

**CITY OF LAKEWOOD AGREEMENT FOR
PARK FOOD CONCESSION**

THIS AGREEMENT, is made and entered into this _____, 2019,
Between the City of Lakewood, a municipal corporation of the State of Washington hereinafter
referred to as the "City," and _____, hereinafter referred to as
"Concessionaire."

WITNESSETH:

WHEREAS, the City is interested in affording individuals using the publicly owned parks in the
City the opportunity to purchase concession type food and beverage products; and

WHEREAS, the City is interested in ensuring the safety, quality and handling of concession
products; and

WHEREAS, the concessionaire is willing and able to operate such a food and beverage
concession in a publicly owned park in the City, and

WHEREAS, the City and the Concessionaire have reached an agreement for providing such food
and beverage concession in the City. Now Therefore,

IT IS HEREBY AGREED AS FOLLOWS:

1. **CONCESSION RIGHTS**

The City grants to the Concessionaire on the terms and conditions hereafter specified the right
and privilege to sell food and beverages within parks in the City of Lakewood, subject to
approval by the City of the food and beverage or other products to be sold by the
Concessionaire.

2. **TERM OF CONCESSION CONTRACT**

The terms of this contract shall be for the period beginning on Execution of Contract, and
ending December 31, 2019.

3. **RESERVATION OF RIGHTS BY CITY**

The City hereby expressly reserves the right, in connection with this Concession Contract, to
make rules, regulations and requirements relating to the location and management of any and
all of the premises occupied by and used by the Concessionaire hereunder, and, further,
reviewing and approving the prices at which food and beverages or services are sold to the
public.

4. **TERMINATION FOR FAILURE TO COMPLY**

The failure on the part of the Concessionaire to comply with any of the provisions set forth in
this contract, or to obey, perform or comply with any such rules, regulations and requirements
now existing or hereafter to be made, after notice from the City, or the violation of any
Ordinance of the City of Lakewood by the Concessionaire, or of any law of the State of

Washington, shall be sufficient grounds for the termination by the City of this contract and all rights of the Concessionaire therein or thereafter; and there is hereby expressly reserved to the City the right and power so to terminate the same prior to the expiration of the term hereinabove specified upon any of the grounds herein provided; and the Concessionaire hereby expressly waives the right to claim or recover any damages on account of such termination, against the City.

5. LOCATION OF SALES IN PARK

The location of points of sale, methods of sale, and prices charged for commodities sold or business transacted under the provisions of this contract at all times shall be subject to the supervision, direction and approval of the City.

6. OBLIGATIONS OF CONCESSIONAIRE

The Concessionaire shall comply with the following.

- (a) The Concessionaire shall assume full responsibility for staffing and operating facilities and provide concession services and have the concession business open during the requested or approved time periods during the calendar year or term of this contract, and any extension thereof, with amendments there from being mutually approved as provided herein below.
- (b) The Concessionaire shall require that all persons working in said concession shall be neat and clean in appearance.
- (c) The Concessionaire shall provide all routine custodial services necessary to keep the assigned area clean; keep papers and refuse picked up and removed from the premises, in and around the area; and upon failure to do so, after due notice as provided herein, the City shall have the right to have the area cleaned, provided that the Concessionaire shall reimburse the City for any and all costs and expenses incurred by the City in cleaning the area, including the costs involved in the use of City personnel to clean the assigned area and charge said labor and disposal costs to the Concessionaire.
- (d) If a permanent city facility is used, the Concessionaire shall provide repairs, replacements or major maintenance to the concession premises. This will be done to the Park Department's standards and with materials and methods approved by the City.
- (e) The Concessionaire shall allow the City, and any representative from the City, to enter and/or inspect the Concessionaire's area of operations at any time, including inspection of and/or entry into any structures, trailers, vehicles or other facilities used by the Concessionaire for the purposes of the concession contract.
- (f) No liquor, tobacco or illegal substances shall be handled, sold or allowed in or about said assigned concession area, or in any areas over which the Concessionaire shall have a contract interest or right. See Lakewood Municipal code 8.76.168 for smoking restrictions.

- (g) All deliveries of merchandise shall be made at a time as not to disrupt scheduled activities.
- (h) The Concessionaire shall devote as much of his/her time to this concession as may be necessary to provide first-class service to the patrons. A schedule indicating the days and hours the concession shall be open for business shall be determined and approved by the City. Any adjustments or amendments to the schedule must be agreed upon by both parties. All closures, regardless of the circumstances, must be approved by the City or a representative thereof. The City shall supply the Concessionaire a schedule of activities at the site.
- (i) A menu of the products the Concessionaire intends to sell will be given to and approved by the City. Any deletions from the original menu must first be approved by the City.
- (j) The Vendor shall comply with the City of Lakewood Policy for Concession/vending operations in public parks as follows:

