

AMENDED AND RESTATED LICENSE AGREEMENT

This License Agreement (“Agreement”) is made and entered into this 17th day of August 2022 by and between the Village of Romeoville, an Illinois municipal corporation (“Village”) and Lightning Event and Management LLC (“Concessionaire”).

WITNESSETH:

WHEREAS, the Village through its Recreation Department operates certain Recreational Facilities including athletic field complexes located at Village Park, Century Park and Volunteer Park, and also including the indoor recreational centers located at the Romeoville Athletic and Event Center and at the Village Recreation Center (collectively, the “Facilities”); and

WHEREAS, the Village and its Recreation Department have, operate or permit the operation of a seasonal Concession Stands at the Facilities for the sale of food and beverages (collectively or individually, the “Concession Stand”); and

WHEREAS, the Village finds, based on the recommendation of the Recreation Department, that it would be in the best interest of the citizens of the Village and other users of the Facilities to permit Concessionaire to operate the Concession Stand at the Facilities as hereinafter set forth; and

WHEREAS, the Village finds that the Concessionaire’s operation of the Concession Stand in accordance with its proposal will provide appropriate food and beverage service to citizens of the Village and other users of the Facilities.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

1. License. The Village grants to the Concessionaire a license (“License”) to occupy and use, for the purpose and under the conditions stated herein, the Concession Stand located at the Facilities.
2. Purpose. The concessionaire shall use the Concession Stand solely for the preparation and sale of food and nonalcoholic beverages, and shall conduct no other activity in or from the Concession Stand. Concessionaire agrees that it shall not unreasonably withhold its consent to the Village’s grant of licenses to third parties to sell alcoholic beverages from appropriate facilities located within the Romeoville Athletic and Event Center, and that such sale of alcoholic beverages shall not be deemed an infringement on the license herein granted.
3. Term of License. The License granted in paragraph 1 shall take effect on the dates determined in accordance with the process set forth in Exhibit A to this Agreement with respect to the Concession Stands located at Village Park, Volunteer Park, Century Park, the Romeoville Athletic and Event Center and the Snack Shack at the Village Recreation Center, and shall be in effect for the term and activity/use seasons reflected in Exhibit A to this Agreement, provided, however, that this Agreement itself may be terminated in accordance with the provisions of paragraph 8 hereof. Notwithstanding the termination of the license hereunder, this Agreement shall survive for purposes of the enforcement of Concessionaire’s obligations to the Village hereunder, including but not limited to the obligations to pay the license fee, to pay for damages to the Concession Stand or equipment therein, and to indemnify the Village. Concessionaire and Village acknowledge that the term of this License may be extended by mutual consent of the parties expressed in a writing duly approved by both parties, and that the scope of this License may likewise be extended to additional concession stands at other facilities owned by Village by mutual consent of the parties expressed in a writing duly approved by both parties.

4. License Fee and Security Deposit.

A. License Fee. Effective as of July 1, 2024, as consideration for the privileges extended under the License, the Concessionaire shall pay to the Village a sum equal to fifteen percent (15%) of gross revenues less cost of goods sold by Concessionaire from or generated by the sale of food and beverages at the Concession Stands located at the Village Park, Century Park, Volunteer Park and the Snack Shack at the Romeoville Recreation Center as contemplated herein, and a sum equal fifteen percent (15%) (the "License Fee") of gross revenues less cost of goods sold by Concessionaire from or generated by the sale of food and beverages at the Concession Stand located at the Romeoville Athletic and Event Center. Concessionaire and Village acknowledge that the preceding sentence reflects an amended and restated version of the basis for the calculation of the License Fee, different than the original basis set forth in the version of this Agreement entered into by the parties in 2002. To facilitate the accurate calculation of the License Fee, the Concessionaire shall on the first day of every month during which a Concession Stand is operated hereunder provide to the Village financial reports reasonably acceptable to the Village detailing all revenues generated from Concession Stand operations during the immediately preceding month and the cost paid by the Concessionaire for all food and beverages sold from the Concession Stand during such immediately preceding month. At all times hereunder, Village shall have the right to inspect the books and records of the Concessionaire pertaining to the operation of the Concession Stand to aid in the proper calculation and collection of the License Fee.

