

AGREEMENT #~~A5-2020A7~~ -2024

NORTH OGDEN CITY
CONTRACT FOR OPERATION OF CONCESSIONS

This Contract for Operations of Concessions (this "Contract") is made effective as of ~~MAY 13, 2020~~ May 14, 2024, by and between North Ogden City, a municipal corporation and political subdivision of the State of Utah, (the "City"), of 505 East 2600 North, North Ogden, Utah 84414 and THE PIZZA MAN, (the "Contractor"), of North Ogden, Utah.

- A. The Contractor is engaged in the business of food service located in the City and at other locations and has submitted a proposal (Attachment A) to operate the concessions at the City's aquatic center.
- B. The City has solicited an entity to operate its concessions at the aquatic center and after a competitive process has selected the Contractor and desires to have the services of the Contractor.
- C. The Contractor is willing and accepts the responsibilities proposed to the City.

Therefore, the parties agree as follows:

1. **INDEPENDENT CONTRACTOR RELATIONSHIP.** The City and the Contractor hereby enter into an independent contractor relationship wherein the Contractor shall provide the Services as proposed in Attachment A. The Contractor accepts and agrees to such a contractual relationship and agrees that no employment relationship is created by this Contract.
2. **STANDARDS OF CONDUCT.** All standards of the Weber-Morgan County Health Department and other applicable State, Federal and local requirements must be met. If, for any reason, the Contractor is unable/unwilling to do so, and the concession stand is shut down by the Weber-Morgan County Health department or another regulating body during normal operational hours (see section II), the Contractor will be assessed a minimum fine of \$100.00 payable to North Ogden City. This fine will be in addition to any fines or penalties assessed against the Contractor by the regulatory body.

3. MENU ITEMS. The menu will include, but not be limited to main dishes of pizza, hot dogs, chili dogs, nachos, the North Shore Nacho Platter, bread sticks, snow cones, salad, sandwich, candy, bagged chips, soft pretzels and ice cream or other as approved by North Shore Aquatic Center. The North Shore Nacho Platter is a standardized menu item that is to include tortilla chips, chili, cheese, chopped tomatoes, green onions and sour cream.
4. BEVERAGES. All beverages sold at North Shore Aquatic Center will be purchased through Pepsi-Cola Company. Contractor is subject to all requirements set forth in the beverage contract between Pepsi-Cola Company and said Contractor. No alcoholic beverages or liquor of any kind will be sold on the premises of North Shore Aquatic Center.
5. NORTH OGDEN AQUATIC CENTER WILL PROVIDE: Internet line, all ~~or of~~ our existing equipment, ice machine and facility.
6. PIZZA MAN WILL PROVIDE: Computers, point of sale software, signage, additional equipment at CONTRACTOR discretion and uniforms for their employees.
7. BEST EFFORTS OF CONTRACTOR. The Contractor agrees to perform faithfully, industriously, and to the best of its ability, experience, and talents, all of the duties that may be required by the express and implicit terms of this Contract, to the reasonable satisfaction of the City. Such duties shall be provided at such a place(s) as the needs, business, or opportunities of the City may require from time to time.
8. COMPENSATION OF THE CONTRACTOR AND THE CITY. As compensation for the contractual services which are provided, the Contractor will pay North Shore Aquatic Center 15% of all pre-tax (gross) sales accrued. Parties may exchange services as approved by Aquatic Center Manager, including birthday packages, food, and other items requested by patrons or city staff. This payment is due in full ~~on the fifth day of each month of June within two weeks of the end of the month, July and August.~~ Final payment ~~for the season~~ is due ~~one week after the last day North Shore Aquatic Center is open~~ two weeks after receiving reconciliation information from North Ogden City. Late payments will be assessed a fee of \$25.00 for each day payment is delayed beyond the specified due date. Upon termination of this Agreement, all payments under this paragraph shall cease; provided, however, the City shall be entitled to compensation for monthly

periods or partial periods that occurred prior to the date of termination and for which the City has not been paid. Contractor will keep all accounting records of all sales, expenses and receipts. Contractor will establish accounting methods agreeable to the director of Community Services.

9. RECOMMENDATIONS FOR IMPROVING OPERATIONS. The Contractor shall provide the City with all information, suggestions, and recommendations regarding the Contractor's concession operations and business that will be of benefit to the City.

10. CONFIDENTIALITY. The ~~Contractor-Parties~~ recognizes that ~~they have~~^{it has} and will have information regarding the concession operations and other vital information items (collectively, "Information") which are valuable, special and unique assets of the ~~City~~^{other Party}. The ~~Contractor-Parties~~ agrees that ~~they~~^{it} will not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate any Information to any third party without the prior written consent of the ~~City~~^{other Party}. The ~~Contractor-Parties~~ agrees that ~~they~~^{it} will protect the Information and treat it as strictly confidential.

11. CONFIDENTIALITY AFTER TERMINATION OF CONTRACT. The confidentiality provisions of this Contract shall remain in full force and effect for a ~~one~~⁻year period after the termination of this Contract.

12. CONTRACTOR'S INABILITY TO OBLIGATE THE CITY. The Contractor shall not have the right to make any contracts or commitments for or on behalf of the City without first obtaining the express written consent of the Community Services Director and then only to the extent of such express written consent.

13. TERM/TERMINATION. This Contract shall be for a one year period from its effective date. If the selected Contractor performs satisfactorily for the 2024~~0~~ summer season, ~~it is anticipated that the same Contractor will be engaged to provide concessions for the succeeding two (2) years~~^{the Mayor may extend the contract for an additional year up to 6 renewal terms, subject to an annual evaluation and renewal approved by the Mayor.} This Contract may be terminated by either party upon 30 days written notice. The retained earnings received under the Contract shall be the Contractor's exclusive remedy.

14. COMPLIANCE WITH THE CITY'S RULES. The Contractor agrees to comply with all of the rules and regulations of the City's aquatic center.

15. RETURN OF PROPERTY. Upon termination of this Contract, the Contractor shall deliver to the City all property which is the City's property or related to the City's business (including keys, records, notes, data, memoranda, models and equipment) that is in the Contractor's possession or under the Contractor's control.

16. NOTICES. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or on the third day after being deposited in the United States mail, postage paid, addressed as follows:

North Ogden City:
505 East 2600 North
North Ogden, Utah 84414

The Contractor:
Pizza Man
1958 North 400 East
North Ogden, Utah 84414

Such addresses may be changed from time to time by either party by providing written notice in the manner set forth above.

17. ENTIRE AGREEMENT. This Contract contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written, this Contract supersedes any prior written or oral agreements between the parties.

18. SEVERABILITY. If any provisions of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall be continued to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

19. WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

20. APPLICABLE LAW. This agreement shall be governed by the laws of the State of Utah.

a. Compliance with E-Verify. Contractor agrees to comply with the Utah E-verify system on all employees and subcontractors who perform work under this agreement.

21. Force Majeure Clause. Neither party shall be liable for any costs or damages due to delay or nonperformance under this Contract for Concessions arising out of any cause or event beyond such party's control, including, without limitation, cessation of services hereunder or any damages resulting therefrom to the other party as a result of work stoppage, power or other mechanical failure, computer virus, natural disaster, governmental action, pandemic, or other business disruption.

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NORTH OGDEN CITY:

By: _____
S. Neal Berube, Mayor

Date: _____

ATTEST:

Rian Santoro
City Recorder

Pizza Man

Date: _____

