

2<sup>nd</sup> Annual Kings Drive Art Walk, Charlotte, NC  
CONCESSIONAIRE APPLICATION  
April 28-29, 2012

Important: Fill out this form completely, accurately, & legibly. Incomplete applications will not be considered.  
PLEASE NOTE DEADLINE FOR APPLICATIONS: Feb 1, 2012

BUSINESS NAME: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY, STATE, & ZIP: \_\_\_\_\_

FEDERAL IDENTIFICATION #: \_\_\_\_\_

OFFICE PHONE: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

E-MAIL : \_\_\_\_\_ FAX: \_\_\_\_\_

**TYPE OF VENDING UNIT:** (Note: A pushcart is an unenclosed cart that can be pushed by one person without the aid of a vehicle. If your unit has sides and must be towed and positioned by a vehicle, your unit is a trailer, NOT a pushcart).

**Check One:** Tent \_\_\_\_\_ Push Cart \_\_\_\_\_ Other \_\_\_\_\_

**NO. OF LOCATIONS:** One \_\_\_\_\_ Two \_\_\_\_\_

**UNIT MEASUREMENTS:** (size limit: 10 x 10 x 10) Length: \_\_\_\_\_ Width: \_\_\_\_\_ Height: \_\_\_\_\_

**TOTAL SQUARE FOOTAGE REQUESTED:** \_\_\_\_\_ (Sq. Ft. = Length x Width)

(Important: Measurements must include ALL space needed. Length is side from which selling is done, width is the depth of unit, and height is how high the unit is, including decorations).

**TYPE OF POWER SOURCE USED (Vendor MUST provide silent generators):**

**MENU:** (If more space is needed, attach a separate sheet to application form.)

**ITEM / PORTION SIZE / PRICE (Note that these prices must be posted at the Festival)**

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**TO BE CONSIDERED FOR FESTIVAL IN THE PARK YOU MUST:**

- Meet Mecklenburg County's Department of Environmental Health Guidelines and obtain permit.
- Provide certificates of insurance to the Festival not less than 60 days prior to the setup of area/apparatus, naming ***Festival in the Park and Mecklenburg County Parks & Recreation as Additional Insureds.*** (see: Section II, B - Indemnity and Insurance for amounts needed).
- Obtain permit from Mecklenburg County's Parks & Recreation Department as a qualified food vendor.
- Adhere to North Carolina's Fire Prevention Code.
- **PROVIDE OWN SILENT POWER SOURCE.**
- Submit a statement that you are sole proprietor and have no employees or submit certificate of workers' compensation insurance certificate (see Section II, B, c - Indemnity and Insurance).
- Concessionaire agrees to arrive by 7:30am to position area / apparatus on Saturday, April 28, 2012.
- Pay to *Mecklenburg County Prepared Food and Beverage* a **tax deposit of \$50 by March 15, 2012.**
- Pay to *Mecklenburg County Health Department* a **\$75.00 application fee for each permit** to be reviewed.
- Proper handling / dispensing of waste in accordance with applicable laws and the provisions set forth below. Concessionaire shall be responsible for disposal of all waste.
- Concessionaire shall support and adhere to the Festival's Recycle Program.

# Kings Drive Art Walk, Charlotte, NC

## CONCESSIONAIRE CONTRACT

### April 28-29, 2012

PLEASE NOTE DEADLINE FOR APPLICATIONS: February 1, 2012

This 2012 Kings Drive Art Walk Concessionaires Contract is made and entered into by and between Festival in the Park (Festival) and \_\_\_\_\_ (Concessionaire). This agreement shall become effective upon signing and shall remain in effect until the specified termination date. In consideration of the mutual promises and conditions herein and recognition of Concessionaire's role as an independent contractor and not an employee of Festival, Festival and Concessionaire agree as follows:

