

CITY OF DAPHNE
PRIVATE VENDOR AGREEMENT
ATHLETIC FACILITIES



THIS VENDOR AGREEMENT (this "Agreement") is made and entered into by and between the City of Daphne, a municipal corporation of the State of Alabama (the "City"), and _____ (the "Vendor"). The City and Vendor are sometimes referred to individually as a "Party" and collectively as the "Parties." Upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Premises.** For and in consideration of the covenants and agreements herein entered into and agreed upon by the Vendor as obligations to the City, the City hereby licenses the Vendor, subject to the terms and conditions contained herein, to operate on City of Daphne Facilities.
2. **Term.** This agreement shall commence upon execution of this agreement and is only valid for dates agreed upon by both parties and printed at the bottom of the contract.
3. **Fees and Reporting.** Vendor agrees to pay City an amount equal to ten (10) percent of all gross sales. Percentage fees shall be paid to the City no later than ten (10) calendar days following the close of the month. Vendor shall be responsible for filing a monthly report which, at a minimum, must detail gross sales by day. The Percentage Fee payment and monthly report shall be submitted to the City of Daphne Sports and Recreation Department (2605 Hwy 98).
4. **Records.** The City shall have the right at all times to examine Vendor's books and records and verify gross sales paid for Percentage Fees. Any errors or omissions shall be adjusted. The Vendor must have and display at event a current City of Daphne Business License. A copy of the Vendor's business license must be submitted to Sports and Recreation Dept. prior to arriving on site.
5. **Use.** The Vendor shall only sell food, beverages, and such refreshments as are usually incidental to a concession stand, but specifically excluding any alcoholic beverage or tobacco products. All food/merchandise sold must be approved by City of Daphne Sports and Recreation Director. Further, Vendor shall not offer or sell any unlawful, improper, or offensive merchandise. A complete list of all products to be sold must be approved by City of Daphne Sports and Recreation Director prior to arrival on City property.
6. **Rights and Duties of Vendor.** Vendor agrees to the following:
 - a. Conduct business as not to interfere with other uses or activities on the property.
 - b. Comply with all local, state and federal laws, rules, regulations, orders, guidelines, and/or directions, including, but not limited to, (i.) all guidelines regarding food preparation and storage by the Alabama Department of Public Health and the Baldwin County Health Department; and (ii) the collection and payment of sales taxes and payroll taxes.

- c. Vendor will not leave anything on City property over night without prior approval from City of Daphne Sports and Recreation Director.
- d. Ensure the appearance of Vendor area, conduct and appearance of personnel reflect the family friendly nature of the City.
- e. If frying food, all oil must be disposed of properly.
- f. Refrain from advertising or soliciting any third-party business without prior written permission from the City of Daphne. No signs (including menu signs) or banners without City approval.
- g. Not employ any persons with a felony conviction, child safety, child abuse, or any child related charges who would be associated with this awarded contract.

7. Rights and Duties of the City. The City shall agree to the following:

- a. Have the right to screen Vendor employees for felony convictions.
- b. City is not responsible for loss of earnings, income or sales for utility failure, weather events, vandalism, cancellations, rescheduling, or any other reason.
- c. City has the right to determine where Vendor may set up at each facility. This must be approved prior to Vendor arriving on site.

8. Cancellation: This agreement is only valid for the dates agreed upon and listed below.

- a. Failure of the Vendor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Daphne. In the event the Vendor breaches any term of the Agreement, or violates any local, City, County, State or Federal laws applicable to its operations hereunder, the City may terminate this Agreement immediately.
- b. Notwithstanding the foregoing, the City may, at its sole discretion, order the Vendor to cease operations immediately at any time without terminating the contract should the Director/City-appointed personnel determine operations are detrimental to public safety, health, or welfare, but curable within a reasonable time by the Vendor.

9. Indemnification. The Vendor shall indemnify and hold harmless City of Daphne and their agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from; and is caused in whole or in part by any negligent or willful act or omission of the Vendor and anyone directly or indirectly employed by him/her or anyone for whose acts any of them may be liable. In any and all claims against City of Daphne or any of their agents or employees, by any employee of the Vendor, directly or indirectly employed by him/her, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the successful Bidder or under the Workers' Compensation Acts, Disability Benefits Acts or other employee benefits acts.

10. Laws and Regulations. The Vendor attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The Vendor shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over

same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to City of Daphne.

11. Assignments. The Vendor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Daphne. In case the Vendor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any monies due or to become due to the Vendor shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.

12. Miscellaneous.

- a. All actions, whether sounding in agreement or in tort, relating to the validity, construction, interpretation, and enforcement of this agreement shall be instituted and litigated in the courts of the State of Alabama.
- b. Upon agreement by both parties, this agreement may be amended if the City determines that such amendment will benefit the operation of concessions. Such amendment may only be upon mutual written agreement signed by all parties.

Date(s) of Event	Times Vendor will be on site
Facility	Exact Location at Facility
Contact Person Name	Contact Person Cell Number
Mailing Address, City, State, Zip	
Contact Person Signature	City of Daphne Sports & Recreation Director
Date Signed	Date Signed

CITY OF DAPHNE
PRIVATE VENDOR SETTLEMENT SHEET
ATHLETIC FACILITIES



Athletic Facility _____

Contact Person Name _____

Event Date:	Total Gross:	Less Tax (9.5%) 2.5% City/4% AL/3% BC	After Sales Tax:	Total/10% Due:
			Total:	

THIS FORM MUST BE COMPLETED AND RETURNED WITH PAYMENT BY THE 10TH DAY OF THE MONTH.

CITY OF DAPHNE USE ONLY

Total Amount Received: _____ Receipt #: _____

Method of Payment (check one):

Check (Check #: _____) Money Order (#: _____) Other: _____

Employee Authorization

Date

(version Sept 2021)