

ANNOUNCEMENT

REQUEST FOR PROPOSALS (RFP)

LEASE OF COMMUNITY SWIMMING POOL SNACK STAND OPERATION

Sealed proposals will be received by the Borough of Lansdale at One Vine Street, Lansdale, Pennsylvania, 19446 until 4:30 PM on Friday, March 31, 2023 for the following:

"Lease of Swimming Pool Snack Stand Operation"

The proposal is for a seasonal lease for the operation of the snack stands at the White's Road Community Pool and the Fourth Street Community Pool. Attached is information relating to submitting a proposal including specific requirements, organization of proposal, evaluation criteria, and proposed contractual lease agreement.

Proposals are to be received at the Borough of Lansdale Offices on or before 4:30 PM, local time, on Friday, March 31, 2023. Proposals must be in a sealed envelope bearing the name and address of the proposer and marked "Lease of Swimming Pool Snack Stand Operation", and addressed to the Borough Manager, Borough of Lansdale, One Vine Street, Lansdale, PA 19446.

Any contact for additional information should be made to Courtney Meehan, Director of Parks and Recreation, at 215-361-8352.

BOROUGH OF LANSDALE

John J. Ernst, AIA
Borough Manager

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SECTION I- GENERAL INFORMATION

1. IDENTIFYING INFORMATION

Lansdale Borough, Montgomery County, Pennsylvania, through its department of parks and recreation, owns and operates two outdoor municipal swimming complexes: White's Road Pool and Fourth Street Pool. Each complex provides recreational swimming and swim instruction. The White's Road Swimming Pool is also used for competitive swimming and diving by the department sponsored Lansdale Swim and Dive Team which competes in the Bux-Mont Summer Swim League.

Seasonal pool memberships are available to Lansdale Borough residents as well as to non-residents living in the neighboring communities.

Daily recreational swimming usage averages close to 200 bathers per complex, per day and the combined total attendance in 2022 was almost 32,000 patrons.

2. SEASONAL OPERATION SCHEDULE

The operational schedule for each pool complex is as follows:

A. White's Road Swimming Pool - Hours of Operation

a) Recreational Swimming Hours

- Opens Memorial Day weekend and is open weekends only until the North Penn School District's summer recess, which is approximately mid- June. The hours of operation during this time are 12:00 PM to 7:00 PM on Saturday and Sunday.
- Open daily approximately mid-June and remains open seven days a week until Labor Day. The hours of operation from mid-June through August 15th are 12:00 PM to 8:00 PM Monday through Sunday. The hours of operation from August 15th through Labor Day are 12:00 PM to 7:00 PM.

b) Home Swim Meet

- Meets run from approximately 5:00 PM to 10:00 PM with White's Road Pool hosting 4 – 5 meets per summer.

B. Fourth Street Swimming Pool - Hours of Operation

a) Recreational Swimming Hours

- The facility opens when the North Penn School District closes for summer recess, which is approximately mid-June. The facility is open daily through Labor Day. The hours of operation from mid-June through August 15th are 12:00 PM to 8:00 PM, Monday through Sunday. The hours of operation from August 15th through August 20th are 12:00 PM to 7:00 PM, Monday through Sunday.

b) Swim Instruction Hours

- Swim instruction is held Monday through Thursday before the pools open at 12:00 PM. A total of three two-week sessions may be offered.

NOTE: ABOVE HOURS OF OPERATION ARE WEATHER PERMITTING

3. OBJECTIVE

It is the objective of the Lansdale Department of Parks and Recreation to operate the Fourth Street Swimming Pool and White's Road Swimming Pool in a safe, efficient and welcome manner for the benefit of all citizens of the Borough of Lansdale and neighboring communities. To meet this objective, the Lansdale Department of Parks and Recreation employs approximately one hundred employees (fifty per swimming pool) for the staffing of the swimming pool operations. The staff consists of managers, assistant managers, lifeguards, swim instructors, coaches and pool attendants. The department hires local youth and adults to fill the staff positions. The department conducts pre-season verification and testing of all lifeguards as well as in-service training throughout the summer swimming season. Additionally, a general staff meeting and orientation is conducted prior to the pools opening.

The specific objective of this RFP is for the Borough of Lansdale to accept proposals for the seasonal operation of the White's Road Pool Snack Stand and the Fourth Street Pool Snack Stand via a lease agreement.