#### I. DUTIES OF THE CONCESSIONAIRE:

- A) The Concessionaire shall provide all equipment, electricity (silent generator), water, items and articles necessary for the conduct of business.
- a) The Festival must approve all electrical sources at least one week before the Festival's start date.  
**(SILENT GENERATORS AND SELF-SUFFICIENT SYSTEMS ARE REQUIRED).**
- b) Ice will **not** be available at the Kings Drive Art Walk.
- c) The Festival has an exclusive soft drink and water agreement. Concessionaires are contractually obligated to sell exclusive product during Festival hours. Any logo other than exclusive sponsor must be removed or covered during Festival hours. A concessionaire can purchase the exclusive product from its preferred supplier.
- c) All drinks will sell at the Festival's assigned price.
- B) The Concessionaire shall provide and maintain the necessary inventory required to satisfy public demand. All food products sold or kept for sale by the Concessionaire shall be first class in quality and conform to applicable Federal, State and County laws, ordinances, and regulations in all respects. **Solid flooring is required under all serving areas.**
- C) The Concessionaire is responsible for maintaining a first class appearance of his/her area/apparatus. Less than such first class will not be acceptable. Front/rear/sides must be equally presentable.
- D) The Concessionaire shall not offer for sale any adulterated, misbranded, or impure articles. No items shall be sold in glass containers. All food items shall be stored and handled with due regard to sanitation.
- E) The Concessionaire shall submit a listing of food offered for sale during the term of the contract. **This price must match what is displayed at the Festival.** Include portion size and the price of each product. **The Festival strongly condemns above market prices. Please follow Festival's guidelines on pricing: Entrees: \$6.00 - \$8.00; Side Items: \$3.00 - \$5.00; Combos: \$8.00 - \$10.00; 20oz Bottle Drinks: \$2.00; Tea and Lemonade: \$3.00.**
- F) The Concessionaire shall not sell or distribute tobacco products or alcoholic beverages, including beer, wine, and spirituous liquors.
- G) The Concessionaire shall not sell or distribute any nonfood items. Any concessionaire who does not meet this requirement will be removed from the park grounds immediately.
- H) The Concessionaire is responsible for transporting and eliminating his waste/refuse/unused propane.  
**Under no circumstances should it be released at Sugar Creek Greenway.**
- I) The Concessionaire shall hire, employ and pay the full compensation of all its employees engaged in the provision of aforementioned sales and shall provide Festival, in advance, a complete listing of those employees.
- J) The Concessionaire shall ensure that all employees maintain appropriate attire, including shirts, hats, etc., identifying each worker as an employee of the Concessionaire.
- K) The Concessionaire shall abide by all applicable Mecklenburg County and Mecklenburg County Parks and Recreation Department rules, regulations, instructions, and ordinances. The Concessionaire shall abide by all other applicable laws and regulations.
- L) The Concessionaire shall hold a valid permit from the Mecklenburg County Health Department if food and/or beverages requiring such a permit are to be sold. Concessionaire to provide scaled drawing of unit with application.
- M) If Concessionaire utilizes a tent, it must meet International Fire Code Chapter 24. (Fire Prevention Bureau of the Charlotte Fire Department, contact: Inspector Kevin Starnes at 704-432-5633)
- N) All temporary Concessionaires must pay to *Mecklenburg County Prepared Food and Beverage* a **tax deposit of \$50 by March 15, 2012.** (Contact: Brandi Murray, 700 N. Tryon Street, Charlotte, NC 28202; Phone: 704-432-5144 or 704-432-4200; Fax: 704-336-5020)
- O) All temporary Concessionaires must pay to *Mecklenburg County Health Department* a **\$75.00 application fee for your permit** to be reviewed. This fee is for each location. The Concessionaire shall display the official Health Department Certificate and Festival Vending Permit in full view of the public at all times during the operation.
- P) The Concessionaire shall display a price list of goods sold in full view of the public at all times during the operation.
- Q) The Concessionaire agrees to pay the Festival a \$500 deposit within 3 Days of notification of acceptance and agrees to work under a 75/25 split. Your deposit will be applied towards your 25% split. The Festival's 25% Split is due within two (2) hours after each day of the event's closing. **NO REFUNDS OF ADMITTANCE FEE SHALL BE GIVEN UNDER ANY CIRCUMSTANCES ONCE ACCEPTED.**
- R) The Concessionaire shall not sublease or transfer this contract or vending permit to any other party without prior written permission of the Festival.
- S) The Concessionaire shall notify the Festival's Concessionaire Director of the need to cancel scheduled services at least 30 days prior to the event's dates. Failure to do so could jeopardize your participation in future Festival events.
- T) **The Concessionaire agrees to arrive by 7:30am to position area / apparatus on Saturday, April 28, 2012 at the Pearle Street Bridge.** Due to the narrow window for set-up, earlier or later setup will not be granted without prior written request and consent.
- U) The Concessionaire will not be permitted to operate a motorized vehicle on the grounds of the KDAW. *No overnight parking will be allowed on or surrounding the Sugar Creek Greenway.*
- V) The Concessionaire agrees to conform to all of the Duties of the Concessionaire.
- W) The Concessionaire understands that selection for participation in future Festivals will depend on a merit system based on:
- a) Contract with the County of Mecklenburg Parks and Recreation
- b) Amount of revenue generated
- c) Quality of items sold
- d) Level of cooperation with Festival staff and other concessionaires
- e) Number of consecutive years at Festival events
- f) Number of years at Festival events
- g) Proximity to Mecklenburg County
- h) Special Sponsorship Packages
- i) Attractiveness of area/apparatus
- j) Level of self-sufficiency
- k) Proper handling/dispensing of waste

- X) No Concessionaire will sell nor promote their products beyond their assigned area.
- Y) All Concessionaires shall dispose of sewage, wash water, detergents, oil, cooking grease, or other pollutants in the proper way. (per N.C. General Statute 143-215.1(a). Maximum penalty under this law is \$25,000. per day, per violation)
- Z) All Concessionaires shall support and adhere to the **Festival's Recycle Program**.

