject to the limitations set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

1. Concession Stand. The City hereby agrees to permit Concessionaire to provide and operate a concession stand at the Park in accordance with and subject to the terms and conditions set forth in this Agreement. Concessionaire shall assume the risk of loss regarding any personal property, trade fixtures or equipment installed or utilized by Concessionaire at the concession stand, and shall hold the City harmless for any damage or maintenance regarding the same, except as otherwise provided herein. The ability to operate a concession stand under this Agreement is not exclusive and other vendors may be permitted to operate within the Park at the City's sole discretion.

2. Concessionaire Service. Concessionaire shall offer for sale at the concession stand food, drinks, candy, and snacks (i.e. hamburgers, hot dogs, nachos, ice cream, snow cones, churros, pretzels, etc.). No alcoholic beverages shall be sold at the concession stand. Concessionaire shall operate the concession stand as open for business during reasonable hours sufficient to provide service to Park participants during any or all sport league and tournament play taking place Monday through Saturday during Park hours. Concessionaire has the right to determine pricing for all food, drinks, candy and snacks offered for purchase by patrons. Concessionaire shall endeavor to provide concession services for the benefit of and service to the patrons of the Community Park. All employees and vendors of Concessionaire shall be polite and courteous to patrons of the Community Park and Concession Stand.

3. Duties and Responsibilities. Concession services shall be conducted professionally. Concessionaire shall keep the premises affected by such operation in a clean and orderly condition at all times and in compliance with applicable laws, ordinances, rules and regulations, including any required County permits. Garbage and trash shall be placed in appropriate receptacles. Concessionaire agrees to provide such employees as Concessionaire deems necessary to provide concession services in accordance with the terms and conditions of this Agreement. Concessionaire shall be entirely responsible for the acts and activities of all persons providing such concession services. Concessionaire shall be required to take appropriate measures required to comply with all health and safety code standards for sanitation and food services. All goods intended for human consumption shall comply with all standards established by the County and City laws and ordinances. Concessionaire shall promptly send to the City a copy of any health inspection reports issued by the County to Concessionaire.

4. Refuse Disposal. Concessionaire shall provide appropriate refuse disposal containers for disposal of Concessionaire's refuse at the Community Park and shall dispose of such waste daily.

5. Term. The Term of this Agreement shall be from _____ to _____, unless sooner terminated by default or notice of termination as provided herein. The City shall have the option to renew this Agreement on a year-to-year basis for up to a maximum of four (4) additional years.

6. Consideration. In consideration for the right to provide concession services at the Community Park, Concessionaire hereby agrees to pay to the City \$250 for each month during which Concessionaire provides such concession services. The payment of all such sums due to the City for the season shall be paid to the City by Concessionaire prior to the beginning of the concession season. Concessionaire shall not be permitted to provide service until said fees are paid to the City in total. Concessionaire shall be responsible for paying all sales tax and complying with federal tax reporting requirements and shall hold the City harmless for any liability regarding the same.

8. Compliance. Concessionaire agrees to conduct its business and to operate the same in compliance with all health codes, safety standards and other applicable laws, ordinances and regulations, and to obtain all necessary City, State, and Federal licenses, permits and tax numbers, as required to conduct such operations. Concessionaire further agrees to pay any and all income taxes, sales taxes, or other taxes which may be due or become due in connection with Concessionaire's business. Concessionaire shall train and closely supervise all concession employees, vendors and salespersons so they are aware of and adhere to all terms and conditions of this Agreement and all applicable laws, rules and regulations of the State of Utah, Syracuse City, and Davis County.

9. Independent Contractors. Concessionaire is an independent contractor and shall not be considered an employee, officer or agent of the City. Concessionaire shall hire and employ such persons as Concessionaire deems necessary to provide adequate concession

services and shall retain the right to exercise full control and supervision of all such persons assisting Concessionaire in the performance of services hereunder. Concessionaire shall be solely responsible for all matters relating to the payment of its employees including workers compensation, social security and income tax withholding, and all other regulations governing such matters.

10. Assignment. Concessionaire shall not sub-contract or otherwise assign, delegate or transfer the rights, duties and services to be performed under this Agreement, or any part hereof, without the prior written consent of the City.

