



The Corporation of the Municipality of West Grey

**Draft** Durham Ball Diamond – Concession Stand Lease Agreement 2020

Witnesses that in consideration of the agreements hereinafter set forth, the parties hereto agree as follows:

1. **Grant** – The Municipality of West Grey hereby grants to the operator (lessee) the right to use and occupy the concession premises at the pavilion located at the Durham ball diamond for the sole purpose of concession operation.
2. **Exclusivity** – operator shall have the exclusive right to sell food, soft drinks and other cold beverage products at the facilities described in Schedule "A"

This right is subject to the following:

- a. The municipality's right to close facilities for maintenance, improvements or to decommission facilities.
  - b. The public are permitted to bring food and beverage for their personal use to the diamond grounds.
  - c. Renters of public spaces in the facilities may serve food and beverage products to their guests.
  - d. The municipality has the right to grant outdoor food permits for special events/activities.
  - e. The municipality has the right to permit other organizations to sell food and beverages in other areas of the facility as part of a special event.
3. **Payments** – In granting the exclusive right to provide concession services, the operator agrees to pay the municipality a standard rate of \$100.00 per month due on the 1st day of each month. (upon notice of any non-payment or NSF charges the operator shall have 5 days to make payment in full including an NSF fee in accordance with the municipal fees and charges Bylaw.)  
However, given the impact of the COVID-19 pandemic the monthly rental rate will be set at \$25.00 for the 2020 season
  4. **Term** – This agreement will be effective the 1 day of August 2020, to be fully completed on the 30 day of September, 2020.
  5. **Default** – If the operator defaults in the performance of any of its obligations under this agreement, the municipality, after giving three (3) business days written notice, may without prejudice to any other remedy available to it make good any deficiencies. The municipality may invoice the cost to the operator.

6. **Termination** – The municipality may immediately terminate this agreement without cause by notice in writing if the operator becomes insolvent, makes assignment for the general benefit of creditors, vacates or abandons the premises or ceases to carry on business in accordance with this Agreement, or is in default of any term hereof, which shall continue for three days following written notice of the operator. In addition, this Agreement may be terminated upon thirty days written notice given by either party to the other party of this Agreement.
7. **Hours of operation** – The operator must adequately serve the renters of the recreational facilities, as directed by the municipality. Municipal staff will notify the operator of all new bookings as soon as possible. The concession stand may open for other events at their own discretion. The municipality reserves the right to sell food outside of the concession premises to patrons when the operator is closed.
8. **Menu** – The operator shall not sell, alcohol, "near beer", energy drinks, tobacco or cannabis products. The operator will not have/sell food or beverages made at any location outside the concession booth other than an approved kitchen and in this case shall provide proof of the approved kitchen. It is the responsibility of the operator to ensure that at least one certified food handler must be onsite during each hour of operation. (R.R.O. 493/17 s.32).
9. **Equipment** – The municipality will provide the operator with the use of the equipment identified in Schedule A during the term of this Agreement to assist in the provision of the concession services. All other equipment and fixtures required to provide the concession services must be supplied, installed and maintained at the operators sole cost.
10. **Storage** – During the term of lease the operator reserve the right to store needed equipment and supplies within the concession premises. Following termination or completion of the lease the operator must ensure that all equipment and supplies, unless approved by the municipality are removed from the premises. If supplies and equipment are not removed from the premise the operator will be subject to a overholding fee as outlined in section 25.
11. **Alterations and additions** – The operator shall neither alter any part of the area of operation, nor install any fixtures thereto without the permission in writing from the municipality which permission shall not be unreasonably withheld. The operator shall provide the municipality with all relevant plans and drawings respecting any proposed alterations, installations or other improvements to the area of operations upon applying or such permission in writing from the municipality.