SECTION II - REQUIREMENTS

1. GENERAL

- A. The Borough of Lansdale reserves the right to reject any or all proposals and to select the proposal that it judges to be in the best interest of the Borough of Lansdale.
- B. All proposers are bound by the deadline and location requirements of this RFP as previously stated in the Announcement.
- C. All proposals shall remain effective subject to Borough of Lansdale's review and approval for a period of sixty (60) days from the deadline for submitting proposals.
- D. Hereinafter the term "proposer" shall mean the person or firm making a proposal based on this RFP. The term "proposer" and the term "firm" are used interchangeably. And the term "you" or "your" shall refer to the proposer.
- E. The successful firm is required to comply with the non-discrimination and equal opportunity provisions of the Commonwealth of Pennsylvania and is required to sign the Affirmative Action Certification. Said certification will become part of and attached to the Agreement Contract Form.
- F. Additionally, documents attached as appendices to this RFP shall be fully executed and returned with the proposal as follows:
 - a) Non-Collusion Affidavit
 - b) Affirmative Action Certifications
 - c) Certification of Non-Segregated Facilities

2. SCOPE OF WORK

The scope of work contained in the proposal is for the leasing of the snack stands at the White's Road Swimming Pool Complex and the Fourth Street Swimming Pool Complex. This includes the entire operation of said snack stands including the purchasing of all goods for sale, staffing, operating, furnishing and maintenance of necessary equipment and supplies in order to operate the stands in a manner consistent with the Borough's objective concerning the swimming pool operations and to the satisfaction of the Director of the Department of Parks and Recreation.

The successful proposer agrees to the following:

- A. Enter into a Concession Stand Lease Agreement with the Borough of Lansdale.
- B. Comply with all local Health codes as well as all other applicable state or federal laws that may be applicable to the proposer's operations.
- C. Maintain regular and consistent operational hours for recreational swimming. Additional hours during lessons and swim meets are optional.

- D. Properly train all personnel in your employ specifically as it relates to proper food handling, maintaining sanitary conditions and customer relations.
- E. Furnish and maintain all equipment necessary to operate snack stands including freezers, refrigerators, ovens, grills, fryers, blenders, etc.
- F. Keep open communication with the swimming pool management and the parks and recreation office.
- G. Report any structural or cosmetic defects or deficiencies to the parks and recreation office.
- H. Furnish a copy of your certificate of insurance naming the Borough of Lansdale as "Additional Insured".

3. **ORGANIZATION AND REQUIRED SUBMITTALS FOR PROPOSAL**

A. LETTER OF TRANSMITTAL

- a) The letter should include a statement indicating your understanding of the work to be performed.
- b) It should include a statement of affirmation of the firm's qualifications for professionally and expertly conducting the work as understood.
- c) The letter should indicate the firm's contact person concerning the proposal and a telephone number and email address where that person can be reached.
- d) The letter should include a clear statement of the firm's and/or the principals of the firm, relationship with, or knowledge of any officials or employees of the Borough of Lansdale and clearly state the nature of this relationship or knowledge.

NOTE: FAILURE TO CLEARLY STATE AND FULLY DISCLOSE ANY OF THE INFORMATION REQUIRED IN THE LETTER OF TRANSMITTAL SHALL BE GROUNDS FOR THE BOROUGH OF LANSDALE TO REJECT THE FIRM'S PROPOSALS AND WILL BE GROUNDS FOR IMMEDIATE CANCELLATION OF ANY CONTRACT ENTERED INTO BETWEEN THE BOROUGH OF LANSDALE AND THE FIRM WITHOUT PAYMENT OF WORK COMPLETED.

B. GENERAL PROFILE OF FIRM

- a) This should be a brief statement indicating the firm's experience in conducting work of the nature sought by this RFP. Prepared brochures may be submitted as a part of this profile as long as they specifically address the experience of the firm related to the work to be performed.

- b) A brief reference list of other municipalities or entities served by the firm should be provided along with telephone numbers and names of contact persons.

C. MENU

- a) The proposal must include a sample menu of goods to be sold along with estimated pricing. Please note this is a sample menu only which will assist in our evaluation of the proposer.

D. LEASE PAYMENT

- a) The proposer must agree to pay for utilities to operate snack stand. Rent will be determined by comparing the electric bill from 2022 to 2023. Lessee will pay the difference in rates.

SECTION III - EVALUATION CRITERIA

All proposals will be evaluated based on the technical and professional expertise and the experience of the firm, sample menu and lease payment offer.

1. EXPERIENCE

The experience of the firm will be determined by the following factors:

- A. The overall experience of the firm in conducting similar work that is to be provided to the Borough of Lansdale.
- B. The expertise of the individuals proposed to conduct the work for the Borough of Lansdale.
- C. The clarity and completeness of the proposal and the apparent general understanding of the work to be performed.