11. Insurance. Concessionaire agrees to obtain and maintain, at Concessionaire's sole cost and expense, comprehensive general liability insurance coverage to insure against all claims which arise from the operation or performance of Concessionaire's activities pursuant to this Agreement with single limit coverage applying to bodily and personal injury liability and property damage of not less than \$1,000,000 per occurrence. This policy shall contain an endorsement listing the City, its officers, employees, agents and representatives as additional insured. Proof of such insurance, with the City listed as an additional insured, shall be submitted to the City upon execution of this Agreement. Concessionaire shall also obtain worker's compensation insurance, or a waiver of such insurance, in accordance with Utah law. Concessionaire shall maintain any casualty or other insurance deemed desirable by Concessionaire to protect Concessionaire's personnel, property and equipment placed or utilized at the Community Park.

12. Indemnity. Concessionaire agrees to indemnify, hold harmless and defend the City, its officers, agents, and employees from and against any and all loss, liability, expense, claims, costs, suits and damages, including attorneys' fees, however caused, arising out of or resulting from the operations, acts or omissions of the Concessionaire, its employees, officers and agents, in performance of Concessionaire's services and obligations under this Agreement. The City agrees to indemnify, hold harmless and defend the Concessionaire, its agents, representatives and employees from and against any and all loss, liability, expense, claims, costs, suits and damages, including attorneys' fees, however caused, resulting from the operations, acts or omissions of the City, its employees, officers or agents, in performing any of the City's obligations under this Agreement.

13. No Partnership. It is understood and acknowledged that each of the parties hereto are engaged in independent businesses and nothing contained herein shall be construed as creating any relationship, partnership or other connection between the parties except as expressly set forth herein.

14. Default. In the event any party to this Agreement shall default under any of the terms or conditions hereof, the non-defaulting party shall send written notice to the party in default, who shall then have ten (10) days to cure the default. In the event the defaulting party fails to cure its default within the time provided, the non-defaulting party may declare the contract terminated. In addition to any remedies set forth herein, the City may take any appropriate legal action necessary to remedy any default by Concessionaire.

15. Termination. Either party shall have the right to terminate this Agreement upon two weeks prior written Notice of Termination provided to the other party. Upon termination of the Agreement for any reason, the Concessionaire shall promptly remove all of Concessionaire's personal property and leave the premises in a clean and orderly condition. Any property or improvements remaining at the end of the two week termination period shall be considered abandoned property and shall be disposed of by the City as it sees fit. Upon termination, Concessionaire shall be required to pay any and all amounts then due and owing to the City under the terms of this Agreement.

16. Attorney Fees. If either party defaults in any of the terms, covenants, or conditions set forth herein, the defaulting party agrees to pay all costs of enforcing this Agreement, including reasonable attorney fees and collection costs, whether incurred through legal action or otherwise.

17. Notice. Any notice or demand required or permitted to be given under the terms of this Agreement shall be deemed to have been properly given when the same is in writing and has been delivered personally or deposited in the United States mail, postage pre-paid, return receipt requested, and addressed as follows:

City: Syracuse City
Attn: City Manager
1979 West 1900 South
Syracuse, Utah 84075

Concessionaire: _____

Such addresses may be changed from time to time by either party by giving notice in writing to the other party as provided herein.

18. Severability. Every provision of this Agreement is intended to be several. If any term or provision is deemed invalid or illegal for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

19. Entire Agreement. This Agreement contains the entire and integrated agreement of the parties as of its date, and any prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of no force or effect.

20. Amendments. Any amendment or alteration of this Agreement shall be made in writing and signed by the parties.

21. Time of Essence. The parties agree that time is of the essence in the performance of all duties herein.

22. Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties respective representatives, agents and successors.

IN WITNESS WHEREOF, the parties hereby cause this Agreement to be executed as of the day and year first above written.

SYRACUSE CITY

Mayor Mike Gailey

ATTEST:

Cassie Brown, City Recorder

CONCESSIONAIRE

By: _____
Its: _____

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF DAVIS)

On the ____ day of March, 2018, personally appeared before me **Mike Gailey**, who being duly sworn, did say that he is the Mayor of **SYRACUSE CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said **Mike Gailey** acknowledged to me that the City executed the same.

Notary Public

CONCESSIONAIRE ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

[CORPORATE] On the ____ day of _____, 2017 _____ personally appeared before me _____ who being by me duly sworn did say that _____ is the _____ of _____, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; and they acknowledged to me that said corporation executed the same.

[LLC] On the ____ day of _____ March, 2018, 2017 personally appeared before me _____ who being by me duly sworn did say that _____ is the manager of _____, **L.L.C.**, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.

[INDIVIDUAL] On the ____ day of _____, 2017 personally appeared before me _____ who being duly sworn, did say that _____ is the signer of the foregoing instrument, who duly acknowledged to me that _____ executed the same.

Notary Public