

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ACCEPT AND ENTER INTO A CONTRACT WITH FOOD CONQUEST, LLC TO PROVIDE CONCESSION SERVICES AT THE MEMORIAL AUDITORIUM, ROBERT KIRK WALKER COMMUNITY THEATER, AND TIVOLI THEATER, FOR A PERIOD OF ONE (1) YEAR WITH AN OPTION OF UP TO THREE (3) ADDITIONAL ONE (1) YEAR RENEWAL PERIODS, WITH A CONTRACT REVENUE ESTIMATED AT AN ANNUAL AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) TO VENDOR AND FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) TO THE CITY OF CHATTANOOGA.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Director of General Services to accept and enter into a contract with Food Conquest, LLC to provide concession services at the Memorial Auditorium, Robert Kirk Walker Community Theater, and Tivoli Theater, for a period of one (1) year with an option of up to three (3) additional one (1) year renewal periods, with a contract revenue estimated at an annual amount of \$150,000.00 to vendor and \$45,000.00 to the City of Chattanooga.

This contract is to replace the contract with Family Concessions that was not renewed by the vendor and will include food and alcohol events at all Civic Facilities. This contract is a revenue sharing agreement with the vendor and represents net revenue to the City.

ADOPTED: \_\_\_\_\_, 2013

/mms

# City of Chattanooga



## Resolution/Ordinance Request Form

Date Prepared: 12/4/2013

Preparer: Cary Bohannon

Department: General Services

Brief Description of Purpose for Resolution/Ordinance:

Res./Ord. #

Council District #

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A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ACCEPT AND ENTER INTO A CONTRACT WITH FOOD CONQUEST LLC TO PROVIDE CONCESSIONS SERVICES AT THE MEMORIAL AUDITORIUM, ROBERT KIRK WALKER COMMUNITY THEATER AND TIVOLI THEATER A PERIOD OF ONE YEAR WITH AN OPTION OF UP TO THREE (3) ADDITIONAL ONE-YEAR RENEWAL PERIODS. CONTRACT REVENUE IS ESTIMATED AT AN ANNUAL AMOUNT OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) TO VENDOR AND FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) TO THE CITY OF CHATTANOOGA.

Name of Vendor/Contractor/Grant, etc. Food Conquest LLC

New Contract/Project? (Yes or No) YES

Total project cost \$ -

Funds Budgeted? (YES or NO) NA

Total City of Chattanooga Portion \$ NA

Provide Fund         

City Amount Funded \$ NA

Provide Cost Center         

New City Funding Required \$ NA

Proposed Funding Source if not budgeted         

City's Match Percentage % NA

Grant Period (if applicable)         

List all other funding sources and amount for each contributor.

Amount(s) (\$)

Grantor(s)

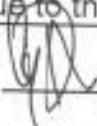
Agency Grant Number:         

CFDA Number if known:         

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

This contract is to replace the contract with Family Concessions that was not renewed by the vendor and is will include food and alcohol events at all Civic Facilities. This contract is a revenue sharing agreement with the vendor and represents net revenue to the City.

Reviewed by: FINANCE OFFICE

Approved by: 

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: 1/26/09



## Standard Form of Agreement Between Owner and Vendor

**THIS AGREEMENT**, is between the City of Chattanooga, Tennessee, a municipal corporation in the state of Tennessee, hereinafter called **Owner**, and

Food Conquest LLC  
4331 Safehaven Ct.  
Chattanooga TN 37406-1148,

hereinafter called **Concessionaire**.

**WHEREAS** it is the intention of the Owner to enter into an agreement with the Concessionaire to provide professional food/beverage services during events at the Tivoli Theatre, Soldiers & Sailors Memorial Auditorium and the Robert Kirk Walker Community Theatre (collectively, the "Facilities").