12. **Use of the area of operation** – The operator shall not use the area of operation, nor shall it permit others to use the area of operation for any other purpose than the purposes of operating the concession services to provide food and beverage service to facility users.
13. **Standard conditions of the area of operations** – The operator shall keep the area of operation (including seating areas and condiment tables) clean, clear of waste, paper, garbage, combustible materials and obstructions, and shall not cause or permit any noises and odours which would constitute a nuisance to emanate from the area of operation.
14. **Repairs and maintenance** – The operator shall maintain the area of operation and all fixtures, equipment and chattels in a safe, clean and neat condition, and shall maintain all equipment or chattels used in the area in a good state of repair. The municipality acting reasonably may require certain maintenance, repair or replacement in accordance with notice given in writing to the operator. The operators are financially responsible for the maintenance of any municipally- owned equipment that requires repairs due to the misuse by the operator. Where the operator fails to repair, replace or remedy any deficiency within ten business days following the giving of such notice (or if the deficiency is not, within reasonable diligence, capable of being repaired or replaced or remedied within such ten (10) business day period, where the operator fails to commence efforts to remedy such default within ten (10) business days following the giving of such notice and thereafter diligently to pursue such efforts), the municipality may cause the required work to be done either by its own employees or by some other person authorized by the municipality to do so. The reasonable cost of such work shall be recoverable as a debt from the operator, its successors and assigns. This does not preclude the municipality from resorting to any other remedies that it may have at law. The municipality shall, acting reasonably, be the sole judge of the adequacy of the cleanliness, safety and neatness of the concession services and shall have the power to order any changes deemed advisable to ensure this. Upon termination of this agreement, the operator shall leave the area of operation in good repair and in a safe, clean and neat condition, damage by fire or unavoidable casualty and ordinary wear and tear excepted.
15. **Garbage disposal** – All food and beverage products sold shall be single service and sold in a disposable wrapper or container. The operator shall use environmentally sound packaging that meets or exceeds health and safety standards. Where at all possible products shall not be sold in glass bottles or containers.
16. **Licence and taxes** – The operator shall pay all taxes assessed by the taxing authority on the merchandise sold by the operator and on any equipment owned by the operator, sales taxes, business taxes, payroll taxes and any other license or fee incident to the business of the operator.

17. **Indemnity – injury** – The municipality shall not be responsible, in any way, for any injury to any person, including death, or for any loss of or damage to any property belonging to the operator or to employees, invitees or sub-operators of the operator while such person or property is in or about the premises of the building.
18. **Non-liability – damage to the premises** – The operator agrees to pay \$500.00 deductible to the municipality for any damage to the building in which the premises are situated, or its furnishings and fixtures, and any part thereof due to any act of the operator, its agents or employees, or any person attending the said building by reason of the use thereof by the operator.
19. **Insurance** – The operator is required to carry public liability and property damage insurance in a minimum amount of \$2,000,000.00 and shall provide proof thereof to the municipality prior to the commencement of the term of this agreement.
20. **Public health regulations** – The operator shall abide by all regulations of the Grey Bruce Health Unit and provide access for health inspections as required. The operator further agrees to comply with all regulations of the municipality with respect to the handling of garbage and recyclable materials. The operator will provide the municipality with proof of certification.
21. **Advertising and signs** – The municipality has the right of approval of any third-party advertising at the concession booth. A sign satisfactory to and approved by the municipality, acting reasonably, identifying the operator may be displayed by the operator in a location agreed to by municipality. The operator shall not exhibit, other than interior menu and daily menu specials any other signs, notices, paintings, designs or advertising devices, without first having obtained the consent in writing of the municipality.
22. **Complaints** – Any complaints concerning the operation of the concession services which come to the attention of the municipality shall forthwith be communicated to the facility manager and in turn to the operator.
23. **Damage** – In the event that the concession services operation or arena become wholly or partially unusable by any cause whatsoever, for a period of more than seven consecutive days, this agreement will terminate immediately upon notice to the operator.
24. **Assignment** – The operator shall not assign this agreement or part with or share the possession of the area of operation without the written consent of the municipality, and the municipality shall not be bound to give such consent.
25. **Renewal** – This contract may be renewed on an annual basis by mutual written consent of both parties.



## Schedule "A" to bylaw 56-2020

26. **Overholding on a month to month basis** – If the operator remains in occupation of the area of operation after the expiration of the term hereof and without the execution and delivery of a new agreement or any written renewal or extension hereof, there shall be no tacit or other renewal of this agreement and term thereof, and the operator shall be deemed to be occupying the area of operation from month to month at the minimum monthly payment (\$100) payable in advance on the first day of each month.
27. **Right to show or inspect** – The municipality, acting reasonably, shall on 24 hours written notice to the operator have the right from time to time to show or inspect the area of operation during business hours, provided that the business of the operator is not unreasonably disrupted.
28. **Workers' compensation certificate** – The operator shall, prior to execution of this agreement by the municipality, submit a certificate of good standing from the Workplace Safety and Insurance Board to the clerk and shall provide additional certificates as often as is deemed necessary by the municipality during the term of this agreement to ensure good standing with the workers' compensation legislation.

Dated at the Municipality of West Grey, this \_\_\_\_ day of \_\_\_\_\_, 2020.

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Christine Robinson, Mayor

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Genevieve Scharback, Clerk

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Robin Brown, Operator



**Schedule A**

**The Municipality of West Grey ball park pavilion equipment listing**

- ☐ One double deep fryer
- ☐ One single door cooler
- ☐ One double door cooler

Operator Equipment to include but not limited to:

- ☐ One small freezer

Note: The municipality reserves the right to update, amend and/or delete the equipment listing during the term of the agreement.