

**Borough of Brentwood
Equal Opportunity Employer**

CONCESSION STAND VENDOR

The Borough of Brentwood is accepting proposals for food and beverage concession services at the Brentwood Borough Swimming Pool. The Swimming Pool has a multitude of day use visitors and is the place the community goes to enjoy the 4th of July Fireworks. The concession operator will be responsible for securing all necessary permits, and be in strict compliance with all municipal, county, and state health code requirements.

Scope of Work:

The scope of work applies in order to provide adequate food and beverage concession services during operating hours at the Brentwood Community Swimming Pool. Operating Hours typically occurs on (11am – 8pm) from Memorial Day through Labor Day.

Submittal Requirements:

All submittals must be complete and submitted no later than 1:00 pm on May 3, 2013. Incomplete and late submittals will be rejected. Submittals must be in a sealed envelope or package and clearly labeled “Brentwood Swimming Pool Concession Stand Services” Attention: George Zboyovsky, PE, Borough Manager, Brentwood Municipal Building, 3624 Brownsville Road, Pittsburgh, 15227 and contain the following:

- A. Letter of Submittal providing a history of the concessionaire and services provided to other clients that demonstrates the contractor’s readiness for this service.
- B. Provide a proposed menu and pricing for menu items.
- C. Submit a list of “healthy choice” menu alternatives and pricing. “Healthy choice” menu options include, but are not limited to, low fat food products, fruits, vegetables, salads, yogurts, whole grain products, and low calorie beverage items.

D. Attachment A: Concessionaire must provide references from at least three other clients in the area that have been serviced by their company for at least 2 years.

E. Attachment B: Signed copy of the Contract with the Proposed Amounts included. (A copy of the Contract can be downloaded from the Borough Web Page at www.brentwoodboro.com.)

Additional Information and Questions may be directed to George Zboyovsky, PE, at 412.884.1500.

The applicant does not have to be a Brentwood resident or organization.

Mary Lou Garase
Administrative Assistant

Mlg
Concession Stand Vendor



LEASE AGREEMENT

This LEASE Agreement ("Agreement") is made and entered into this 21st day of **MAY, 2013** by and between the **BOROUGH OF BRENTWOOD**, a Pennsylvania municipal corporation ("BOROUGH") and _____ (collectively referred to as "CONCESSIONAIRE").

WITNESSETH

WHEREAS, the BOROUGH and its Parks and Recreation Committee have, in years past, operated or permitted the operation of a seasonal "Pool Concession Stand" at the Brentwood Park, located in the Borough of Brentwood, Allegheny County, Pennsylvania ("Concession Stand") for the preparation and sale of food and beverages; and

WHEREAS, the BOROUGH finds, based on the recommendation of the Parks and Recreation Committee, that it would be in the best interest of the citizens of the Borough and other users of the Brentwood Swimming Pool to permit the operation of the Concession Stand from **May 25, 2013 to September 02, 2013**; and

WHEREAS, the BOROUGH finds that the CONCESSIONAIRE's operation of the Concession Stand in accordance with its proposal will provide appropriate food and beverage service to citizens of the BOROUGH and other users of the Brentwood Swimming Pool.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

1. Lease. The BOROUGH hereby leases the Concession Stand to the CONCESSIONAIRE and the CONCESSIONAIRE hereby leases the Concession Stand from the BOROUGH for the purposes and under the terms and conditions set forth in this Agreement.
2. Purpose. The CONCESSIONAIRE shall use the Concession Stand solely for the preparation and sale of food and beverages, and shall conduct no other activity in or from the Concession Stand.
3. Term of Lease. The Lease granted in paragraph 1 of this Agreement shall take effect on **May 25, 2013** and shall expire on **September 02, 2013**, provided, however, that the Lease may be terminated prior to September 02, 2013, in accordance with paragraph 9 of this Agreement.