**NOW, THEREFORE**, the Owner and the Concessionaire, for the consideration set forth herein, agree to the following:

1. **EFFECTIVE DATE**  
The effective date of this Agreement shall be \_\_\_\_\_, 20\_\_\_\_\_.
2. **GOVERNING LAW**  
This Agreement shall be governed by the laws of the State of Tennessee.
3. **SERVICES TO BE PERFORMED BY CONCESSIONAIRE**  
Concessionaire shall perform the services described in **Attachment A**, Scope of Services ("Services"), incorporated herein by reference, in accordance with local state and federal laws in effect on the date of this Agreement.
4. **LEASE PAYMENTS**  
Concessionaire shall make lease payments to the Owner in accordance with the **Attachment B**, Lease Payments.
5. **OPERATIONS AND PERSONNEL**  
Concessionaire agrees to Owner's terms of operations and rules and regulations regarding Concessionaire's personnel set forth in **Attachment C**, incorporated herein by reference.
6. **MAINTENANCE AND CLEAN-UP PROCEDURES**  
Concessionaire agrees to comply with the Owner's Maintenance and Clean-up procedures set forth in **Attachment D**, incorporated herein by reference.
7. **RULES AND REGULATIONS**  
Concessionaire agrees to comply with Owner's Rules and Regulations concerning the sale and pricing of products set forth in **Attachment E**, incorporated by reference herein.
8. **TERM**  
The Term of this Agreement shall be for one (1) year with the option of two (2) additional one year extensions.
9. **SUPPLEMENTAL AGREEMENTS**  
The provisions set forth in **Attachment F**, Supplemental Agreements, shall be incorporated into this Agreement.



#### 10. STANDARD OF CARE

Concessionaire shall exercise the same degree of care, skill, and diligence in the performance of Services as is ordinarily possessed and exercised by a contractor, firm, vendor, consultant, supplier, etc. under similar circumstances in the same area of service.

#### 11. INDEMNIFICATION

Concessionaire shall defend, indemnify, and hold harmless Owner, its officers, agents, and employees from, against, and with respect to all suits, demands, causes of actions, liabilities, claims, losses, costs and expenses related to or arising from or with respect to any injury or damages of whatever nature, including death or damage to property arising out of or related to the negligence or willful misconduct of Concessionaire, its agents, employees, licensees, or contractors, their agents or employees to the full extent that Concessionaire may be liable.

Subject to the provisions of T.C.A. §29-20-101, et seq., Owner shall defend, and, if found liable, be responsible for paying damages arising from third party claims, suits, liabilities and judgments for personal injuries or damages to property caused by negligent or willful misconduct of Owner.

#### 12. INSURANCE

Concessionaire shall include the City as additional insured on all business and property insurance. The Concessionaire and their suppliers, subcontractors, consultants, suppliers, etc. shall not proceed with any work under this Agreement prior to providing, to the City's satisfaction, written evidence of conformance with all insurance requirements set forth herein and Certificates of insurance have been filed with the City. Insurance shall be placed by the Concessionaire with one or more insurance carriers licensed to do business in the State of Tennessee. Each insurance policy shall be renewed **ten (10) days** before the expiration date of the policy. These certificates shall contain a provision that coverages afforded under the policies will not be changed or canceled unless at least **fifteen (15) days'** written notice has been given to the City. **The Contract shall not be binding upon the City until the insurance coverage required herein has been obtained and certificates have been filed with the City.**

All such policies shall be subject to approval by the Office of the City Attorney. Should the City Attorney at any time in his sole discretion determine that the insurance policies and certificates provided may not be sufficient to protect the interests of the City because of the insolvency of the insurance company or otherwise, the Concessionaire shall replace such policies with policies meeting the approval of the Office of the City Attorney.

The Concessionaire shall procure and maintain at his own expense during the term of the Agreement, insurance as hereinafter specified:

1. **Workmen's Compensation Insurance** that shall protect the Concessionaire against all claims under applicable state workmen's compensation laws shall be maintained. The Concessionaire shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of a workmen's compensation law. This policy shall also include an endorsement providing coverage in all states in which work is performed. The Concessionaire shall require all subcontractors to provide similar Workmen's Compensation Insurance for the entire subcontractors' employees on the work unless such employees are covered by the protection afforded by the Concessionaire. The liability limits shall not be less than that required by the statute.
2. **General Public Liability and Property Damage Insurance** that shall be written in comprehensive form and shall protect the Concessionaire against all claims arising from injuries including death, to members of the Public or damage to property of others arising out of any act or omission of the Concessionaire or his agents, employees,



## Standard Form of Agreement Between Owner and Vendor

or Subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the successful proposer to defend and indemnify the City of Chattanooga against such claims or suits.