2. MENU

The sample menu along with estimated pricing will assist in our evaluation of the proposer.

3. COST

The lease payment is the cost of the utilities used. Rent will be determined by comparing 2022 electric bills to the 2023 season. Lessee will be responsible for difference in fees.

LEASE AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2023, by and between **LANSDALE BOROUGH** (hereinafter referred to as “Lessor”) on the one part, and _____, doing business as _____ (hereinafter referred to as “Lessee”), on the other part.

WITNESSETH:

The Lessor does hereby demise and let until Lessee those portions of the Lansdale Community Pools necessary for the operation of snack stands to be used and occupied as the snack stands for members of the community pools, and for no other purpose, for the term of the 2023 summer season for the fee of monthly utilities.

Lessee will be invoiced on the following dates: June 30, 2023; July 31, 2023; August 31, 2023, and September 30, 2023. Fees will be determined based on comparing 2022 electric bills to the 2023 electric bills and Lessee will be responsible for difference in amount due.

1. Lessee covenants and agrees that it will without demand:
 - (a) Keep the demised premises clean and free from all dirt and other refuse matter; keep all waste and drainpipes in good order and repair as they are now; reasonable wear and tear and damage by accidental fire or other casualty not occurring through negligence of Lessee or those employed by or acting for Lessee excepted. The Lessee agrees to surrender the demised premises in the same condition in which Lessee has herein agreed to keep the same during the continuance of this Lease. Notwithstanding anything herein to the contrary, Lessee shall not be responsible for any damage or repair to the demised premises, plumbing and/or appliances unless caused by the negligence of Lessee or those employed by or acting for Lessee.
 - (b) Comply with any requirements of any of the constituted public authorities and with the terms of any State or Federal statute or local ordinance or regulation applicable to Lessee or their use of the demised premises and save Lessor harmless from penalties, fines, costs or damages resulting from failure to do so.
 - (c) Use every reasonable precaution against fire.
 - (d) Comply with rules and regulations of Lessor as they apply to the general operation of facilities.
 - (e) Peaceably deliver up and surrender possession of the demised premises to the Lessor at the expiration or sooner termination of this Lease promptly delivering to Lessor at its office all keys for the demised premises.

- (f) Give to Lessor prompt written notice of any accident, fire or damage occurring on or to the demised premises.
- (g) Execute the Hold Harmless Agreement attached as Exhibit AA.
- (h) Lessee shall keep the snack bars open during normal hours of operation for the swimming pools and may remain open until 10:00 PM during home meets or other sanctioned events unless other arrangements are made with the swim team president or the Lansdale Department of Parks and Recreation.
- (i) Provide a financial statement disclosing all income and revenue associated with the use of the snack stands. The financial statement shall be provided to the Borough Parks and Recreation Director no later than September 30th of each year this Agreement is in effect.
- (j) Lessee shall provide and keep in force with a reputable insurance company reasonably acceptable to the Lessor comprehensive general liability insurance protecting the Lessor as an additional insured and the Lessee against all liability and damage arising from Lessee's use and occupancy of the Premises including personal injury and property damage with an aggregate limit of coverage not less than Three Hundred Thousand Dollars (\$300,000). Lessee shall also provide and maintain in force insurance coverage on Lessee's personal property and business operations as well as Workers' Compensation insurance coverage as required under applicable standards and regulations on Lessee's employees.

2. Lessor also leases to Lessee during the term of this lease equipment, furniture and fixtures on the Premises and heretofore used in connection with a concession business, said equipment, furniture and fixtures being set forth in the schedule attached to this Lease. Lessee acknowledges that it has inspected the items of equipment, furniture and fixtures and is leasing the same in the condition existing on the date of this Lease.

3. Lessee covenants and agrees that it will do none of the following things without first obtaining the consent, in writing, of Lessor; consent from Lessor shall not be unreasonably withheld, and without providing Lessor with reimbursement for any expenses incurred or incidental to lessee's proposed action:

- (a) Occupy the demised premises in any other manner or for any other purpose than as above set forth.
- (b) Use or operate any machinery that, in Lessor's opinion, is harmful to the building or disturbing to the members.

- (c) Do any act, matter or thing objectionable to the fire insurance companies which provide the fire insurance or any other insurance now in force or hereafter to be placed on the demised premises, or any part thereof, or on the building of which the demised premises may be a part.

4. Lessee covenants and agrees that Lessor shall have the right to do the following things and matters in and about the demised premises:

- (a) At all reasonable times by duly authorized agents to go upon and inspect the demised premises and every part thereof and/or at its option to make repairs/alterations of which the demised premises is a part.
- (b) From time to time, or at any time, make such reasonable rules and regulations as may be necessary or desirable for the safety, care and cleanliness of the demised premises. Such rules and regulations, shall, when communicated in writing to Lessee, form a part of this Lease.

