

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 4 January 2010

SUBJECT: Renewal of participant fee and concession agreement with Henderson County Youth Baseball

ATTACHMENT(S): Draft extension
Existing contract

SUMMARY OF REQUEST:

Parks and Recreation Department staff and Henderson County Youth Baseball recommend renewal of the existing agreement (attached) for a period of two additional years, through the end of 2011.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the Renewal Agreement.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the Renewal Agreement with Henderson County Youth Baseball attached to this agenda item.

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

RENEWAL AGREEMENT

This Renewal Agreement is made this the _____ day of _____, 2010, by and between Henderson County, a body corporate and politic ("the County"), and Henderson County Youth Baseball, a North Carolina Non-Profit Corporation ("HCYB").

Facts and Circumstances

1. The County and HCYB on 14 April 2009 entered into an Agreement for the operation of a concession stand in the County's Jackson Park facility.
2. The County and HCYB wish to extend their agreement, on the same terms and conditions, through the end of 2011.

Agreement

The Agreement between the parties, dated 14 April 2009, is hereby extended on the same terms and conditions, for and including calendar years 2010 and 2011.

Agreed to and entered the date first above written.

HENDERSON COUNTY

HENDERSON COUNTY YOUTH BASEBALL

By: _____
Chairman, Board of Commissioners

By: _____
President

Attest:

Secretary to the Board

Corporate Secretary

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

AGREEMENT

THIS AGREEMENT is made this the 14 day of April, 2009, by and between Henderson County, a body corporate and politic ("the County"), and Henderson County Youth Baseball, a North Carolina Non-Profit Corporation ("HCYB").

Facts and Circumstances

1. For many years, HCYB has provided baseball leagues for the youth of Henderson County.
2. For many years, HCYB has utilized the facilities of the County's Jackson Park facility ("the Park") for some or all of the leagues it provided.
3. The County has charged HCYB (as well as other non-profit users of the Park) for its use of the Park.
4. HCYB has approached the County for certain relief in the amount or nature of the charges assessed by the County, due to the escalating costs of participation.
5. HCYB and the County have reached agreement, as these "Facts and Circumstances" explain the consideration for, as stated below.

Agreement

WHEREFORE, IT IS AGREED that the County shall allow HCYB the use of the concession stand identified below and HCYB shall operate the concession stand identified below at the times and on the conditions shown below:

1. Participant Fees:
 - A. HCYB shall pay to the County a fee of Ten Dollars (\$10.00) per participant in each of its two annual seasons. These fees shall be due to the County by not later than fifteen (15) days after the beginning of each such season.
 - B. However, HCYB may provide up to ten (10) participant "scholarships" each calendar year, removing from HCYB liability for the up to ten (10) participant's fees to the extent that HCYB allows at least the same number of participants exemption from any participation or other fees. (The purpose of this provision is not to limit the number of "scholarships" provided by HCBY, but merely to limit the County's provision of its facilities without charge.)
2. Concession Stand ("the Concession Stand"): The sole concession stand which is the subject of this Agreement is located in the Park and immediately adjacent to (and contains the scorer's box for) Field 2.

3. Seasons and Days of Operation:

A. HCYB shall operate the Concession Stand" on the days and during the customary seasons in which HCYB operates and sponsors organized games or playoffs (including HCYB sanctioned all-star and youth baseball tournaments) at the Park (such customary seasons known herein as "the seasons"). Should HCYB fail to operate the Concession Stand during the seasons on the days upon which it operates and sponsors games or playoffs (including HCYB sanctioned all-star and youth baseball tournaments), it will be in breach of this Agreement, and the County may elect to terminate any obligations hereunder to allow HCYB to operate the Concession Stand.

B. HCYB may also elect, in its discretion, to operate the Concession stand, during the seasons, on days in which the County has scheduled non-HCYB games or tournaments, on the terms stated below:

1. The County must first give the HCYB fifteen (15) days notice of such date(s).

2. HCYB must notify the County within seven (7) days of the receipt of such notice as to whether it will operate the Concession Stand on such date(s). HCYB may in its discretion notify the County that it elects not to operate the Concession Stand on such date(s) as specified in the County's notice, without penalty. However, should HCYB notify the County that it elects to operate the Concession Stand on such date(s) and fail to do so, such failure will be treated as a breach of this Agreement, and the County may elect to terminate any obligations hereunder to allow HCYB to operate the Concession Stand.

3. On such days as HCYB shall operate the Concession Stand, it shall be open between the hours of 5:00 p.m. and the end of the last HCYB-sponsored game(s) on weekdays, and between the beginning of the first HCYB-sponsored game(s) and the end of the last HCYB-sponsored game(s) on weekend days and evenings. The Concession Stand shall not be operated on Sundays without additional written permission from the County except on those Sundays for which the County has given HCYB the notice required by Paragraph 3.B.1, above.

4. Access: HCYB shall have exclusive access to the Concession Stand during the seasons, subject to reasonable rights of inspection on behalf of the County. HCYB shall store any inventory for the Concession Stand in its own storage facility. During the periods of the year other than the seasons (during which periods the Concession Stand may be operated by the County or its designee), HCYB shall remove all of its inventory and other personal property from the Concession Stand.

5. Equipment: The Concession Stand has located within it certain equipment (including cooler and coffee-maker) belonging to Pepsi-Cola Bottling Company of Hickory,

N.C., Inc. The County shall have no responsibility for the proper operation of such equipment, or for any damages as a result of its failure.

6. Operating Rules:

A. HCYB shall comply with all rules of the Park, and with all applicable regulations for public health and sanitation (including any applicable inspections).

B. HCYB shall be solely responsible for supervising the conduct of its representatives in the operation of the Concession Stand to insure all the terms of this Agreement are kept.

C. HCYB shall maintain the Concession Stand in a neat and clean manner. Any spills shall be thoroughly cleaned, floors are to be swept and washed, and all counters and equipment cleaned. Any garbage shall be brought to appropriate receptacles. New garbage bags shall be installed in each garbage can.

7. HCYB shall supply all inventory for sale, and shall also supply all needed utensils, coolers, food products and supplies.

8. Use of Proceeds from the operation of the Concession Stand:

A. Proceeds from sales at the Concession Stand shall be used first to pay the cost of any inventory sold at the Concession Stand. The proceeds from sales at the Concession Stand remaining after payment of the cost of inventory sold at the Concession Stand are "the net proceeds".

B. The net proceeds, if any, remaining after payment of the participant costs, shall first reimburse HCYB for the Participant Fees paid to the County pursuant to Paragraph 1, above. Remaining net proceeds, if any, shall be used for the benefit of participants in youth baseball. HCBY must have approval from the County prior to undertaking any improvements or changes to the Park.

9. Term: This lease shall be for calendar year 2009.

Agreed to and entered the date first above written.

HENDERSON COUNTY
BASEBALL

By: [Signature]
Chairman, Board of Commissioners

Attest:

Elizabeth W. Corn
Secretary to the Board

HENDERSON COUNTY YOUTH

By: [Signature]
President

Attest:

[Signature]
Corporate Secretary