B. Security Deposit. To secure its performance of the terms of this Agreement, the Concessionaire shall deposit with the Village the sum of Seven Hundred Fifty and No/100 Dollars (\$750.00) ("Security Deposit"). The Concessionaire shall not be entitled to interest on the Security Deposit, nor be entitled to treat the Security Deposit as advance payment of the License Fee due hereunder. In the event that the Concessionaire fails to pay any part of the License Fee, causes any damage or injury to the Concession Stand, or otherwise breaches any term of this Agreement, the Village shall have the right to apply all or part of the Security Deposit toward any past due License Fee obligations, to the repair of any damage or injury to the Concession Stand, or to the remedy of any other breach of this Agreement. If all or any portion of the Security Deposit is so applied, the Concessionaire shall, upon notice from the Village, promptly replenish the Security Deposit to its original amount during the term of the License herein granted. In the event that any breach of this Agreement by the Concessionaire results in damages to the Village Concession Stand of more than Seven Hundred Fifty and No/100 Dollars (\$750.00), the Village may apply the entire Security Deposit towards such damages, provided, however, that Concessionaire shall remain liable for the balance of such damages, and provide further, that this paragraph 4.B shall not be construed as providing for liquidated damages, nor shall it be construed to limit any other rights or remedies which the Village may have under this Agreement, at law or equity, or otherwise. Any portion of the Security Deposit that does not apply to any of the items set forth in this paragraph 4.B shall be refunded to the concessionaire upon the expiration or termination of this Agreement. Notwithstanding anything herein to the contrary, at the conclusion of the License term provided for in this Agreement, the Village may, at its discretion and upon notice to Concessionaire, apply all or any portion of the Security Deposit then held by the Village toward payment of the License Fee owed by Concessionaire.

5. Operational Requirements. The Concessionaire shall conform its operation and use of the Concession Stand to the following requirements:

- A. Hours of Operation. The concessionaire shall operate the Concession Stand during the dates, days and time periods determined in accordance with the process set forth in Exhibit A hereto. Concessionaire acknowledges that the dates, days and time periods determined in accordance with the process set forth in Exhibit A may be subject to change based on changes in the events scheduled at the Facilities, and that in the event of any changes to events or usage scheduled to take place at the Facilities, Concessionaire shall modify its dates, times and hours of operation to accommodate such schedule changes.
- B. Sign. The Concessionaire may place a sign advertising its operation of the Concession Stand on or adjacent to the Concession Stand, provided, however, that such a sign must conform to all of the Village's ordinances and requirements, and must be pre-approved by the maintenance staff of the Village's Recreation Department.
- C. Business License/Necessary Permits. The concessionaire shall obtain a license covering its operation of the Concession Stand from the Village, and shall obtain any other Village, federal, state, or Will County authorizations or permits necessary to such operations. Without otherwise limiting the foregoing, any use or operation of charcoal or propane grills by the Concessionaire shall be subject to the review and approval of the Village Fire Department. Additionally, any alteration, decoration or modification of the Concession Stand desired by the Concessionaire shall be prohibited without the express approval of the Village thereto in writing, and shall be fully subject to the applicable ordinances of the Village; any alterations, decorations or modifications of the Concession Stand so made shall become the sole property of the Village upon any termination or expiration of this Agreement.
- D. Taxes. The Concessionaire shall be responsible for collecting and paying taxes arising out of its operation of the Concession Stand, including but not limited to, State of Illinois Sales Taxes.
- E. Health Permit. The Concessionaire shall obtain a Will County Health Permit and the Concession Stand will be inspected by the Will County Health Department. Failure to obtain such permits will result in closing of the Concession Stand.
- F. Compliance. The concessionaire's operation of the Concession Stand shall comply with all applicable laws, regulations, ordinances, and orders of any governmental body having jurisdiction, including but expressly not limited to the Village.
- G. Menu. Except as otherwise specifically provided in this Agreement, the Concessionaire may sell any type of food or beverage at the Concession Stand, provided, however, that the Concessionaire shall be prohibited from selling any alcoholic beverages or tobacco products at the Concession Stand. Concessionaire acknowledges that Village currently is or during the term of this Agreement may become party to an agreement which requires the exclusive sale of beverages from a certain defined family of beverage products at the Concession Stand, and agrees that it shall abide by and comply with the terms and provisions of any such agreements entered into from time to time by the Village in connection with its performance under this Agreement. Concessionaire further acknowledges that from time to time the Village may contract with third parties to this Agreement for the provision and service of alcoholic beverages at one or more of the Facilities during the term of this Agreement, and that nothing in this Agreement shall prohibit the Village from so contracting.