5. The Lessee shall keep, save and hold harmless the Lessor from any and all damages and liability for anything and everything whatsoever arising from or out of the occupancy of the Premises and abutting common areas by or under the Lessee, the Lessee's agents, servants, or business visitors, and from any loss or damage arising from any fault or negligence by the Lessee or any failure on the Lessee's part to comply with any of the covenants, terms and conditions contained in this Lease.

6. Without the previous written consent of the Lessor, which may be withheld or delayed for any reason, neither the Lessee nor the Lessee's legal representatives or successors in interest by operation of law or otherwise shall assign or mortgage this Lease. The Lessee may not sublet the whole or any part of the premises, or any part thereof, to be leased or occupied by others. Lessee shall not advertise the business to be conducted on the Premises for sale or for disposal in any manner whatsoever. Notwithstanding anything set forth herein to the contrary, Lessee may assign this Lease to a corporation wholly owned by lessee, provided that Lessee continues to remain liable hereunder during the term hereof and all extension and renewal terms.

7. A. The following events or any one or more of them shall be events of default under this Lease:

- (1) Lessee shall fail to pay any minimum annual rent, additional rent or other sums payable hereunder when the same are due and payable; or
- (2) Lessee shall fail to perform or comply with any of the other terms, covenants, agreements or conditions hereof including any conditions as set forth in the Lansdale Borough Swimming Pool Snack Stand Operation RFP which is incorporated herein by reference; or
- (3) Lessee shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts as they become due; shall file a petition in bankruptcy or shall be adjudged a bankruptor insolvent; shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law, or regulation; shall file an answer admitting or not contesting the material

allegations of a petition against it in any such proceeding; shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Lessee or any material part of its property; or

- (4) Lessee shall vacate the Premises.
- B. In the event of any such event of default (regardless of the pendency of any proceeding which has or might have the effect of preventing Lessee from complying with the terms of this Lease) Lessor at any time thereafter may exercise any one or more of the following remedies:
- (1) Lessor may change the locks on the Premises and exclude Lessee, its servants and employees from the right to occupy the Premises and such action shall not be deemed to constitute an eviction. Such action may be taken without prior notice to Lessee and Lessee hereby releases Lessor from any liability for any damages sustained by Lessee or its property arising from said changing of locks and exclusion from the Premises. Lessee hereby agrees to indemnify and save Lessor harmless from any such liability. In addition, rent shall not abate during the period of said exclusion.
- (2) Lessor may terminate this lease without any right by Lessee to reinstate its rights by conditions hereof. Upon such termination, Lessee shall immediately surrender possession of the Premises to Lessor and Lessor shall immediately become entitled to receive from Lessee damages equal to the difference between the aggregate rental reserved for the balance of the term and the fair rental value of the Premises for that period, determined as of the date of such termination; provided, however, that the amount of such damages shall be discounted at the rate of five percent (5%) per annum for the period from the date of payment by Lessee to Lessor to the date of expiration of the term of this Lease.
- (3) Re-Letting: With or without terminating this Lease, as Lessor may elect, Lessor may re-enter and repossess the Premises or any part thereof, and lease them to any other person upon such terms as Lessor shall deem reasonable for a term within or beyond the term of this Lease; provided, however, that any such re-letting prior to termination shall be for the account of Lessee, and Lessee shall remain liable for:
- (i) All minimum annual rent, additional rent and other sums which would be payable under this Lease by Lessee in the absence of such expiration, termination or repossession, less;
 - (ii) The net proceeds, if any, of any re-letting effective for the account of Lessee after deducting from such proceeds without limitation, all repossession costs, broker's commissions, attorneys' commissions, attorneys' fees and expenses, employees' expenses, reasonable alteration costs and expenses of preparation of such re-letting.

If the Premises are at the time of default sublet or leased by

Lessee to others, Lessor may, as Lessee's agent, collect rents due from any subtenant or other tenant and apply such rents to the rent and other obligations due hereunder without in any way affecting Lessee's obligations to Lessor hereunder. Such agency, being given for security, is hereby declared to be irrevocable.

