

FIRST READING: 3-27-23
SECOND READING: 4-3-23
THIRD READING: 4-10-23

ORDINANCE NO. 21-23

BY: JOHN B. SHEPHERD

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SAFETY SERVICE TO ENTER INTO A TWO (2) YEAR LEASE AGREEMENT FOR CONCESSION SERVICES WITH LAKE ROAD MARKET FOR THE CITY OF ROCKY RIVER RECREATION DEPARTMENT AT VARIOUS LOCATIONS, AS FURTHER DESCRIBED IN EXHIBIT "A"

WHEREAS: the Director of Recreation requested proposals with pricing for concession services at the Hamilton Ice Arena, Outdoor Municipal Pool "Water Zone", and the Don Umerley Civic Center; and

WHEREAS: one (1) proposal was received on February 3, 2023 from Lake Road Market; and

WHEREAS: the Director of Recreation has determined it to be in the best interest of the City of Rocky River to enter into a two (2) year lease and operating agreement beginning June of 2023 through May of 2025, with an option to renew the contract on a one, two or three year basis with Lake Road Market, 20267 E. Lake Road, Rocky River, Ohio 44116; contractor will pay the City of Rocky River Nine Thousand Four Hundred Fifty Dollars and 00/100 (\$9,450.00) for each of the two years of this agreement, as further described in Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROCKY RIVER, COUNTY OF CUYAHOGA, STATE OF OHIO:

SECTION 1. That the Mayor and Director of Public Safety Service are hereby authorized to enter into a two (2) year lease and operating agreement beginning June of 2023 through May of 2025, with an option to renew the contract on a one, two or three year basis with Lake Road Market, 20267 E. Lake Road, Rocky River, Ohio 44116, the contractor will pay the City of Rocky River Nine Thousand Four Hundred Fifty Dollars and 00/100 (\$9,450.00) for each of the two years of this agreement, as further described in Exhibit "A".

CONCESSION AGREEMENT

THIS AGREEMENT is entered into by and between **LAKE ROAD MARKET** (hereinafter designated the "Contractor") and the **CITY OF ROCKY RIVER**, 21012 Hilliard Blvd, Rocky River, OH 44116 (hereinafter designated the "CITY");

WITNESSETH, that in consideration of the City choosing with the Contractor for food concession services for the Hamilton Ice Arena, Outdoor Municipal Pool "Water Zone", the Summer Camp Lunch Program and the Don Umerley Civic Center (Recreation), from June 2023 until May 2025, and for the money considerations provided herein, the parties covenant and agree as follows:

1. A food concession service operation of good quality will be furnished exclusively by Contractor at the above seasons.
2. The Contractor shall operate the concessions stand daily during designated hours (and be available for private parties and special events held at the facilities when/if agreed upon). Any private parties must be approved by the City and shall be booked through the Contractor and Recreation Department. The days and hours of private parties shall be agreed to by the City and the Contractor. Private parties properly booked shall take priority over any other use of the party room, but may not be limited to exclusivity except for food service needs. Applying a standard of reasonableness, Recreation Department Management and the Contractor must permit individuals in private parties to bring in food and beverages.
3. Weather and sales figures permitting, concessions stand shall be opened throughout agreed up on hours and special events. The day to day decision to open or close shall be made by Department Management. This agreement shall take effect on the date it is signed by the Contractor and agreed upon by the City and shall run through the last day the ice rink is open for the 2025 season.
4. The Contractor shall be responsible for hiring, staffing, having properly credentialed supervision, paying, ordering and receiving food supplies. In addition, the Contractor shall maintain staffing and inventory at appropriate levels to accommodate daily attendance ranging from an average of seven hundred (700) to a peak of one thousand four hundred (1,400) people per day during outdoor pool season. Also, the Contractor agrees to provide background check information to the City for all staff ages 18 and over.

5. The Contractor shall pay the City monthly payments as follows:

June	\$1,200.00
July	\$1,200.00
August	\$1,200.00
September	\$650.00

December	\$650.00
January	\$650.00
February	\$650.00
March	\$650.00
April	\$650.00
May	\$650.00

Payment shall be made no later than the 5th of each month to be applied for the next month. (i.e.: January rent due no later than January 5th). Payments are to be submitted directly to the Recreation Department Administrative Office (21018 Hilliard Blvd., Rocky River, OH 44116)