4. Lease Fee and Security Deposit.

- A. Lease Fee. As consideration for the privileges extended under the Lease, the CONCESSIONAIRE shall pay to the BOROUGH the sum of _____ (\$ _____) Dollars (“Lease Fee”), payable in three equal installments of _____ (\$ _____) Dollars due on **May 22nd, 2013, July 1, 2013 and August 1, 2013**, respectively. CONCESSIONAIRE shall make the Lease Fee payment to the BOROUGH at 3624 Brownsville Road, Pittsburgh, PA 15227.
- B. Late Charge. A late charge fee in the amount of Twenty-Five and xx/100 (\$25.00) Dollars shall be assessed if any Lease Fee installment payment has not been received by the BOROUGH on or before the fifth (5th) day after any such Lease Fee installment payment becomes due. Such assessment shall be additional rent and shall not give the tenant the right to further delay the rental payment due beyond the late charge assessment date or waive the right of Lessor to exercise the Lessor’s legal rights under the terms of this lease agreement.
- C. Security Deposit. To secure its performance of the terms of this Agreement, the CONCESSIONAIRE shall deposit with the BOROUGH the sum of **Five Hundred and xx/100 (\$500.00) Dollars** (“Security Deposit”) **due on May 22nd, 2013**. The CONCESSIONAIRE shall not be entitled to any interest earned on the Security Deposit. If the CONCESSIONAIRE fails to pay any installment of the Lease, causes any damage or injury to the Concession Stand, Borough Equipment, Borough Property, or otherwise breaches any term of this Agreement, the BOROUGH shall have the right to apply all or part of the Security Deposit toward the past due installment, to the repair of any damage or injury to the Concession Stand, Borough Equipment, or to the remedy of any other breach of this Agreement. If all or any portion of the Security Deposit is so applied, the CONCESSIONAIRE shall, upon written notice from the BOROUGH, promptly replenish the Security Deposit to its original amount. In the event that any breach of this Agreement by the CONCESSIONAIRE results in damages to the BOROUGH Concession Stand, Borough Equipment, or Borough Property of more than **Five Hundred and xx/100 (\$500.00) Dollars**, the BOROUGH may apply the entire Security Deposit towards such damages, provided, however, that CONCESSIONAIRE shall remain liable for the balance of such damages, and provide further, that this paragraph 4.B shall not be construed as providing for liquidated damages, nor shall it be construed to limit any other rights or remedies which the BOROUGH may have under this Agreement, at law or equity or otherwise. Any portion of the Security Deposit that does not apply to any of the items set forth in this paragraph 4.B shall be refunded to the CONCESSIONAIRE upon the expiration or termination of this Agreement.
- D. Capital Improvements. The BOROUGH may waive the annual Lease Fee should the CONCESSIONAIRE wish to make such capital improvements and/or repairs to the Pool Concession Stand with said capital improvements and/or repairs first being approved by the BOROUGH during a regular advertised monthly Borough Council meeting and said capital improvements and/or repairs being equal to or greater than the _____ (\$ _____) **.00 Dollar** annual Lease Fee.

5. CONCESSIONAIRE Operational Requirements. The CONCESSIONAIRE shall conform its operation of the use of the Concession Stand to the following requirements:
- A. Hours of Operation. The CONCESSIONAIRE shall operate the Concession Stand during the regular operating hours of the Brentwood Borough Swimming Pool as well as times of any event held in the park and/or stadium during the dates identified in Section 3 of this Agreement.
 - B. Sign. The CONCESSIONAIRE may place a sign advertising its operation of the Concession Stand on or adjacent to the Concession Stand, provided, however, that any such sign must conform to all of the BOROUGH's ordinances and requirements, and must be pre-approved by the maintenance staff of the BOROUGH's Public Works Department.
 - C. Business License Permits. The CONCESSIONAIRE shall obtain a license covering its operation of the Concession Stand from the BOROUGH, and shall obtain any other federal, state, or county authorizations or permits necessary for such operations,, including but not limited a health permit from the Allegheny County Health Department as referenced in Paragraph 5(E) of this Agreement. The CONCESSIONAIRE shall present copies of any such authorizations or permits to the BOROUGH prior to be given access to the Concession Stand by the BOROUGH as set forth in Paragraph 6(A) of this Agreement.
 - D. Taxes. The CONCESSIONAIRE shall be responsible for collecting and paying any and all required taxes arising out of its operation of the Concession Stand, including but not limited to, Commonwealth of Pennsylvania Sales Taxes.
 - E. Health Permit. The CONCESSIONAIRE shall obtain an Allegheny County Health Permit and the Concession Stand will be inspected by the Allegheny County Health Department. The CONCESSIONAIRE shall present a health permit to the BOROUGH prior to be given access to the Concession Stand by the BOROUGH as set forth in Paragraph 6(A) of this Agreement. The failure by the CONCESSIONAIRE to obtain a valid health permit as aforesaid will result in closing of the Concession Stand by the BOROUGH until such a time a valid permit is obtained from the Allegheny County Health Department.
 - F. Compliance. The CONCESSIONAIRE's operation of the Concession Stand shall comply with all applicable laws, regulations, ordinances, and orders of any governmental body having jurisdiction.
 - G. Menu. The CONCESSIONAIRE may sell any type of food or beverage at the Concession Stand, with the exception of chewing gum, alcoholic beverages and tobacco products.