**II. INDEMNITY AND INSURANCE**

- A) The Concessionaire shall indemnify and save harmless the Festival and Mecklenburg County and their respective agents, directors, members, agents, and employees and their successors and assigns from and against all losses, costs, damages, expense, and liability arising directly or indirectly from operations, products, or services rendered by Concessionaire or any acts or omissions of Concessionaire, its employees and agents, directly or indirectly under this contract, including, without limitation, any accident or other occurrence resulting in bodily injury, including death, sickness and disease to any person, or damage or destruction to property, real or personal, any violations of law and any taxes owed..
- B) The Concessionaire agrees to purchase and maintain during the term of this contract with an insurance company acceptable to the Festival, and authorized to do business in the state of North Carolina, the following insurance:
  - a) Automobile Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$100,000 each person, \$300,000 each occurrence bodily injury liability and \$50,000 each occurrence property damage liability.
  - b) Comprehensive General Liability Bodily injury and property damage liability insurance from claims, which arise from operations related to this contract. The amounts of each insurance shall not be less than \$2,000,000 bodily injury and property damage liability each occurrence/aggregate. This insurance shall include coverage for products/operations and contractual liability assumed under the indemnity provisions of this contract.
  - c) The Concessionaire shall submit a statement that he/she is a sole proprietor, has no employees and is not required by the State of North Carolina to carry Worker's Compensation Coverage. If the Concessionaire does have employees, the concessionaire shall provide proof of Statutory Workers' Compensation coverage in the form of a certificate of insurance as required in paragraph "d" below.
  - d) The Concessionaire shall provide certificates of such insurance to the Festival not less than 60 days prior to the setup of its area/apparatus, naming **Festival in the Park and Mecklenburg County Parks & Recreation as Additional Insureds and providing that Festival shall be notified 30 days prior to any cancellation of coverage. Failure to provide such insurance may be grounds for termination of this contract. No refunds shall be granted upon such termination.**

**III. RIGHTS RESERVED BY THE FESTIVAL**

- A) The Festival reserves the right to grant, deny or revoke concession contracts and permits before and during the KDAW week-end along Kings Drive.
- B) The Festival reserves the right to select the location(s) at KDAW that the Concessionaire will be permitted to sell his/her product.
- C) The Festival reserves the right to conduct random unscheduled inspections of Concessionaire's vending spaces/apparatus.
- D) The Festival reserves the right to order the removal of any item sold or kept for sale for any reason at any time during the Festival that is judged to be less than first class in quality by the Festival.

**IV. AMOUNT OF CONCESSIONAIRE FEE & METHOD OF PAYMENT**

- T) The Concessionaire shall pay the Festival in the Park a concessionaire deposit of \$500. at the time of acceptance to the KDAW. The Concessionaire shall agree to a 75/25 Revenue Split with the Festival. Your deposit will be applied towards your 25% split. The 25% Revenue Split will be due within two (2) Hours after each closing day of the event. The \$500. deposit will be by either cash or certified check only. **NO DEPOSIT FEE REFUNDS SHALL BE GIVEN UNDER ANY CIRCUMSTANCES. A \$35 fee will be charged for all returned checks.** The Concessionaire shall notify the Festival's Concessionaire Director of the need to cancel scheduled services at least 30 days prior to the event's dates. Failure to notify could jeopardize future participation in future Festival events.

**V. THE TERM OF THE CONTRACT**

- A) The term of this contract shall begin upon its signing by the Festival and continue through April 30, 2012; provided, however that the provisions of Section II above regarding indemnification shall survive termination of this Agreement.
- B) Neither party to this agreement shall be deemed to be in default under this agreement to the extent that such party's performance is hindered or made impossible by an act of God, war, revolution, or insurrection, or other event beyond the control of the party affected (other than the inability to finance its operations under this contract). A party affected by and event of force majeure shall notify the other party of such event and use its best efforts to remedy the situation or reduce the effect of the event of force majeure with all reasonable speed.
- C) The validity, construction and performance of this agreement shall be governed by and interpreted in accordance with the laws of the County of Mecklenburg and the State of North Carolina, without regard to the provisions of conflicts of laws thereof.
- D) This agreement represents the entire understanding of the parties with respect to the subject matter thereof and supersedes all prior oral and written expressions relating hereto. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the other provisions shall not be affected or impaired.
- E) This agreement shall not be effective until signed on behalf of the Festival by the Concessionaire Director and Concessionaire shall have no rights hereunder of any kind until so signed.

**In Witness Whereof, the parties have duly executed this Contract as of the date next below setforth.**

\_\_\_\_\_  
**Signature of Concessionaire/Proprietor** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Printed Name of Concessionaire/Proprietor**

\_\_\_\_\_  
**Signature of Concessionaire Director for Festival in the Park** \_\_\_\_\_  
**Date**

Festival in the Park \* 1409 East Boulevard \* Charlotte, NC 28203  
 704-338-1060 \* e-mail: festival@ FESTIVALinthePARK.org  
 www.FESTIVALinthePARK.org