- (4) Acceleration of Rent: Lessor may declare rent and all items of additional rent for the entire balance of the then current term immediately due and payable, together with all other charges, payments, costs and expenses payable by Lessee as though such amounts were payable in advance on the date of the event of default occurred.
- C. No expiration or termination of this Lease term pursuant to subparagraph B. (2), above, or by operation of law or otherwise (except as expressly provided herein), and no repossession of the Premises or any part thereof or exclusion of Lessee from the Premises pursuant to subparagraph B., above, or otherwise shall relieve Lessee of its liabilities and obligations hereunder, all of which shall survive such exclusions, expiration, termination or repossession and Lessor may, at its option, sue for and collect rent and other charges due hereunder at any time and from time to time as and when such charges accrue.
- D. With respect to any portion of the Premises which is vacant or which is physically occupied by Lessee, Lessor may remove all personal property therefrom and store such property in a public warehouse or elsewhere at the cost of and for the account of Lessee, without service of notice or resort to legal process (all of which Lessee expressly waives) and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. Lessor shall have a lien for the payment of all sums agreed to be paid by lessee herein upon all Lessee's property, which lien is to be in addition to any landlord's lien now or hereafter provided by law.
- E. The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matters arising out of or in any way connected with this Lease, the relationship of Lessor and Lessee, Lessee's use or occupancy of the Premises and/or any claim of injury or damages. In the event Lessor commences any proceedings for non-payment of rent or additional rent, Lessee will not interpose any counterclaim of any nature or description in any such proceedings. This shall not be construed, however, as a waiver of Lessee's right to assert any such claims in any separate action brought by Lessee.
- F. Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future law in the event this Lease is terminated or Lessee is evicted or dispossessed by reason of violation by Lessee of any of the provisions of this Lease.
- G. In the event of breach or threatened breach by Lessee of any provision of this Lease, Lessor shall have the right of injunction as if other remedies were not provided for herein.

- H. No right or remedy herein conferred upon or reserved to Lessor is intended to be exclusive of any other right or remedy herein or by law provided, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.
- I. If Lessee shall default in the performance of any covenant required to be performed by it under this Lease, Lessor may perform the same for the account and at the expense of Lessee, after first giving notice to Lessee of its intention to do so. If Lessor at any time is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money by reason of the failure of Lessee to comply with any provisions hereof, or if Lessor is compelled to incur any expense, including reasonable counsel fees, in instituting, prosecuting or defending against any action or proceedings instituted by reason of any default of Lessee hereunder, the amount of such payments or expenses shall be paid by Lessee to Lessor as additional rent on the next day following such payment or the incurring of such expenses upon which a regular monthly rental is due, together with interest thereon at the rate set forth herein.
- J. No waiver by Lessor of any breach by Lessee of any of its obligations, agreements or covenants hereunder shall be a waiver of any subsequent breach or of any other obligation, agreement or covenant, nor shall any forbearance by Lessor to seek a remedy for any breach by lessee be a waiver by lessor of its rights and remedies with respect to such or any subsequent breach.
- K. Lessee expressly waives any right of defense which it may have based on any purported merger of any cause of action, and neither the commencement of any action or proceeding nor the settlement thereof or the entering of judgment therein shall bar Lessor from bringing subsequent action or proceedings from time to time.
- L. Upon the occurrence of any event of default which is not cured within any period of time herein provided, Lessee, with the understanding of the RELINQUISHMENT OF CERTAIN RIGHTS to which Lessee would otherwise be entitled as a matter of law and due process including the right to notice and judicial hearing, hereby empowers any Prothonotary or attorney of court of record to appear for Lessee, with declaration filed, in any and all actions, which may be brought for rent and/or the charges, payments, costs, and expenses herein reserved as rent, or herein agreed to be paid by lessee and/or to sign for Lessee an agreement for entering in any competent court an amicable action or actions for the recovery of such rent or other charges or expenses, and in said suits or in said amicable action or actions TO CONFESS JUDGMENT AGAINST LESSEE for all or any part of the rents specified in this Lease and then due and unpaid, and other charges, payments, costs and expenses reserved as rent or agreed to be paid by Lessee and then due and unpaid and for interest and costs together with a reasonable attorney's commission of not less than ten percent (10%) thereof. Such authority shall not be exhausted by one exercise thereof, but judgment may be confessed as aforesaid from time to time as often as any of said rent and/or other charges reserved as rent or agreed to be paid by lessee shall fall due or be in arrears.
- M. Upon the expiration of the then current term of this Lease or the earlier termination or surrender hereof as provided in this Lease, Lessee with the understanding of the RELINQUISHMENT OF CERTAIN RIGHTS, to which Lessee