- H. Insurance. Contemporaneously with its execution of this Agreement, Concessionaire shall obtain or have in full force and effect Commercial General Liability insurance coverage insuring Concessionaire and Village with respect to occurrences on or about the Concession Stand and arising out of the performance of the Agreement, with such coverage having combined single limits of not less than \$1,000,000.00 for personal injury and death and property damage per occurrence, and in the aggregate, which coverage shall specifically refer to this Agreement. Concessionaire shall further maintain automobile liability insurance with coverage of not less than \$1,000,000.00 for personal injuries or death per occurrence and \$1,000,000.00 for property damage per occurrence. All insurance coverage provided under this Agreement shall expressly provide that it is primary and noncontributory to any insurance coverage maintained by the Village, and shall waive any rights of recovery against the Village. Copies of all policies of insurance, certificates of insurance and endorsements reflecting the coverages required under this Agreement shall be provided to the Village prior to any provision of services from the Concession Stand by Concessionaire. In the event that the foregoing documentation is not provided within ten (10) business days from the date of Village approval of this Agreement, Village may terminate this Agreement.
- I. Intentionally Omitted.
- J. Cleaning. The Concessionaire shall, during the term of this agreement be responsible for keeping the cooking and food distribution areas of the Concession Stand and all equipment used in the operation of the Concession Stand in clean and sanitary condition. Concessionaire shall also at all time maintain the Concession Stand and associated areas, including seating areas, and all personal property located therein in a clean, neat, orderly and safe condition. This includes the collection and proper disposal of trash and keeping table tops in a clean and sanitary condition. The Village will provide trash receptacles and tables. Concessionaire is also responsible for any and all damage to the Concession Stand and equipment provided by the Village in excess of normal wear and tear and shall be responsible to repair or replace damaged equipment at its expense, and with the repaired or replaced equipment thereafter being the sole property of the Village.
- K. Equipment. The Concessionaire shall be allowed to use such of its own equipment, as it deems necessary for the operation of the Concession Stand, and shall be solely responsible for its operation and maintenance.
- L. Employees; Employee Conduct. Concessionaire shall be responsible to staff the Concession Stand with sufficient employees or volunteers qualified in the operation of the Concession Stand or comparable facilities as are necessary to provide efficient and courteous service to the public. The Concessionaire shall assume full responsibility and liability for the acts and conduct of the employees or volunteers operating the Concession Stand, and shall take such disciplinary measures as may be necessary with respect to such employees.
- M. License Personal to Concessionaire. Absent the express written consent of the Village to the contrary, the License created hereby shall be deemed personal to the Concessionaire, and the Concessionaire shall not contract, sublicense or otherwise act in any way to transfer its rights hereunder to any other party.
- N. Background Checks. At all times during its operation and use of the Concession Stand, Concessionaire shall require that at least one of its personnel or volunteers present at the Concession Stand during such operation shall have submitted to a criminal background check conducted by the Village Police Department, the results of which shall be

acceptable to the Village at its discretion prior to the operation of the Concession Stand by Concessionaire.