The general public liability and property damage insurance shall carry an endorsement in form satisfactory to the City to the effect that the Concessionaire shall save harmless the City from any claims and damage whatsoever, including patent infringement. General public liability and property damage insurance shall be kept in force at all times during the term of this Agreement.

- a. The liability limits shall not be less than:
  - i. Bodily Injury           \$500,000 each person  
                                  \$1,000,000 each occurrence
  - ii. Property Damage   \$250,000 each occurrence  
                                  \$500,000 aggregate

3. **Comprehensive Motor Vehicle Liability and Property Damage Insurance** that shall be written in comprehensive form and shall protect the Concessionaire against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

- a. The liability limits shall not be less than:
  - i. Bodily Injury           \$500,000 each person  
                                  \$1,000,000 each occurrence
  - ii. Property Damage   \$100,000 each occurrence

### 13. LIMITATIONS OF RESPONSIBILITY

Concessionaire shall be responsible for: **(1)** means, methods, techniques, sequences, procedures, safety precautions and programs in connection with Services performed under this Agreement, **(2)** the failure of Concessionaire's suppliers, independent consultants, associates, subcontractors, etc. to fulfill contractual responsibilities to the Owner or to comply with federal, state or local laws, regulations, and codes; or **(3)** procuring permits, certificates, and licenses required for any work performed under this Agreement unless such responsibilities are specifically assigned to Owner herein.

### 14. RECORDS RETENTION AND AUDIT PROVISION

Concessionaire shall maintain records of daily sales, receipts, and inventory regarding operations at the Facilities, all in accordance with strict accounting standards. The Owner or its designated Facilities Management Representative may prescribe the form of records to be kept of the Concessionaire in accordance with this provision.

- a. All records relating in any manner whatsoever to the Services performed under this Agreement which are in the possession of the Concessionaire or any of the Concessionaire's suppliers, independent contractors, associates, and subcontractors shall be made available for inspection and copying upon written request to the Owner. Additionally, said records shall be made available, upon request by the Owner, to any state, federal or other regulatory authorities and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all documents, quotations, contracts, vouchers, timesheets, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the actions taken and services performed by the Concessionaire. Said records expressly include those documents reflecting the time expended by the Concessionaire and its personnel to perform the obligations of this Agreement and the records of expenses incurred by the Concessionaire in its performance under said Agreement. The Concessionaire shall maintain and protect these records for no less than **seven (7) years** after the expiration of the Agreement, or for any longer period of time as may be required by applicable law, good professional practice, and upon notice during the pendency of any claims or litigation arising from the Concessionaire's service performed.



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- b. The Owner or its assign may audit all financial and related records (including digital) associated with the terms of the contract or agreement including timesheets, reimbursable out of pocket expenses, materials, goods, and equipment claimed by the Concessionaire. The Owner may further audit any of Concessionaire's records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of the contract or agreement) or to identify conflicts of interest.
- c. The obligations of this Section shall be explicitly included in any subcontracts or agreements formed between the Concessionaire and any subcontractors or suppliers of goods or services to the extent that those subcontracts or agreements relate to fulfillment of the Concessionaire's obligations to the Owner.
- d. Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the Owner unless the audit identifies significant findings that would benefit the Owner. The Concessionaire shall reimburse the Owner for the total costs of an audit that identifies significant findings that would benefit the Owner.
- e. This Section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the Owner may have by Federal, State, or Municipal law, whether those rights, powers, or obligations are express or implied.
- f. The Owner shall be entitled, at any reasonable time, to conduct its own inventory of products and equipment maintained at the facilities pursuant to the formal concessions agreement.
- g. Concessionaire shall establish a separate commercial account at a Chattanooga financial institution, through which all receipts under the Agreement shall be deposited and records of receipts so deposited kept.
- h. Concessionaire shall keep full and complete records of its operations satisfactory to the Facility Management representative. Concessionaire shall submit a written monthly statement to Facility Management no later than the **tenth (10th) day** of each month covering the entire preceding month and shall pay to the Owner the percentage payment due.
- i. In the absence of an Audit by the Owner, the Concessionaire shall submit an annual summary and/or profit-loss statement detailing all transactions over the time period of service and must be submitted no later than **sixty (60) days** after the end of the Agreement year. An independent audit will also suffice for this requirement.
- j. In the event the Owner is not satisfied with the statements submitted by the Concessionaire as provided for herein, the Owner shall have the right to make a special audit, by auditors selected by the Owner, of the books and records required to be made and preserved by Concessionaire. In the event that such audit shows a deficiency in percentage payments for any period covered in excess of **one percent (1%)**, the amount thereof and the cost of the audit shall be paid promptly by Concessionaire.
- k. Concessionaire shall collect and promptly disburse all taxes required by federal, state, and local authorities, and shall pay any applicable taxes relating to food service operations, equipment, and inventory.

