



CONCESSIONAIRE LICENSE AGREEMENT

THIS CONCESSIONAIRE LICENSE AGREEMENT is made this 5th day of April, 2022, by and between City of Stephenville, a political subdivision of the State of Texas ("City"), and The Purple Goat, LLC, 2025 E. Washington Stephenville, TX 76401 ("Licensee"). In consideration of the mutual promises stated herein, each of the parties hereto agrees as follows:

SECTION 1. LICENSE

City hereby grants to Licensee a nonexclusive license to: food and non-alcoholic beverage vending during all athletic events and Splashville Aquatics at the Stephenville City Park (the "Premises") in accordance with this Agreement. Refer to Attachment A, attached hereto and incorporated herein by this reference, for exact dates and times of operation, products that will be sold or provided, and prices. The Premises shall be provided "as is", and the City will not provide any funds for capital or other improvements to the Premises.

SECTION 2. DURATION

This Agreement shall commence twelve- month (12) and shall continue in effect until March 5, 2023, unless earlier terminated as provided below.

SECTION 3. LICENSE FEE

The Licensee shall pay the City 20% of total monthly gross sale beginning on May 5, 2022. Licensee shall pay the City, on or before the 5th day of each succeeding month.

If any License Fee payment is more than ten (10) days past due, a ten percent (10%) late penalty shall apply to the balance owing. If any payment is more than sixty (60) days past due, this Agreement shall terminate without further notice to Licensee, and the Licensee shall not be allowed use of the Premises.

SECTION 4. LICENSEE'S DUTIES

1. Licensee and its employees shall comply with all rules and regulations of the City relating to the use of and conduct at the Premises. Licensee and its employees shall comply with all applicable federal, state, and local laws while acting under this license. Licensee shall be liable to the City for loss or damage it or its employees, cause to the Premises during the periods of use of this license.
2. Licensee shall maintain and operate the concession services and products in a commercially reasonable manner.
3. If the Licensee wishes to make capital improvements to a permanent structure, the area surrounding the structure, or wants to construct a permanent or temporary structure, Licensee must propose the improvements or construction to the City's Parks and Leisure Services Department ("Parks") in writing. This proposal must include site plans and specific construction drawings. Parks may approve or disallow the improvements, in its sole discretion. If the proposal is approved by Parks a separate written agreement will be developed between the City and the Licensee. The Licensee will be responsible to apply for and obtain all necessary permits that may be required by the City, County or State Health District or other regulatory agencies. At such time as the Agreement is terminated, any improvements become the property of the City.

SECTION 5. INSURANCE REQUIREMENTS

Maintenance of insurance as required herein shall not be construed to limit the liability of the Licensee to the coverage provided by insurance or to limit the City's recourse.

The Licensee shall obtain and maintain continuously, at its own expense, the following primary insurance appropriate to the activity and necessary to protect the public for the term of the Agreement:

1. *Commercial general liability insurance* including Product – Completed Operations coverage with a minimum limit of \$1,000,000 per occurrence and endorsed to include the City, elected officials, and employees as an additional insured. Claims-made Commercial General Liability insurance will not be accepted.
2. If the scope of services includes activities involving the use of automobile, *automobile liability* insurance for ANY AUTO with a minimum limit of \$1,000,000 combined single limit is required.
3. The Licensee shall provide or purchase *workers' compensation* insurance coverage to meet the Texas State Industrial Insurance regulations and cause any subcontractors working on behalf of the Licensee to also carry such insurance prior to performing work under the Agreement. The City will not be responsible for payment of workers' compensation premiums or for any other claim or benefit for the Licensee its employees, consultants, or subcontractors which might arise under the Texas State Industrial Insurance laws.
4. All insurance shall be placed with insurance carriers licensed to do business in the state of Texas and with carriers subject to approval by the City. The City reserves the right to receive a certified copy of the required insurance policies and to approve all deductibles. Insurance shall not be reduced or canceled without thirty (30) days' prior written notice to the City.
5. Upon execution of this Agreement and within ten (10) days after the bid award, if any, the Licensee shall provide the City with a certificate of insurance outlining the required coverage's, limits and additional insured endorsement. Approval of insurance is a condition precedent to approval of this Agreement by the City's Parks and Leisure Director.
6. Licensee shall obtain all other permits and licenses required by law. By executing this document, the City does not warrant whether any other permits or licenses are necessary.

SECTION 6. HOLD HARMLESS

Licensee shall protect, hold harmless, indemnify, and defend, at its own expense, City, its officers, elected and appointed officials, employees, and agents, from and against any loss or claim for damages of any nature whatsoever, arising out of this license, including claims by Licensee's employees or third parties, except for those damages solely caused by the negligence or willful misconduct of the City its officers, elected or appointed officials, employees, or agents.

SECTION 7. FEDERAL NON-DISCRIMINATION

The City assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration

Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City sponsored program or activity. The City further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

SECTION 8. TERMINATION

In addition to termination by the City as provided in Section 3, above, either party may terminate this Agreement by giving at least ten (10) days' written notice of termination to the other party, except that the City may, at its election, terminate this Agreement at any time if Licensee fails to comply with any of the provisions of this Agreement. City may retain any advanced payments.

SECTION 9. FORCE MAJEURE

If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, epidemic, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

SECTION 10. NON-ASSIGNMENT

The Licensee shall not assign any of the rights, duties or obligations covered by this Agreement without the prior express written consent of the City.

SECTION 11. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Texas and any lawsuit regarding this Agreement must be brought in Erath County, Stephenville, Texas.

SECTION 12. SEVERABILITY

Should any clause, phrase, sentence, or paragraph of this Agreement be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

SECTION 13. ENTIRE AGREEMENT

This Agreement is the complete expression of the terms and conditions hereunder. Any oral or written representations or understandings not incorporated herein are specifically excluded.

EXECUTED THIS _____ day of _____, 2022.

City of Stephenville

The Purple Goat

By: _____
Doug Svien, Mayor City of Stephenville

By: _____
VW & Cynthia Stephens

Date Signed: _____

Date Signed: _____

Address: _____

Phone: _____

Email: _____