6. Village Operational Responsibilities. The Village shall facilitate the Concessionaire's operation of the Concession Stand as follows:
 - A. Access to the Concession Stand. The Village shall provide the Concessionaire with keys to and the alarm code for the Concession Stand and associated restrooms. Concessionaire shall be responsible for unlocking the Concession Stand at the start of each day of use and for locking the Concession Stand at the end of each day of use. The Concessionaire shall return the keys to the Village upon the termination of this License, shall not duplicate or transfer keys, and shall not divulge the alarm code to any persons other than the employees authorized to operate the Concession Stand.
 - B. Utilities. The Village shall supply, at its expense, all electrical, water, and sewer service necessary to the Concession Stand, including the rest rooms and the outside areas adjacent to the Concession Stand.
 - C. Concession Stand Maintenance. The Village shall properly maintain the interior and the exterior of the Concession Stand, including the rest rooms and the outside areas adjacent to the Concession Stand.
 - D. Village Equipment. The Village shall furnish the Concessionaire with the equipment identified in Exhibit A for use at the Concession Stand by Concessionaire during this Agreement. The Concessionaire, pursuant to paragraph 5.J., shall be responsible for keeping the foregoing equipment in clean and sanitary condition during the term of this Agreement, and for repairing and if necessary replacing any equipment (including the Concession Stand) damaged in excess of normal wear and tear. All repaired and replaced equipment (including the Concession Stand) shall be owned by the Village.
 - E. Concessionaire's Equipment and Inventory. The Village shall not be responsible for any damages to or loss of any of the Concessionaire's equipment or inventory where such damage results from theft, vandalism, fire, natural disaster, or other cause similarly beyond the control of the Village.
7. Indemnity. The Concessionaire shall indemnify and hold harmless the Village and any of its elected officials or employees from all claims, costs, damages, penalties or other charges sustained by the Village and its elected officials or any employees arising from or related to any breach of this Agreement by the Concessionaire, or the negligence or misconduct of Concessionaire in performing under this Agreement. The provisions of this paragraph 7 shall survive the expiration or termination of this Agreement.
8. Termination. Either party shall have the right to terminate this Agreement on five (5) days' notice to the other party in the event that such other party breaches any term or condition hereof.
9. No Interest in Property. The License granted by paragraph 1 of this Agreement shall be construed as a personal privilege extended to the Concessionaire, and shall not be construed as granting the Concessionaire any interest in the Concession Stand or any other real property owned by the Village.

10. Headings. The headings of the paragraph of this agreement are for convenience and reference only and do not form a part hereof and do not modify, interpret or construe an understanding of parties hereto.
11. Governing Laws. This Agreement shall be deemed to have been executed, delivered and accepted in the State of Illinois and shall be construed pursuant to and in accordance with the laws of the State of Illinois.
12. Entire Agreement. This Agreement embodies the entire Agreement and understanding between the parties and there are no other agreements, representations, warranties or understandings, oral or written, between the parties with respect to the subject matter of this Agreement. No alteration, modification, amendment or change of this Agreement shall be valid unless by like instrument. This Amended and Restated Agreement shall supersede and replace the prior Agreement between the parties approved in 2022, except that Concessionaire's obligations under the indemnity provisions of the prior Agreement shall survive notwithstanding such superseding and replacement.
13. Counterparts. This Agreement may be signed upon by any number of counterparts with the same effects as if the signature to each were upon the same Agreement.
14. Originals. This Agreement may be reproduced by means of carbon, Xerox process or otherwise. Each such reproduction, if manually executed by the parties, shall for all purposes be deemed, and the same is hereby declared, to be a duplicate original of this Agreement.
15. Waiver. No waiver by either party of any breach of any term, covenant or condition hereof shall be deemed a waiver of the same or any subsequent breach of the same or any other term, covenant or condition. No covenant, term or condition of this Agreement shall be deemed waived by either party unless waived in writing.
16. Notice. Any notice provided for herein or given pursuant to this Agreement shall be in writing and served on the Village and the Concessionaire at the following address:

Village: Village of Romeoville
1050 W. Romeo Road
Romeoville, Illinois 60446

With Copy to: Rich Vogel
Tracy, Johnson & Wilson
2801 Black Road – Second Floor
Joliet, Illinois 60435

Concessionaire: Lightning Event and Management LLC
Attn.: John Jones
340 Daffodil
Romeoville, IL 60446

Any notices shall be either (i) personally delivered to the address set forth above, in which case it shall be deemed delivered on the date of delivery to said address; or (ii) sent by registered or certified mail, return requested; or (iii) sent by a nationally recognized overnight courier.