### 15. TERMINATION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The nonperforming party shall have **fifteen (15) calendar days** from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party. Owner may terminate or suspend performance of this Agreement for Owner's convenience upon written notice to Concessionaire. If termination or suspension is for Owner's convenience, Owner shall pay Concessionaire for all Services performed prior to the date of the termination notice.

### 16. DELAY IN PERFORMANCE

Neither Owner nor Concessionaire shall be considered in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonconforming party. For purposes of this Agreement, such circumstances include abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, or other civil





## Standard Form of Agreement Between Owner and Vendor

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### 19. WAIVER

A waiver by either Owner or Concessionaire of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

### 20. DISPUTE RESOLUTION

Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to mediation in Chattanooga, Tennessee, in accordance with the following provisions:

- a. The mediation shall be conducted by a mediator mutually acceptable to both parties.
- b. The parties agree to share equally in the expenses of mediation.
- c. Such mediation may include the Concessionaire or any other person or entity who may be affected by the subject matter of the dispute.
- d. Unless the parties agree otherwise, mediation shall be a condition precedent to the exercise of any legal remedy other than a proceeding seeking an immediate injunction or restraining order to protect the rights of a party pending litigation. Notwithstanding the issuance of an injunction or restraining order or the refusal of a court to issue such an order, the dispute shall continue to be subject to mediation.

### 21. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

### 22. INTEGRATION

This Agreement represents the entire and integrated agreement between Owner and Concessionaire. All prior and contemporaneous communications, representations, and agreements by Concessionaire, whether oral or written, relating to the subject matter of this Agreement, as set forth in **Attachment F**, Supplemental Agreements, are hereby incorporated into and shall become a part of this Agreement.

### 23. SUCCESSORS AND ASSIGNS

Owner and Concessionaire each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party of this Agreement and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this Agreement.

### 24. ASSIGNMENT

Neither Owner nor Concessionaire shall assign any rights or duties under this Agreement without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Concessionaire from employing independent consultants, associates, and subcontractors to assist in the performance of the Services; however, other agreements to the contrary notwithstanding, in the event Concessionaire employs independent consultants, associates, and subcontractors to assist in performance of the



**ATTACHMENT A**

Owner: City of Chattanooga, Tennessee

Concessionaire: Food Conquest LLC

**SCOPE OF SERVICES****Facilities and Equipment**

1. Concessionaire shall be provided space for its operation in the Facilities.
2. Concession stands: The Soldiers & Sailors Memorial Auditorium has two (2) fixed and three (3) portable concession stands, the Tivoli Theatre has three (3) fixed concession stands and the Robert Kirk Walker Community Theatre has one (1) fixed concession area.
3. Equipment: Soft Drink Fountains, Coolers, Signage, Ice Chest, Hot Dog Cookers and Pretzel Warmers are all supplied by the product vendor and continued usage must be negotiated between Concessionaire and product vendor or supplied by the Concessionaire. Any property of Owner that is in the Concessionaire's possession shall be maintained by the Concessionaire in good condition and repair and shall be returned to the Owner by Concessionaire upon termination of the contract.
4. Support areas: Space will be provided in the Facilities for support services, preparation and product distribution.
5. Should the Concessionaire's operation require any additional equipment, utility capacity and/or outlets beyond those presently available, the cost of such purchases, installations and hookups will be at Concessionaire's expense. Concessionaire must have written approval from the Facility Management Representative, or authorized personnel to make any such additions.
6. Owner will furnish at its own expense the internet/ telephone lines necessary for credit card sales at all normal stand locations. Additional stands are at the expense of the Concessionaire.
7. The Concessionaire will be required to provide a cash and inventory control and security or POS type system. The Facility Management Representative reserves the right to install a POS System to meet City Audit code, if the Concessionaire systems do not provide the correct method for doing business.