- H. Insurance. With respect to operation of the Concession Stand, the CONCESSIONAIRE shall maintain public liability insurance with insurance companies and in a form acceptable to the BOROUGH to afford coverage in the minimum amount of \$500,000/\$1,000,000.00 per occurrence for loss or damage from an accident resulting in death or bodily injury, and in the minimum amount of \$500,000/\$1,000,000.00 per occurrence for loss or damage from an accident resulting in the destruction of or damage to property. The CONCESSIONAIRE shall also name the BOROUGH as additional insured under any policy of insurance that CONCESSIONAIRE maintains pursuant to this paragraph 5.H, and shall provide the BOROUGH with copies of the same. Any public liability insurance policy procured by CONCESSIONAIRE shall include product liability coverage. The CONCESSIONAIRE shall present to the BOROUGH a valid certificate of insurance prior to being given access the Concession Stand by the BOROUGH, as set forth in Paragraph 6(A) of this Agreement.
- I. Workman's Compensation. The CONCESSIONAIRE shall be solely responsible for supplying such Workman's Compensation coverage for its employees as required by applicable law.
- J. Cleaning. The CONCESSIONAIRE shall, during the term of this Agreement, be responsible for keeping the cooking, food distribution areas, and environment surrounding the Concession Stand and all equipment used in the operation of the Concession Stand in clean and sanitary condition.
- K. Equipment. The CONCESSIONAIRE shall be permitted to use any equipment it deems necessary for the operation of the Concession Stand, and shall be solely responsible for the acquisition, operation, use, maintenance and costs thereof.
- L. Employee Conduct. The CONCESSIONAIRE shall assume full responsibility and liability for the acts and conduct of any employees working at the Concession Stand, and shall take such disciplinary measures as may be necessary with respect to such employees.
- M. Adult Supervision. The CONCESSIONAIRE shall at all times have an Adult Supervisor (over the age of 18) at the Concession Stand during hours of operation. This Adult Supervisor shall be responsible for the operation of the Concession Stand, and will be the main point of contact for the BOROUGH.
- N. Deliveries. Deliveries of equipment, food, supplies and other related items shall be limited to the Pool Concession Stand and shall occur at such times and in such a manner as to not cause a disruption to any event that may be occurring at the Swimming Pool, or elsewhere in Brentwood Park.
- O. Concession Stand Maintenance. The CONCESSIONAIRE shall properly maintain the interior and the exterior of the Concession Stand, including the outside areas adjacent to the Concession Stand. The CONCESSIONAIRE shall not be responsible for the maintenance or repair of public utility services.

- P. Repairs/Improvements. If the CONCESSIONAIRE wishes to make any improvements, renovations, or repairs to the Concession Stand, proposals of said improvements, renovations, or repairs must be submitted in writing to the BOROUGH for approval prior to any improvements, renovations, or repairs being made to the Concession Stand. Any such improvements, renovations, or repairs to the Concession Stand will be at the expense of the CONCESSIONAIRE and will be in compliance with all applicable laws, regulations, ordinances, and orders of any governmental body having jurisdiction.
6. BOROUGH Operational Responsibilities. The BOROUGH shall facilitate the CONCESSIONAIRE's operation of the Concession Stand as follows:
- A. Access to the Concession Stand. Upon satisfaction of the obligations of CONCESSIONAIRE as set forth in Paragraphs 5(C), 5(E) and 5(H) of this Agreement, The BOROUGH shall provide the CONCESSIONAIRE with keys to and any alarm code for the Concession Stand. The CONCESSIONAIRE shall return the keys to the BOROUGH upon the termination of this Lease, shall not duplicate or transfer keys, and shall not divulge the alarm code to any persons other than the employees authorized to operate the Concession Stand.
- B. Utilities. The BOROUGH shall supply, at its expense, all electrical, water, and sewer service necessary to the Concession Stand, including the rest rooms and the outside areas adjacent to the Concession Stand. The BOROUGH shall not be liable in damages or otherwise to CONCESSIONAIRE or other third party should the furnishing of electrical power, potable water, or other public utility service be interrupted, postponed, delayed or cancelled for any reason including, but not limited to fire, riot, Act of God, or other cause not under the exclusive control of BOROUGH.
- D. BOROUGH Equipment. The BOROUGH shall furnish the CONCESSIONAIRE with the following equipment for the CONCESSIONAIRE's operation of the Concession Stand: **one (1) Sharp XE-A21S cash register**
- The CONCESSIONAIRE, pursuant to paragraph 5.(J), shall be responsible for keeping the forgoing equipment in clean, sanitary, and in good working condition during the term of this Agreement.
- E. CONCESSIONAIRE's Equipment and Inventory. The BOROUGH shall not be responsible for any damages to or loss of any of the CONCESSIONAIRE's equipment or inventory where such damage results from theft, vandalism, fire, natural disaster, or other cause similarly beyond the control of the BOROUGH.
- F. Inspection. The BOROUGH reserves the right to inspect the the Concession Stand, provided that such inspection shall not unreasonably interfere with CONCESSIONAIRE's operation of the Concession Stand. The right of inspection reserved to the BOROUGH does not impose upon the BOROUGH any obligation to make any such inspection, or to ascertain the condition of the Concession Stand.