would otherwise be entitled as a matter of law and due process, including the right to notice and judicial hearing, agrees that it shall be lawful for any attorney to appear as attorney for Lessee as well as for all persons claiming by, through or under Lessee and to sign an agreement for entering in any competent court an amicable action in ejectment against Lessee and all persons claiming by, through, or under Lessee and therein CONFESS JUDGMENT FOR THE RECOVERY BY LESSOR OF POSSESSION OF THE Premises, for which this Lease shall be its sufficient warrant, whereupon if Lessor so desires, a writ of possession or other appropriate writ under the Rules of Civil Procedure then in effect may issue forthwith, without any prior writ or proceedings; provided, however, if for any reason after such action shall have been commenced, the same shall be determined and the possession of the Premises remain in or be restored to Lessee, Lessor shall have the right for the same default and upon any subsequent default or defaults, or upon the termination of this Lease under any of the terms of this Lease, to bring one or more further amicable action or actions as hereinbefore set forth to recover possession of the Premises and confess judgment for the recovery of possession of the Premises as hereinabove provided.

- N. In any amicable action for ejectment and/or for recovery of damages, Lessor shall first cause to be filed in such action an affidavit made by it or someone acting for it, setting forth the facts necessary to authorize the entry of judgment and if a true copy of this Lease (and such affidavit shall be sufficient evidence of the truth of the copy) be filed in such action, it shall not be necessary to file the original as warrant of attorney, any rule of court, custom or practice to the contrary notwithstanding. Lessee hereby releases to Lessor and to any and all attorneys who may appear for Lessee all errors in said proceedings and all liability thereof.
- O. If proceedings shall be commenced by lessor to recover possession under the Acts of Assembly and Rules of Civil Procedure, either at the end of the term or earlier termination of this Lease, or for nonpayment of rent or any other reason, Lessee specifically waives the right to the three (3) months' notice and to the fifteen (15) or thirty (30) day-notice required by the Landlord and Tenant Act of 1951, and agrees that five (5) day-notice shall be sufficient in either or any such case.
- P. Notwithstanding anything herein elsewhere contained to the contrary, Lessor agrees that Lessor will not exercise any right or remedy provided for in this Lease or allowed by law, because of any default of Lessee, unless Lessor shall first have given written notice thereof to Lessee, and Lessee, (i) within a period of ten (10) days thereafter shall have failed to pay the sum or sums due if the default consists of the failure to pay money, or (ii) if said default shall consist of anything other than the failure to pay the sum or sums due hereunder, Lessee shall have failed within the period of twenty (20) days after notice from Lessor to have cured said default, except that if such default cannot be cured within said twenty (20) days, Lessee shall only be in default if lessee shall have failed to begin and actively and diligently in good faith proceed with the correction of the default until it shall be fully corrected not later than sixty (60) days after such notice; provided further, however, that no such notice from lessor shall be required nor shall Lessor be required to allow any part of the said notice periods if Lessee shall have removed from or shall be in the course of removing from the Premises, or Lessee shall have failed to provide the insurance required by this Lease or if a Petition in bankruptcy or for reorganization shall have been filed by or against the Lessee resulting in an order for relief in bankruptcy, or for reorganization, or if a receiver or trustee is appointed for Lessee and such

appointment and such receivership or trustship is not terminated within sixty (60) days, or if Lessee makes an assignment for the benefit of creditors, or if Lessee is levied upon and is about to be sold out upon the Premises by any sheriff, marshal, or constable; provided, further, however, that Lessor shall not be required to give any notice called for by this article of the Lease more than two (2) times within any twelve (12) month period.

8. Alterations and Additions:

A. Lessee agrees that it will not make any changes or alterations or additions to the Premises without first obtaining the written approval of the Lessor, which may be withheld or delayed for any reason. In no event shall Lessee do anything that shall adversely affect the roof or structure of the Premises or its heating, cooling, plumbing, refrigerators or electrical system.

B. All such improvements shall be in accordance with plans and specifications to be supplied by Lessee, which plans shall in all instances first be subject to Lessor's approval, which may be withheld or delayed for any reason. Lessee shall provide Lessor with evidence that each contractor performing work on the Premises has adequate workers' compensation insurance and general liability insurance in the amount of at least One Million Dollars (\$1,000,000) for bodily injury or death to any person or persons and property damage to the extent of Two Hundred fifty Thousand Dollars (\$250,000), together with a certificate from the insurer who shall be reasonably satisfactory to Lessor, to the effect that such insurance may not be canceled or substantially modified without at least fifteen (15) days prior written notice to Lessor.

C. To the extent permitted by law, no work or installation by Lessee at the Premises shall be done except after filing a waiver of the right to file any lien therefore (commonly known as "mechanic's lien") in the local Prothonotary's office or elsewhere as provided by law, so as to constitute an effective waiver by anyone having a right to file such a lien.