6. The Contractor shall also furnish the Director of Recreation with monthly reports of gross and net sales not later than 15 days following the end of the month and season on forms approved by the City.
7. The City and the Contractor agree to provide equipment to be used for operation of concession spaces throughout the Department. Equipment purchased by the Contractor remains the property of the Contractor. Equipment purchased by the City remains the property of the City. The City agrees to address current operationally necessary upgrades to equipment and spaces.
8. These items are being provided "as is" in their existing, used condition. The City will be responsible for repair and/or replacement of its own equipment unless misuse is found to have occurred. The Contractor shall also be required to provide, at the Contractor's cost, additional needed equipment.
9. The City shall be entitled to cancel or implement penalties for non-performance as specified above in this agreement upon giving written notice to the Contractor of its failure to comply with any of the provisions of this Contract or to furnish satisfactory service in such concession operation. The Contractor shall be given seven (7) days to cure any breach upon receipt of said written notice. The Contractor shall be entitled to cancel this Contract upon giving written notice to the City of its failure to comply with any of the provisions of this Contract. The City shall be given seven (7) days to cure any breach upon receipt of said written notice. Written notice to the parties under this paragraph shall be by certified mail to their address as listed in this agreement.
10. The Contractor shall be responsible for the maintenance and cleanliness of the concession kitchen and eating areas, including tables and waste containers in accordance with all state and local laws and regulations governing the sale and service of food to the general public. During extremely busy times, the Contractor may request assistance from the Recreation Department staff in keeping the area clean. Contractor shall not be responsible for emptying trash cans or general clean-up in areas outside their immediate control, i.e., the concessions area or the pavilion when they are catering a function therein.
11. No Department Staff or City employees (with the exception of Police, Fire, and the

Recreation Management) will be permitted to have a key or codes to the concession area. Additional keys will be available for Contractor's use during the specified season. All keys will be returned to the City at the end of the contract. Except for emergency or health/safety inspections, no City employees will be permitted to enter the concession spaces without prior permission from the Contractor once the stand has been stocked with product and equipment. Access to allow unanticipated product delivery is permissible. Contractor will be notified that such delivery is occurring. Nothing in this Agreement shall limit or condition the City in its enforcement of Health, Fire and Building Codes and any other laws.

12. The City agrees to be responsible for spraying the concession stand for bugs and rodents prior to occupancy by the Contractor.
13. The Contractor will be responsible for all aspects of point of sale systems, separate network controls and fees associated with each. The City will not permit use of City networks, switches, etc.
14. The Contractor may charge a reasonable mark-up over cost. It is the intention of the City to make available to the public the highest quality service with a reasonable profit to the Contractor which will justify the Contractor's investment and expenses. All prices of all items for sale shall be posted in full and open view of the public. Prior to publicly posting the menu offerings and pricing, the contractor will provide the City with the same for its acceptance. No intoxicating beverages or tobacco products of any kind shall be kept, sold, gifted or used in or about the premises.
15. The Contractor will supervise the operation on-site with adults over the age of eighteen (18). Concession employees will be fifteen (15) years of age or older. The Contractor shall comply with all federal, state and local laws, as well as with department policies, relating to supervision, food operations and the employment of minors.
16. The Contractor shall protect, indemnify and save the City harmless from and against all liabilities, damages, losses, claims, actions, costs and expenses of any nature resulting from injuries or damages to persons or property on or about the Premises arising from the sale of food or operation of the food concession service in any manner connected with the use, condition or occupancy of the concessions area by the Contractor or any act or omission of the Contractor, its agents or employees. Unless waived or modified by the Law Director, the Contractor shall furnish to the Director of Recreation with proof of a comprehensive general liability insurance policy and products liability or completed operations insurance in at least the amount of One Million Dollars (\$1,000,000.00), and shall cause the City to be named as an additional insured on the policy. Contractor shall provide renewal certificates of same to appropriate Recreation Management personnel.
17. The City shall be responsible for and pay the Cuyahoga County General Health Department fees.
18. The City shall have an option to renew this Contract on a one, two or three year basis

based upon satisfactory performance by the Contractor.

19. This Contract shall be deemed made and entered into in the City of Rocky River, Cuyahoga County, State of Ohio and shall be governed by and construed in accordance with the laws of the State of Ohio, Rocky River Codified Ordinances and Regulations of the Cuyahoga County Board of Health. Any controversy or claim, whether based upon Contract, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Contract, whether between the parties, or of either of the parties' employees, agents or affiliated businesses, will be resolved in the appropriate court in Rocky River, Ohio.

IN WITNESS WHEREOF, the parties have set their hand to this Contract on the dates next to their respective signatures.

Signed in the presence of:
Witnesses:

CONTRACTOR: LAKE ROAD MARKET

By: _____

Printed Name: _____

Title: _____

Tax ID No.: _____

Date: _____

CITY OF ROCKY RIVER

By: _____

Pamela Bobst, Mayor

Date: _____

APPROVED AS TO FORM:

Rocky River, Law Director