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Owner and Vendor

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**ATTACHMENT B**

Owner: City of Chattanooga, Tennessee

Concessionaire: Food Conquest LLC

**LEASE PAYMENTS**

1. The Concessionaire shall pay to the Owner, monthly payments in an amount equal to **thirty percent (30%)** of gross receipts generated from the sale of the following:
  - a. Concession food and beverages (except alcoholic beverages)
  - b. All alcoholic beverages
  - c. Candy
  - d. Catering food and beverages (subject to show approval)

Such monthly payments shall be based on a calendar month and shall be due and payable on or before the **tenth (10<sup>th</sup>) day** of each month during the term of the Agreement and shall be submitted with supporting documentation including a full accounting of concession operations for the same period on daily event/performance basis.



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## ATTACHMENT C

Owner: City of Chattanooga, Tennessee

Concessionaire: Food Conquest LLC

### Operations and Personnel

1. The public's rights shall not be infringed upon by any activity of the Concessionaire or any of its employees. The activities of the Concessionaire shall be such as to render Services to the public in a dignified manner and no pressure, coercion, or persuasion shall be used by the Concessionaire in an attempt to influence the public to use the services or products of the Concessionaire. All Concessionaire's sales shall be conducted and operated under the supervision of the Facility Management Representative and shall in no way interfere with the orderly operation of any event. The sales shall be conducted at such times from and at locations designated by the Facility Management Representative. Concessionaire and its employees will not distribute campaign or political literature of any kind at any time in the facilities. Notwithstanding the overall and ultimate supervision of facilities activities by the Facility Management Representative, the Concessionaire shall at all times exercise prudent, reasonable, and experienced judgment in the serving of alcoholic beverages. The Concessionaire shall at all times use only qualified and supervised personnel with training and experience in the sale of alcoholic beverages.
2. The Concessionaire shall not advertise in any manner or form, on or about the facilities, except by means of such signs or forms of advertising as may be approved by the Facility Management Representative.
3. The Concessionaire will operate the spaces designated for the purpose of the sale at retail to the public at the facilities, and not for resale, of beverages, food, confections, and sundries in an efficient manner for the convenience and safety of the public during all designated facilities events and at such other times as shall be reasonably required by the Facility Management Representative.
4. Programming for all events requiring the services of the Concessionaire shall be performed by the Facility Management Representative or his or her designee. Any and all programming offered by the Concessionaire utilizing the Facilities shall be accepted and incorporated into the official Calendar of Events, provided that said activities are consistent with the policies of Owner, and provided that said events are not in competition or conflict with Facilities' sponsored events.
5. The Concessionaire shall provide any additional personnel as requested by the Facility Management Representative if it is determined by Owner, at its sole discretion, that the level of service to the public is deemed unsatisfactory.
6. Employee appearance reflects upon both the Concessionaire and the Facility. Employees of the Concessionaire therefore shall at all times be neatly attired in uniforms which will be clean, professional in appearance, and which properly identify the Concessionaire. Uniforms must be consistent in appearance for all employees; blue jeans shall not be part of the uniform and shirts must be tucked into slacks or skirts; standards of uniformity in appearance and quality will apply without exception.
7. All concession employees handling food for public consumption shall be in good health and shall have appropriate credentials from a duly authorized health authorities of Hamilton County, the State of Tennessee, and any other health department having jurisdiction.
8. The Concessionaire shall employ and compensate its own help, vendors, and employees, and all said employees, counter help, or vendors shall meet all the requirements set forth herein and shall be neat and clean in appearance and be courteous toward the patrons, the public, and their fellow employees.
9. All employees of the Concessionaire shall enter and leave the Facilities via the entrance(s) so designated by the Facility Management Representative. Any re-keying of Facilities shall be at the direction of the Facility Management