D. All improvements, additions and repairs made to the Premises within the approval of lessor during the term of this Lease shall, at the expiration of the same, become the property of Lessor, its successors and assigns, without cost to it.

9. Place of Payment of Rent and Notices: All rent shall be payable, and all notices shall be given to the Lessor by first class mail or hand delivered to the Borough Department of Parks and Recreation at the following address or at such address as Lessor may designate by notice to Lessee:

Mailing Address
Borough of Lansdale
Dept. of Parks and Recreation
One Vine Street
Lansdale, PA 19446

Delivery Address
Borough of Lansdale
Dept. of Parks and Recreation
660 Lansdale Avenue
Lansdale, PA 19446

All notices required to be given by Lessor to Lessee shall be sufficiently given if sent by registered or certified mail, return-receipt requested, to the Premises or to such other place as Lessee may designate by notice to Lessor.

All notices or consents required by this Agreement shall be in writing.

10. Conditions of Premises at Termination: At the expiration of the term hereof, Lessee shall surrender the Premises and all equipment, fixtures, and furnishings leased hereunder in good order and condition, reasonable wear and tear and damage by insured casualty excepted. Except as set forth in Paragraph 8 hereof, and provided Lessee is not in default hereunder, Lessee shall have the right to remove fixtures and/or equipment installed by Lessee in the Premises during the term of this Lease and any renewal or extension term. Lessee agrees to repair at its cost and expense any damage done to the Premises by reason of the removal of such fixtures and/or equipment.

11. Miscellaneous.

A. Parties Bound: Subject to the provisions of this Lease regarding consent by Lessor, this lease shall be binding upon the parties hereto and shall be binding upon and inure to the benefit of and be enforceable by their respective successors and assigns.

B. Amendments: This Lease may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge, or termination is sought.

C. Governing Law: This Lease shall be governed by the laws of the Commonwealth of Pennsylvania.

D. Lessor shall have the right to display a “for sale” sign at any time, and also, after notice from either party of intention to determine this Lease, or any time within three (3) months prior to the expiration of this Lease, a “for rent” sign, or both “for rent” and “for sale” signs; and all said signs shall be placed upon such part of the Premises as Lessor may elect and may contain such matter as Lessor shall require. Prospective purchasers or tenants, authorized by lessor, may inspect the Premises at reasonable hours at any time on reasonable advanced notice to Lessee so as to minimize the effect of same on Lessee’s use and enjoyment of the Premises.

E. Entire Agreement: This Lease constitutes the entire agreement between the parties hereto. Except as set forth herein, there are no promises, representations or understandings between the parties of any kind or nature whatsoever.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

BOROUGH OF LANSDALE

Attest: _____

By: _____

Attest: _____

By: _____

HOLD HARMLESS AGREEMENT

BETWEEN THE MUNICIPALITY OF THE BOROUGH OF LANSDALE AND:

The Borough Snack Stand (Applicant).

WITNESSETH:

- (1) In consideration of permission to use the public facility described in the Lease Agreement for the summer of 2023, the Applicant does hereby covenant and agree to save and hold the Borough of Lansdale, its agents, servants and employees harmless from any and all liabilities or costs arising out of the use of the described premises by the Applicant, the Applicant’s invitees or other persons.
- (2) The facilities will be used for the following purposes and no other: As the Snack Stands for members of the Municipal Pools.
No alcoholic beverages will be served.
- (3) The Applicant is:
 - _____ Non-profit corporation
 - _____ Non-profit association
 - _____ An individual
 - _____ A profit-making organization

If Applicant is an association or corporation, the undersigned certifies that the execution of the Hold Harmless Agreement has been duly authorized.

- (4) The Applicant acknowledges that the permission to utilize the facilities is limited to the portion of the premises herein described (if applicable) and the permission to use the facility is valid only for the activity herein described. Notwithstanding the foregoing, however, this Hold Harmless Agreement shall be applicable to any claim asserted against the Borough or any loss incurred arising out of the Applicant’s activity whether or not same extends beyond the permitted type of locale of activity or occurs on a different date than specified.
- (5) The Applicant specifically agrees that this Indemnification and Hold Harmless Agreement shall include the responsibility to provide legal defense for the Borough of Lansdale for any suit arising out of the Applicant’s use of the premises, and that should the Applicant or the Applicant’s insurancecarrier fail to refuse to provide such a defense, the Applicant will reimburse the Borough for any costs incurred by it for any person or organization acting on its behalf.
- (6) The undersigned is authorized to execute this Hold Harmless Agreement as the binding act of the Applicant.