CONCESSION/VENDING SERVICES IN CITY PARKS

- 1) On all public parks and public park property within the corporate limits of the City, the operator of a food concession or vending service (vendor) shall enter into an agreement for use of park property for concession/vending purposes, or shall submit to the City a copy of such a lease or other agreement executed by the owner of the property, if not owned by the City, for City approval.
- 2) The site and location(s) of concession/vending operations shall be as approved by the City Manager or designee.
- 3) Vending operations are precluded from operations in all public rights-of-way.
- 4) The Vendor shall be at a specific designated location – “roving” (i.e., moving from one location to another) shall not be allowed unless specifically permitted, where the locations, routes and times are spelled out in the lease or other agreement.
- 5) Vending apparatus/equipment shall be maintained in a safe and functional condition at all times.
- 6) All signs shall be affixed to the vending apparatus/facilities and shall not exceed eight square feet in total signage.
- 7) The Vendor shall submit a schedule to the City outlining the hours and days of operation. The City Manager or designee shall have the discretion to approve and/or modify the schedule based on peak visitor hours and potential impacts to the park facilities and surrounding neighborhood.

- 8) Any lighting associated with the concession/vending operations shall be of such intensity to avoid glare or visual distraction. Likewise, the lighting shall be directed downward or in another direction so as to avoid glare or visual distraction.
- 9) The Vendor shall include provisions for litter containment, including recycling options, and cleanup of sales items or packaging, in and about the area of such concession/vending operation.
- 10) Excessive noise shall not be permitted. Requests for music or other use of audio equipment shall be approved only if the City Manager or designee finds that the noise resulting there from will not cause a disturbance to the use of the park by others, and that the resulting noise will not cause a disturbance to the surrounding neighborhood.
- 11) The Vendor shall be responsible for the security of Vendor's concession/vending apparatus/equipment.
- 12) The Vendor shall be responsible for installing any electrical and utility connections, including the obtaining of any permits as required. All utility connections and related facilities shall be underground or otherwise visually screened, and shall be located in a manner consistent with public safety.
- 13) Vendor shall arrange for access to a restroom for the operator; such facility for any vendor with food service shall have hot and cold running water.
- 14) Food service operations require a permit issued separately by the Tacoma-Pierce County Health Department.

7. LICENSES, PERMITS AND INSURANCE

It shall be the responsibility of the Concessionaire to obtain all business licenses and food handling permits as required by the City, County and State. The Concessionaire shall obtain a comprehensive liability insurance policy of not less than \$1,000,000 combined bodily injury and property damage and shall have a certificate of insurance issued to the City of Lakewood naming the City an additional insured. Such certificate shall cover the total activities of the Concessionaire with respect to this agreement. Other insurance policies may be required depending on scope of work (Example Auto Insurance). Thirty days prior notice is required by the City of Lakewood on cancellation. The Concessionaire shall provide the City and keep the City supplied with a current insurance certificate.

8. INDEMNIFICATION

The Concessionaire agrees to indemnify and save harmless the City, its officers, employees and agents, from any and all claims, actions, judgments, losses, costs (including reasonable attorney fees) and damages whatsoever; including claims arising out of, in connection with, or incident to the work of this contract, except caused by the sole negligence of the City.

9. EQUIPMENT

The Concessionaire will provide all equipment to include, but not limited to a cash register (with tape), screens, extension cords, fixtures, stoves, refrigeration units, soft drink dispensers and any of the necessary equipment to furnish proper services to the public. This applies only to such space or spaces as are occupied by the Concessionaire for concession purposes. The City is not responsible for the maintenance, repair or replacement of this equipment.

10. ASSIGNMENT PROHIBITED WITHOUT CONSENT

Neither party to this contract shall assign or sublet, or otherwise transfer any interest, right acquired therein or thereto by operation of law or otherwise, without the consent in writing of the City thereto having been first had and obtained.

11. ADVERTISEMENT – UNNECESSARY NOISE

Calling out of wares by the Concessionaire and/or his/her employees, representatives and assigns must be done in a quiet manner, and no unnecessary loud noises will be permitted. No advertisement, sign, notice, poster or other advertising or any kind of character whatsoever shall be placed, affixed, distributed and/or used in or upon any part of the park without the prior written approval of the City.

12. REMOVAL OF MERCHANDISE – EQUIPMENT

At the end of each season, the Concessionaire shall, within five (5) days, remove all merchandise and equipment from the premises and see that the premises are left in the condition in which they existed at the commencement of the season. Any physical improvements made to the site will be considered permanent and become property of the City unless mutually agreed by both parties.

13. VACATION OF PREMISES

At the expiration of the term of this contract, or upon the prior termination thereof, in the manner or for any of the causes herein provided, the Concessionaire agrees to promptly vacate and surrender to the City all premises occupied or used by the Concessionaire hereunder, without any right or claim to reimbursement, compensation, or remuneration of any kind.