17. Village Signatories. The signatories for the Village to this Agreement are signing in their corporate and representative capacities, and shall not be personally or individually liable for the performance thereof.
18. Venue. Any suit brought by a party hereto against the other to enforce the terms of this Agreement shall be brought in the Circuit Court of the Twelfth Judicial court, Will County, Illinois.

IN WITNESS WHEREOF, the undersigned parties have caused the Agreement to be duly executed.

VILLAGE OF ROMEOVILLE

CONCESSIONAIRE

Lightning Event and Management LLC

By: _____
John D. Noak, Mayor

By: _____
John Jones
Its _____

Date: _____

Date: _____

Attest: _____
Dr. Bernice Holloway, Clerk

Attest: _____

EXHIBIT A—EQUIPMENT SUPPLIED BY VILLAGE AT CONCESSION STAND

Equipment

Concessionaire shall furnish and maintain, at its sole cost and expense, all equipment necessary to carry out the operation of the concession stands, and which shall remain the property of the Concessionaire upon termination or expiration of contract/contract. Following is a list of equipment owned by the Village that is currently provided and available for use by the Concessionaire. The Village will ensure that all existing equipment is in good working order prior to Concessionaire occupancy. All cleaning, maintenance and service calls for all equipment are the responsibility of the Concessionaire upon initiation of the license contemplated hereby.

Concessionaire will be responsible for any damages to the Village's concession equipment above and beyond normal wear and tear. Any damaged equipment will be subject to review by the Village and Concessionaire. In the event of damage to Village property or equipment beyond normal wear and tear, the security deposit will be applied to the costs of repairing such damage or replacing damaged property or equipment, and any unpaid damage costs not covered by the security deposit will be billed to the Concessionaire under the contract. All replacement or repaired property or equipment will be owned by the Village.

Village-owned concession equipment at Volunteer Park:

- Refrigerator/Freezer
- Microwave
- Hot dog warmer
- 3 compartment sink
- Cooler
- Counter space
- Nacho Cheese Machine
- Coffee Maker

Village-owned concession equipment at Village Park:

- Refrigerator/Freezer
- Cooler
- Microwave
- 3 compartment sink
- Counter space
- Shelving rack
- Nacho Cheese Machine
- Coffee Maker

Village-owned concession equipment at Snack Shack:

- Refrigerator/Freezer
- 3 compartment sink
- Cooler
- Hotdog warmer
- Counter space
- Shelving rack

Nacho Cheese Machine
Coffee Maker

Village-owned concession equipment at Romeoville Athletic and Event Center:

Popcorn Machine
Microwave
Coolers
Soda Fountain
Pretzel warmer
Nacho Machine

Village-owned concession equipment at Century Park:

[To be provided]

EXHIBIT A—CONCESSION STAND LICENSE TERM/HOURS OF OPERATION

License Term: The term of the license granted by this Agreement shall begin on January 1, 2023 for the Romeoville Athletic and Event Center and Snack Shack at the Romeoville Recreation Center, and shall begin on April 1, 2023 for Volunteer Park, Village Park and Century Park. The term of the license granted by this Agreement shall end on December 31, 2025 for the Romeoville Athletic and Event Center and Snack Shack at the Romeoville Recreation Center, and on November 1, 2025, for Volunteer Park, Village Park and Century Park.

Days and Hours of Operation—Within the license term as hereinabove noted, the Concessionaire shall be responsible for keeping the concession stands open during all of the dates and times designated to Concessionaire by the Village on or before November 1 of each year with respect to operations at the Romeoville Athletic and Event Center and Snack Shack at the Romeoville Recreation Center for the following year, and on or before February 1 of each year with respect to operations at Volunteer Park, Village Park and Century Park for the then-current year. The parties acknowledge that use of the Concession Stands as contemplated under the Agreement can vary from year to year and that it is impractical to schedule the same in advance to any greater degree. Additional days or hours are at the Concessionaire's discretion, subject to the applicable ordinances, rules and regulations of the Village and the Department. Additionally, the Concessionaire acknowledges that league and tournament schedules are subject to change (i.e., additional events may be added or scheduled events may be canceled), and that the Concessionaire will be required to operate the concession stands during all league and tournament events. Weekly schedules will be sent to Concessionaire to verify game times and determine hours of operation.