Witness:

Applicant:

By: _____

By: _____

Date: _____

NON-COLLUSION AFFIDAVIT

State of)
)
) ss:
County of)
)

I state that I am _____ of _____
(Title) (name of Firm)

and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of this bid/proposal.

I state that:

- 1. The price(s) and amount of this bid/proposal have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder/proposer or potential bidder/proposer.
2. Neither the price(s) nor the amount of this bid/proposal, and neither the approximate price(s) nor approximate amount of this bid/proposal, have been disclosed to any other firm or person who is a bidder/proposer or potential bidder/proposer and they will not be disclosed before bid/proposal opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding/proposing on this contract, or to submit a bid/proposal higher than this bid/proposal, or to submit any intentionally high or non-competitive bid/proposal or other form of complementary bid/proposal.
4. The bid/proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid/proposal.

5. _____ its affiliates, subsidiaries, officers,
(Name of Firm)
directors and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by State or Federal law in any bidding/proposing on any public contract, except as follows:

I state that _____
(Name of Firm)

understands and acknowledges that the above representations are material and important, and will be relied on by

(Name of Public Entity)

in awarding the contract(s) for which this bid/proposal is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from

(Name of Public Entity)

of the true facts relating to the submission of bids for this contract.

Name

Company Position

SWORN TO AND SUBSCRIBED BEFORE ME THIS ____ DAY OF _____, 2023

My Commission Expires _____
(Date)

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid/proposal. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. 1161 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids/proposals.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the bidder/proposer who makes the final decision on prices and the amount quoted in the bid/proposal.
3. Bid/proposal rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids/proposals are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder/proposer with responsibilities for the preparation, approval, or submission of the bid/proposal.
4. In the case of a bid/proposal submitted by a joint venture, each party to the venture must be identified in the bid/proposal documents, and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid/proposal" as used in the Affidavit has the meaning commonly associated with that term in the bidding/proposing process and includes the knowing submission of bids/proposals higher than the bid/proposal of another firm, any intentionally high or noncompetitive bid/proposal, and any other form of bid/proposal submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid/proposal.

AFFIRMATIVE ACTION CERTIFICATION

Non-discrimination and equal opportunity are the policy of the Commonwealth of Pennsylvania and the Borough of Lansdale in all decisions, programs and activities. The purpose is to achieve the aims of the United States and Pennsylvania Constitutions. Executive Order 1972-1, the Pennsylvania Human Relations act, Act of October 27, 12955,P.L. 744, as amended, (43 P.L. < 951, et. Seq.), and 43 P.L. < 153, by assuring that all persons are accorded equal employment opportunity without regard to race, color, religious creed, handicap, ancestry, national origin, age, sex.

During the term of this contract, the Contractor agrees as follows:

- a) Contractor shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age, sex or handicap. Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, sex or handicap. Such affirmative action shall include, but is not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provisions of this affirmative action certification.
- b) Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex or handicap.
- c) Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this affirmative action certification. Similar notice shall be sent to every other source of recruitment regularly utilized by bidder/proposer
- d) It shall be no defense to a finding of non-compliance with this affirmative action certification that contractor has delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the contractor was not on notice of the third-party discrimination or made a good faith effort to correctit, such factor shall be considered in mitigation in determining appropriate sanctions.
- e) Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that contractor will be unable to meets its obligations under this affirmative action certification, contractor shall then employ and fill vacancies through other affirmative action employment procedures.
- f) Contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of contractor's non-compliance with the affirmative action certification of this contract or with any such laws, this contract may be terminated or suspended, in whole or part, and contractor may be declared temporarily ineligible for further Commonwealth and Borough contracts, and other sanctions may be imposed and remedies invoked.

- g) Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by the Borough of Lansdale for purposes of investigation to ascertain compliance with the provisions of this certification. If contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Borough of Lansdale.
- h) Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- i) Contractor shall include the provisions of this affirmative action certification in every subcontract, so that such provisions will be binding upon each subcontractor.
- j) Contractor's obligations under this clause are limited to the contractor's facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

DATE: _____

(NAME OF CONTRACTOR)

BY: _____

TITLE: _____

CERTIFICATE OF NON-SEGREGATED FACILITIES

**Borough of LansdaleMontgomery
CountyPennsylvania**

The bidder/proposer certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The bidder/proposer certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The bidder/proposer agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of his bid/proposal. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. The bidder/proposer agrees that (except where he has obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

NOTE: The penalty for making false statements in offers is prescribed in 19 U.S.C. 1001.

DATE: _____

(NAME OF BIDDER/PROPOSER)

BY: _____

TITLE: _____