

**OC FAIR & EVENT CENTER  
CONCESSION RENTAL AGREEMENTS FOR BOARD APPROVAL  
SEPTEMBER 2019**

<b>CONTRACT #</b>	<b>CONTRACTOR</b>	<b>DESCRIPTION</b>	<b>LOCATION</b>	<b>TERM</b>	<b>SPACE SIZE</b>	<b>AMOUNT</b>
19599	Rainbow/Blue and White Concessions	Cotton Candy, Popcorn, Flavored Popcorn, Caramel Apples, Candy Apples, Sliced Caramel Apples, Candy, Licorice, Peanuts, Cracker Jack, Pickles, Soft Drinks, Lemonade, Bottled Water	Green Gate Village Mobile Food Trailer	7/1/2019 to 8/16/2019	15' x 15'	\$2,500.00

REVIEWED \_\_\_\_\_  
APPROVED \_\_\_\_\_

AGREEMENT NO. **19599**  
DATE **June 19, 2019**

**CONCESSION  
RENTAL AGREEMENT**

This agreement is entered into by and between the 32nd District Agricultural Association (OC Fair & Event Center), (the "Association") and **Rainbow/Blue and White Concessions** (the "Renter") (the "Agreement").

Association and Renter are sometimes collectively referred to in this Agreement as the "Parties."

**RECITALS**

1. Renter desires to secure from the Association certain rights and privileges and to obtain permission from Association to use Association premises located at 88 Fair Drive, Costa Mesa, California 92626 (the "Fairgrounds") for only the dates as follows: **7/1/2019-8/16/2019 MONDAYS & TUESDAYS DARK DURING FAIR**
2. NOW, THEREFORE, Association hereby grants to Renter the right to **occupy the space(s) described below** at the Fairgrounds for the purpose set forth in this Agreement, subject to the terms and conditions of this Agreement: **GGV #8** (the "Premises").

**AGREEMENT**

1. The term of this Agreement shall be from **7/1/2019 to 8/16/2019**, (the "Term") Mondays and Tuesdays Dark During Fair. The space number assigned to Renter under the Term of this Agreement is not guaranteed and space selection will be evaluated by Association on an annual basis.
2. Camping space at the Fairgrounds is limited and Association does not guarantee camping space for Renter. Camping space will be assigned on an Association determined operations based, priority need basis. Renters interested in camping space must complete the Camping Space Application, which is available at the Association office.
3. Personal vehicle space at the Fairgrounds is limited and Association does not guarantee space for Renter's personal vehicle at the Fairgrounds during the Term.
4. Renter shall participate in all special promotions scheduled during the OC Fair. If Renter serves soft drinks at the Fairgrounds, Renter shall participate in the Association's OC Fair Refillable Cup Program.
5. The purpose of occupancy shall be limited to (*see attached Products and Services*), and shall be for no other purpose or purposes whatsoever.

<u>Description</u>	<u>Size</u>	<u>Space Type</u>	<u>Amount</u>
Guaranteed Payment	15' x 15'	Mobile Food - Trailer	\$2,500.00

6. Renter agrees to pay to Association for the rights and privileges granted under this Agreement, the amounts and in the manner set forth below: **Guarantee against 25% of Gross Sales (net of sales tax), whichever is greater. Payment of Guarantee is not required in advance of Fair. If Guarantee exceeds 25% of Gross Sales, applicable total to be collected at Final Payment.**

<u>Payment Schedule</u>	<u>Due Date</u>	<u>Terms</u>	<u>Amount</u>
First Payment	8/02/2019	25% of Gross Sales from 7/12-7/28/2019	Payment Calculation
Final Payment	8/12/2019	Greater of 25% of Gross Sales from 7/31-8/11/2019 or Guarantee balance	Payment Calculation

\*Final payment subject to OC Fair audit and adjustment if applicable.  
\*\*Payments postmarked after the due date will be subject to a late fee of \$100