14. NONDISCRIMINATION

Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, gender, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

15. COSTS AND ATTORNEY'S FEES

If, by reason of any default or breach on the part of either party to hereto, in the performance of any of the provisions of this agreement, a legal action is instituted, the prevailing party shall be entitled to all reasonable costs and attorney's fees in connection therewith. It is agreed that the venue of any legal action brought under the terms of this agreement shall be in Pierce County, State of Washington.

16. **CONTRACT ADMINISTRATION**

This Contract shall be administered by _____ on behalf of the Concessionaire and by the City Manager or designee on behalf of the City. Any written notices required by terms of this Contract shall be served or mailed to the following address(es):

If to the City:

City of Lakewood Parks and Recreation
6000 Main Street SW
Lakewood, WA 98499
253-589-2489

If to the Concessionaire:

17. **CONSTRUCTION AND VENUE**

This Contract shall be construed in accordance with laws of the State of Washington. In event of any litigation regarding the construction or effect of this Contract, or the rights of the parties pursuant to this Contract, it is agreed that venue shall be Pierce County, Washington.

18. **MERGER AND AMENDMENT**

This Contract contains the entire understanding of the parties with respect to the matters set forth herein and any prior or contemporaneous understandings are merged herein. This Contract shall not be modified except by written instrument executed by all parties hereto.

19. **E-VERIFY CONTRACTOR'S EMPLOYEES – EMPLOYMENT ELIGIBILITY REQUIREMENTS**

The Contractor and any subcontractors shall comply with E-Verify as set forth in Lakewood Municipal Code Chapter 1.42. E-Verify is an Internet-based system operated by United States Citizenship and Immigration Services in partnership with the Social Security Administration. E-Verify is free to employers and is available in all 50 states. E-Verify provides an automated link to federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers. The Contractor shall enroll in, participate in and document use of E-Verify as a condition of the award of this contract. The Contractor shall continue participation in E-Verify throughout the course of the Contractor's contractual relationship with the City. If the Contractor uses or employs any subcontractor in the performance of work under this contract, or any subsequent renewals, modifications or extension of this contract, the subcontractor shall register in and participate in E-Verify and certify such participation to the Contractor. The Contractor shall show proof of compliance with this section, and/or proof of subcontractor compliance with this section, within three (3) working days of the date of the City's request for such proof.

IN WITNESS WHEREOF, the parties hereto caused this contract to be executed on the date and year first above written

CITY OF LAKEWOOD

CONTRACTOR

John J. Caulfield, City Manager

Title:

Dated: _____

Attest:

Briana Schumacher, City Clerk

Approved as to Form:

Heidi Wachter, City Attorney

CITY OF LAKEWOOD
E-VERIFY REQUIREMENTS FOR CONTRACTORS

By Ordinance, the City of Lakewood requires that all contractors who enter into agreements to provide services or products to the City use the Department of Homeland Security's E-Verify system when hiring new employees for the term of the contract.

E-Verify is an electronic system designed to verify the documentation of job applicants. It is run by the Department of Homeland Security.

Who is affected?

- All contractors doing business for the City of Lakewood. There is no minimum dollar value for contracts affected.
- All subcontractors employed by the general contractor on these contracts.

Are there exceptions?

- Contracts for "Commercial-Off-The-Shelf" items are exempted from this requirement.
- Individuals, Companies, or other organizations who do not have employees.

How long must the contractor comply with the E-Verify system?

- For at least the term of the contract.

Are there other stipulations?

- E-Verify must be used ONLY for NEW HIRES during the term of the contract. It is NOT to be used for EXISTING EMPLOYEES.
- E-Verify must be used to verify the documentation of ANY new employee during the term of the contract, not just those directly or indirectly working on deliverables related to the City of Lakewood contract.

How will the City of Lakewood check for compliance?

- All contractors will retain a copy of the E-Verify Memorandum of Understanding that they execute with the Department of Homeland Security AND
- Sign and submit to the City an Affidavit of Compliance with their signed contract.
- All General Contractors will be required to have their subcontractors sign an Affidavit of Compliance and retain that Affidavit for 4 years after end of the contract.
- The City of Lakewood has the right to audit the Contractor's compliance with the E-Verify Ordinance.

Further information on E-Verify can be found at the following website:

<http://www.uscis.gov/e-verify>

If you have questions about the City's E-Verify Ordinance, please contact the City of Lakewood's legal department prior to contracting with the City.

CITY OF LAKEWOOD

AFFIDAVIT OF COMPLIANCE WITH LAKEWOOD MUNICIPAL CODE 1.42
"E-VERIFY"

As the person duly authorized to enter into such commitment for

(Company or Organization Name)

I hereby certify that the Company or Organization named herein will

(check one box below)

Be in compliance with all of the requirements of City of Lakewood Municipal Code Chapter 1.42 for the duration of the contract entered into between the City of Lakewood and the Company or Organization.

OR

Hire no employees for the term of the contract between the City and the Company or Organization.

NAME

TITLE

DATE