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- Representative and any unauthorized sharing, copying or otherwise duplicating of keys, proximity cards or other means of access control, or in any way disabling a means of access control for City property will not be permitted.
10. Only those employees actually working shall be permitted in the Facilities without charge. The Facility Management Representative or their designee may request the Concessionaire to remove from the premises any employees observed in the Facilities at events for which they are not working. All working employees must be credentialed for easy identification. Credentials shall be determined in consultation with the Facility Management Representative. At no time will the Concessionaire **or its employees** permit the free entrance of any person not a bona fide employee for such event or events, and no surplus of employees will be permitted for any event. Violations of this policy on the part of either the Concessionaire or its employees will constitute a material breach for which Owner shall be entitled to terminate this Agreement with Concessionaire.
  11. The Concessionaire shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees, including the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under the formal contract agreement by the Concessionaire.
  12. The Concessionaire agrees to fully cooperate with the City in any employee and public safety program sponsored by Facility Management; the Concessionaire agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times.
  13. The Facility Management Representative will provide office space to the Concessionaire.
  14. Soft drinks and alcohol will be served in paper or plastic cups. The use of glassware will be permitted only for catered functions. The Facility Management Representative shall have the right to approve all containers.
  15. Tobacco products and chewing gum will not be sold by the Concessionaire.
  16. The Concessionaire shall not interfere with the free distribution of food or drinks or any other items of any nature whatsoever, where such distribution has been authorized by the Facility Management Representative. Free samples may be given away by or on behalf of or with permission of any person or organization which has properly engaged the facilities at trade shows, cooking schools, exhibitions, and conventions at the discretion of the Facility Management Representative. The Concessionaire will be required to provide or modify operations upon the request of any Licensee, when it has been approved by the Facility Management Representative as in the best interest of the Concessionaire or is necessary to comply with the terms of the Agreement between Owner and said Concessionaire.
  17. The Facility Management Representative, in consultation with Concessionaire, shall issue reasonable rules and regulations for the operation and oversight of the concession, and the Concessionaire shall operate the concession in accordance with such rules and regulations. Final decision as to whether or not alcoholic beverages may be sold at an event shall be determined by the aforementioned rules and regulations. The decision to refuse service of alcoholic beverages to any individual shall be the sole responsibility of the Concessionaire.
  18. The Facility Management Representative shall decide any and all questions which may arise as to the acceptability of services rendered, and as to the manner of performance, and questions which arise as to the interpretation of the conditions and specifications and all questions as to acceptable fulfillment of the Agreement.
  19. Eating while working in view of the public is unacceptable, Concessionaire and the Facility Management Representative will work together to find a suitable location for staff to have breaks and an eating area away from the public view.
  20. At no time are concession employee permitted to solicit autographs, merchandise, or pictures with performers unless they are approached by the performers themselves. They are to act professional and without prejudice for all guests or patrons of the Facilities.