7. Indemnity. The CONCESSIONAIRE, at its sole cost and expense, shall be subject to and responsible for any and all liability arising out of the maintenance and use of the Concession Stand. The CONCESSIONAIRE shall indemnify the BOROUGH and hold the BOROUGH harmless from and against any and all loss, cost, claim, injury, death, property damage, judgment, lien or expense relating in any way to personal injury, death, property damage or violation of applicable law arising out of or connected in any way to the CONCESSIONAIRE'S use of the Concession Stand.
8. Assignment or Sub-Concessions. The CONCESSIONAIRE shall neither assign nor transfer any of its rights or obligations under the terms of this Agreement or any interest therein without the prior written consent of BOROUGH. The BOROUGH shall not unreasonably deny such a request. If the BOROUGH shall give its consent to any such assignment, this paragraph shall nevertheless continue in full force and effect, and no further assignment shall be made without the written consent of the BOROUGH.
9. Termination. If it found that the CONCESSIONAIRE is in breach of any term or condition of this Agreement the BOROUGH shall send the CONCESSIONAIRE a "Notice of Default" letter informing the CONCESSIONAIRE of any such breach. The CONCESSIONAIRE shall then have fifteen (15) days from the date of the "Notice of Default" letter to come in compliance with the Agreement. If any such violation of the terms and conditions of this Agreement is not rectified in a timely manner, then the BOROUGH shall have the right to terminate this Agreement.
10. No Interest in Property. The lease granted in Paragraph 1 of this Agreement shall be construed as a personal privilege extended to the CONCESSIONAIRE, and shall not be construed as granting the CONCESSIONAIRE any interest in the Concession Stand or any other real property owned by the BOROUGH.
11. Headings. The headings of the paragraphs of this Agreement are for convenience only; they do not form a part of this Agreement and shall not affect its interpretation.
12. Governing Laws. This Agreement shall be deemed to have been executed, delivered and accepted in the Commonwealth of Pennsylvania and shall be construed pursuant to and in accordance with the laws of the Commonwealth of Pennsylvania.
13. Entire Agreement. This Agreement embodies the entire Agreement and understanding between the parties and there are no other agreements, representations, warranties or understandings, oral or written, between the parties with respect to the subject matter of this Agreement. No alteration, modification, amendment or change of this Agreement shall be valid unless made in writing, signed by the parties hereto.
14. Counterparts. This Agreement may be signed upon by any number of counterparts with the same effects as if the signature to each were upon the same Agreement.
15. Originals. This Agreement may be reproduced by means of carbon, Xerox process or otherwise. Each such reproduction, if manually executed by the parties, shall for all purposes be deemed, and the same is hereby declared, to be a duplicate original of this Agreement.

16. Waiver. No waiver by either party of any breach of any term, covenant or condition hereof shall be deemed a waiver of the same or any subsequent breach of the same or any other term, covenant or condition. No covenant, term or condition of this Agreement shall be deemed waived by either party unless waived in writing.
17. Notice. Any notice provided for herein or given pursuant to this Agreement shall be in writing and served on the BOROUGH and the CONCESSIONAIRE at the following address:

BOROUGH: Borough of Brentwood
 3624 Brownsville Road
 Pittsburgh, PA 15227
 ATTN: George Zboyovsky, Borough Manager

CONCESSIONAIRE: _____

Any notices shall be either (i) personally delivered to the address set forth above, in which case it shall be deemed delivered on the date of delivery to said address; or (ii) sent by registered or certified mail, return requested; or (iii) sent by a nationally recognized overnight courier.

18. BOROUGH Signatories. The signatories for the BOROUGH to this Agreement are signing in their corporate and representative capacities, and shall not be personally or individually liable for the performance thereof.
19. Venue. Any suit brought by a party hereto against the other to enforce the terms of this Agreement shall be brought in the Court of Common Pleas of Allegheny County, Pennsylvania, or within any appropriate magisterial district located within Allegheny County.
20. Assignment and Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the BOROUGH and the CONCESSIONAIRE, provided, however, that no assignment by any party hereto shall be valid without the prior written consent of the other.

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IN WITNESS WHEREOF, the undersigned parties have caused the Agreement to be duly executed.

BOROUGH OF BRENTWOOD

CONCESSIONAIRE

By: _____
Charlie Johnson
Council President

Owner

Date: _____

Date: _____

Attest: _____
George Zboyovsky, PE
Borough Manager

Witness: _____

Date: _____

Witness: _____