**Signed Rental Agreement and Certificate of Insurance are due on or before July 5, 2019.**

7. Association shall have the right to audit and monitor any and all sales as well as access to the Fairgrounds.
8. To the fullest extent permitted by law, Renter shall defend, indemnify, and hold harmless the State of California, the Association, and their respective agents, directors, and employees (collectively "OCFEC") from and against all claims, damages, losses, and expenses, of every kind, nature and description (including, but not limited to, attorneys fees, expert fees, and costs of suit), directly or indirectly arising from, or in any way related to the performance or nonperformance of this Agreement, regardless of responsibility of negligence; by reason of death, injury, property damage, or any claim arising from the alleged violation of any state or federal accessibility law, statute or regulation, (including but not limited to, the Americans With Disabilities Act, and/or any state, local, successor, or comparable provision of law) however caused or alleged to have been caused, and even though claimed to be due to the negligence of the OCFEC. Provided, however, that in no event shall Renter be obligated to defend or indemnify the OCFEC with respect to the sole negligence or willful misconduct of the OCFEC, its employees, or agents (excluding the Renter, or any of its employees or agents.)
9. Renter represents and warrants that the subject concession, and all materials used in connection therewith, including, without limitation, all graphic and written material, (i) are either owned by or produced by Renter or all required permissions and license agreements have been obtained and paid for by the Renter, and (ii) as far as Renter is aware, are not the subject of any claim for misappropriation or infringement of the trademark, copyright, or other intellectual property rights of any third party.
10. Renter further agrees that Renter will not sell, exchange or barter, or permit Renter's employees to sell, exchange or barter any permits issued to Renter or Renter's employees under this Agreement.
11. The Parties understand and agree that this Agreement, including the privileges granted under this Agreement, or any part thereof, cannot be assigned or otherwise disposed of without the written consent of Association, which consent may be withheld by the Association in its sole and exclusive discretion.
12. The Parties understand and agree that that no alteration or variation of the terms of this Agreement shall be valid, unless made in writing and signed by the Parties, and that no oral understanding or agreements not incorporated in this Agreement and no alterations or variations of the terms of this Agreement, unless made in writing and signed by the Parties, shall be binding upon either of the Parties.
13. The Rules and Regulations included attached to this Agreement are made a part of this Agreement as though fully incorporated herein, and Renter agrees that Renter has read this Agreement, including the attached Rules and Regulations and understands that they shall apply, unless amended under Section 12 of this Agreement.
14. In the event Renter fails to comply in any respect with the terms of this Agreement, including the Rules and Regulations referred to above, all payments for the Premises shall be deemed earned and non-refundable by Association and Association shall have the right to occupy the Premises in any manner deemed by Association to be in the best interests of Association.
15. **Special Provision: By signing this Agreement, Renter agrees to abide by the Commercial Space & Concessions Program Handbook, which is on file with the Association. By this reference, the Handbook is incorporated into and becomes a part of this Agreement.**
16. This agreement is not binding upon Association until it has been duly accepted and signed by its authorized representative, and approved (if required) by the Department of Food and Agriculture and Department of General Services.

This agreement has been **executed in triplicate**, by and on behalf of the Parties, the day and year last below signed.

**Rainbow/Blue and White Concessions**  
**34428 Yucaipa Boulevard, #E-155**  
**Yucaipa, CA 92399**

**32<sup>nd</sup> District Agricultural Association**  
**88 Fair Drive**  
**Costa Mesa, CA 92626**

By \_\_\_\_\_ DATE \_\_\_\_\_  
Title: **Robert Hutchins**

By \_\_\_\_\_ DATE \_\_\_\_\_  
Title: **Michele A. Richards, VP, Business Development**