#### ATTACHMENT D

Owner: City of Chattanooga, Tennessee  
 Concessionaire: Food Conquest LLC

#### Maintenance and Clean-up

1. Concessionaire shall maintain in a good state of repair all equipment and small wares used in performance of its duties, including rolling stock, and including maintenance or repair necessitated by ordinary wear and tear.
2. Concessionaire shall replace any equipment damaged beyond repair, or rendered useless by wear and tear, unless, in the sole opinion of the Facility Management Representative, the equipment is unnecessary to the proper functioning of the food service operation. Replacement equipment shall be subject to approval of the Facility Management Representative as to type and similarity to that replaced.
3. The determination of Facility equipment as unusable for its intended purpose and therefore surplus shall be at the sole discretion of the Facility Management Representative and such determination shall be as permitted by law and according to City of Chattanooga purchasing practices and procedures. The Facility Management Representative will coordinate with the Concessionaire for the removal of such surplus equipment from the Facility.
4. The Concessionaire shall maintain all Facilities in a clean, sanitary condition in accordance and consistent with all applicable rules, demands, and requirements of law, pertinent health and sanitary codes; and requirements of duly authorized health authorities of Hamilton County, the State of Tennessee, and any other health department having jurisdiction.
5. Concessionaire in consultation with the Facility Management Representative shall, at its expense, engage and supervise exterminators to control vermin and pests as is necessary. Such extermination services shall be supplied in all areas where food is prepared, dispensed, or stored.
6. For the sake of clarification it is intended that the Concessionaire supply adequate trash and recycling receptacles in the vicinity of service areas, particularly at the condiments locations of regular stands. Trash and recycling receptacles are to be approved by the Facility Management Representative to conform to the interior design of the Facilities.
7. All refuse and waste materials created by the Concessionaire's operation in all public areas, excluding that in fixed seating areas, shall be promptly disposed of after each event at the expense of the Concessionaire. Waste foods shall be kept in closed metal containers until removed from the Facilities. Such removal shall be made promptly during and after any event. The entire area, except seating areas, within a radius of **twenty-five (25) feet** of each stand, commissary, and work area, shall be kept free and clear from all nuisance and damage done to floors, walls, windows, or other property in said radius by reason of operation of said stand. Concessionaire shall employ the necessary personnel before, during, and after the hours of any event to comply with these provisions. Concessionaire shall provide sufficient waste receptacles at each location and make certain that they are kept clean and promptly serviced during and after each event.

**ATTACHMENT E**

Owner: City of Chattanooga, Tennessee

Concessionaire: Food Conquest LLC

**Products to be Sold & Pricing**

1. Concessionaire shall allow customers to purchase concessions products by credit card to include MasterCard and Visa. Fees for credit card sales will be included in product pricing.
2. The Concessionaire shall have the exclusive right, subject to other provision of this Agreement, to sell products of a food and non-alcoholic beverage nature and candy at the Facilities. The final decision as to whether alcoholic beverages may be sold at an event shall be determined in accordance with the aforementioned Rules and Regulations.
3. Concessionaire recognizes that the quality of items sold at the Facilities is a matter of highest concern to the Owner and is of the essence of the Agreement. Concessionaire represents and warrants that all items sold will be of the highest possible quality.
4. The Facility Management Representative agrees to meet with the Concessionaire to review products to be sold and prices to be charged on an annual basis, using the **June 1** of each year of the contract as the beginning for each annual term. Whenever unique economic conditions result in unusual cost increases to Concessionaire, the Facility Management Representative will consider a request by Concessionaire for price changes at times other than the annual date specified above.
5. Concessionaire in consultation with the Facility Management Representative will determine appropriate products and pricing.
6. Concessionaire shall provide products of a quality and at prices at least consistent with similar products presently being offered in other similar facilities. The Facility Management Representative reserves the right to determine whether a particular product complies with the above standard, which right shall be exercised reasonably.
7. In determining quality of product, nature and quality of ingredients will be considered. As an example, a 10/1 hot dog, inferior due to contents, will not be approved.
8. The Owner desires that all local producers of products and local sources of product supply have equal opportunity to compete for the use of their products or services at the Facilities, when these products or services are available on competitive terms and with equal quality.
9. Similarly, the Owner intends to sell advertising and sponsorship packages for display on the premises. Therefore, the Facilities reserve the final right of approval of Concessionaire's sources of supply. The Concessionaire, however, will not be required to purchase from suppliers who level of quality, service, and/or prices are not competitive with the marketplace.
10. All merchandise kept for sale shall be subject to inspection and approval or rejection by the Facility Management Representative during all times that the Concessionaire is in operation. Rejected merchandise shall be immediately removed from the Facilities and shall not be returned for sale.



Standard Form of Agreement  
Between  
Owner and Vendor

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**ATTACHMENT F**

Owner: City of Chattanooga, Tennessee

Concessionaire: Food Conquest LLC

**SUPPLEMENTAL AGREEMENTS**

Owner and Concessionaire agree that the following communications, representations, and agreements by Concessionaire relating to the subject matter of the Agreement are hereby incorporated into and shall become a part of the Agreement.

NONE