## RULES AND REGULATIONS GOVERNING RENTAL SPACE

1. No Renter will be allowed to open until all the preliminary requirements herein set forth have been complied with.
2. **Renter will conduct his business in a quiet and orderly manner; will deposit all rubbish, slop, garbage, tin cans, paper, etc. in receptacles provided by the Association within said concession plot for such purpose, and will keep the area within and surrounding said concessions free from all rubbish and debris.**
3. All buildings, tents, or enclosures erected under the term of Rental Agreement shall have the prior approval of Association and the local fire suppression authorities. All eating concessions not restricted to specific items will submit menus and prices to Association for approval at least twelve (12) hours in advance of each day's operation.
4. Renter will furnish Association with a list of all sales prices and other charges of any kind whatsoever to be charged by the Renter in said space(s).
5. Renter must furnish receipts for license fees, tax deposits, insurance, etc., prior to event.
6. Renter will conduct the privileges granted in the Rental Agreement according to all the rules and requirements of the State Department of Health Services and local health authorities, and without infringement upon the rights and privileges of others; will not handle or sell any commodities or transact any business whatsoever for which an exclusive privilege is sold by Association, nor engage in any other business whatsoever upon or within said premises or fairgrounds, except that which is herein expressly stipulated and contracted for; will confine said transactions to the space and privilege provided in the Rental Agreement, and that any and all exclusives granted Renter shall not include the Carnival and the Carnival Area.
7. Renter will cause to be posted in a conspicuous manner at the front entrance to the concession, a sign showing the prices to be charged for all articles offered for sale to the public under the Rental Agreement; the size of said sign, manner and place of posting to be approved by Association.
8. Association will furnish necessary janitor service for all aisles, streets, roads and areas used by the public, but Renter must, at his own expense, keep the concession space and adjacent areas properly arranged and clean. All concessions must be clean, all coverings removed, and the concession ready for business each day at least one hour before the Fair is open to the public. Receptacles will be provided at several locations to receive Renter's trash, and such trash must not be swept into the aisles or streets or any public space.
9. All sound-producing devices used by Renter within or outside his space must be of such a nature and must be so operated as not to cause annoyance or inconvenience to his patrons or to other Concessionaires or Exhibitors and the decision of Association as to the desirability of any such sound producing device shall be final and conclusive. Sound-amplification equipment may be installed within or outside any space only by first obtaining written permission thereof from Association.
10. Renter agrees that there will be no games, gambling or any other activities within the confine of his space in which money is used as a prize or premium, and that he will not buy and/or permit "buy backs" for cash, any prizes or premiums given away to patrons in connection with the use of the space. Only straight merchandising methods shall be used and all methods of operation, demonstration and sale shall be subject to the approval of the Association and the local law enforcement officials.
11. Renter is entirely responsible for the space allotted to Renter and agrees to reimburse Association for any damage to the real property, equipment, or grounds use in connection with the space allotted to Renter, reasonable wear and tear and damage from cause beyond Renter's control excepted.
12. Association may provide watchman service, which will provide for reasonable protection of the property of Renter's, but Association shall not be responsible for loss or damage to the property of Renter.
13. Each and every article of the space and all boxes, crates, packing material, and debris of whatsoever nature used in connection with the space and owned by Renter must be removed from the buildings and grounds by Renter, at his own expense, no later than a date specified by Association. It is understood in the event of Renter's failure to vacate said premises herein provided, unless permission in writing is first obtained. Association may and is hereby authorized and made the agent of Renter to remove and store the concession and all other material of any nature whatsoever, at the Renter's risk and expense, and Renter shall reimburse Association for expenses thus incurred.
14. No Renter will be permitted to sell or dispose of anywhere on the Fairgrounds alcoholic beverages as defined in the Alcoholic Beverage Control Act, except in the concession space. Even such limited sales are not to be made unless Renter is authorized in writing by Association and unless he holds a lawful license authorizing such sales on said premises.
15. All safety orders of the Division of Industrial Safety, Department of Industrial Relations, must be strictly observed.
16. Failure of Association to insist in any one or more instances upon the observance and/or performance of any of these rules and regulations shall not constitute a waiver of any subsequent breach of any such rules and regulations.
17. This Rental Agreement shall be subject to termination by either party at any time during the term hereof by giving the other party notice in writing at least 30 days next prior to the date when such termination shall become effective. Such termination shall relieve the Association of any further performance of the terms of this Agreement.
18. Renter, by signing this contract, does swear under penalty that no more than one final unappealable finding of contempt of court by a Federal court has been issued against that contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board (Government Code Section 14780.5) (SAM Sec. 12127).
19. Renter recognizes and understands that this rental may create a possessory interest subject to property taxation and that the Renter may be subject to the payment or property taxes levied on such interest.
20. The Association shall have the privilege of inspecting the premises covered by this Agreement at any time or all times.
21. The parties hereto agree that Renter, and any agents and employees of Renter, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Association.
22. Time is of the essence of each and all the provisions of this Agreement, and the provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

Hazardous Agreements: If this Agreement provides for a hazardous activity, the current Form FE-13, Statement Regarding Insurance, must be attached to each copy.

**By state law and in the interest of public health, smoking shall not be permitted in or within 20 feet of any State of California building, including the Santa Ana Pavilion area, OC Promenade area, Centennial Farm, Kidland carnival area, the Livestock area, Pacific Amphitheatre seating area, and Arena grandstand and bleacher seating areas. This policy includes the use of electronic cigarettes, vaporizers and oil/wax pens.**

**During OCFEC-produced events (i.e. OC Fair, Imaginology) smoking and the use of electronic cigarettes, vaporizers and oil/wax pens is prohibited.**

**Rainbow/Blue and White Concessions**

Location/Space: Green Gate Village #8

Agreement No: **19599**

Date: June 19, 2019

Cotton Candy

Popcorn

Flavored Popcorn

Caramel Apples with or without nuts

Candy Apples with or without nuts

Sliced Caramel Apples with or without nuts

Cracker Jack®

Sour Punch®

Licorice

Peanuts

Pickles

**Beverages:**

Soft Drinks

Lemonade

Bottled Water