

PURCHASE OF SERVICE AGREEMENT

THIS PURCHASE OF SERVICE AGREEMENT, made and entered into on the 6th day of April 2026, by and between the **LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT**, an urban county government of the COMMONWEALTH OF KENTUCKY created pursuant to KRS Chapter 67A ("LFUCG"), 200 East Main Street, Lexington, Kentucky 40507, and Kona Ice of the Bluegrass, a Kentucky corporation, ("Organization") with offices located at P.O. Box 1746 Richmond, KY 40476

WITNESSETH

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. **EFFECTIVE DATE; TERM.** This Agreement shall commence on May 23, 2026 and shall last for a period of 3 year(s) unless terminated by LFUCG at an earlier time.
2. **RELATED DOCUMENTS.** This Agreement shall consist of the terms herein as well as the following additional documents, which are attached hereto as exhibits and incorporated herein by reference as if fully stated:
 - a. Exhibit "A" – LFUCG RFP Document
 - b. Exhibit "B" – Consultant Proposal

To the extent that there is any conflict between or among any of these documents, the terms and provisions of this Agreement shall prevail, followed by terms and provisions of Exhibit "A", "B", and "C" in that order.

3. **SCOPE OF SERVICES.** Organization shall perform the services outlined in the attached Exhibit "A" – Scope of Work for LFUCG in a timely, workmanlike and professional manner (the "Services").
4. **PAYMENT.** In consideration for the Services provided under this Agreement, Organization shall pay to LFUCG a fee equal to thirty percent (30%) of gross sales, less applicable sales tax, generated at the approved locations. , Organization guarantees a minimum payment of Five Thousand Dollars (\$5,000.00) each year.

LFUCG permits the placement of a stationary unit at Southland Aquatic Center requiring electrical service, Organization will pay an additional one percent (1%) of gross sales for the duration of such use.

All fees described herein are inclusive of any costs incurred by the Organization in the performance of Services, including but not limited to travel, labor, equipment, and operational expenses, unless otherwise agreed to in writing by LFUCG.

a. LFUCG shall make payment under this Agreement upon timely submission of an invoice(s) from Organization specifying that the Services have been performed, accompanied by data satisfactory to LFUCG to document entitlement to payment for the Services performed to date. LFUCG shall have thirty (30) days from the date of receipt of the invoice to pay the invoice amount. LFUCG reserves the right to refuse payment if it is determined by LFUCG that the Services performed or materials provided for the Services are inadequate or defective.

b. LFUCG also reserves the right to reject any invoice submitted for services more than sixty (60) days after the services were rendered.

5. TERMINATION. LFUCG, through the Mayor or the Mayor's designee, may terminate this Agreement for any reason whatsoever by providing Organization with at least thirty (30) days advance written notice. Organization shall be entitled for payment of all work performed up to that period of time, calculated on a reasonable basis.

a. In the event of a termination based upon a material condition of non-performance or default by Organization, LFUCG shall provide Organization advance written notice and a reasonable period of time to cure the breach.

b. Organization may only terminate this Agreement based upon LFUCG's failure to timely pay for properly invoiced and accepted work. Organization shall provide LFUCG with at least thirty (30) days advance written notice and an opportunity to cure prior to termination.

c. Organization acknowledges that LFUCG is a governmental entity, and that the validity of this Agreement is based upon the availability of appropriated funding. In the event that such funding is not appropriated in a future fiscal year, LFUCG's obligations under this Agreement shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Organization. LFUCG shall exercise any application of this provision in good faith.

6. REPORTING. Organization shall provide LFUCG with timely reports and updates related to the provisions of the Services in the form and manner reasonably specified by LFUCG. The vendor will provide a detailed sales report from a third party payment processing system, including information on monthly revenue totals. This report will be

provided to LFUCG's Division of Parks & Recreation for review by the 7th day of the subsequent month.

7. REGISTRATION; COMPLIANCE; AUTHORITY TO SIGN. Organization shall be lawfully registered or authorized to do business in the Commonwealth of Kentucky and Lexington-Fayette County and shall at all times comply with any and all applicable federal, state, and local laws, ordinances, and regulations. LFUCG may request proof that Organization has timely filed federal, state, or local tax forms which shall be provided by Organization on a timely basis. The person signing this Agreement on behalf of Organization is fully authorized to do so.

8. INSURANCE; INDEMNITY.

The risk management provisions of RFP No. 05-2026 are incorporated herein by reference as if fully stated. Copies of the required Certificates of Insurance shall be provided to the LFUCG as required therein.

9. RECORDS. Organization shall keep and make available to LFUCG any records related to this Agreement as are necessary to support its performance of the services for a period of at least five (5) years following the expiration or termination of this Agreement, or as otherwise required depending upon the source of funds. Books of accounts shall be kept by Organization and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of Organization related to this Agreement and shall be made available to LFUCG upon request.

a. LFUCG shall be the owner of all final documents, data, studies, plans, reports, and information prepared by Organization under this Agreement.

b. Organization understands and agrees that this Agreement and any related documents may be subject to disclosure under the Kentucky Open Records Act and will comply with any reasonable request by LFUCG to provide assistance with such a request.

10. ACCESS. Organization shall allow LFUCG any necessary reasonable access to monitor its performance under this Agreement.

11. CONTRACTUAL RELATIONSHIP ONLY. In no event shall the parties be construed, held or become in any way for any purpose the employee of the other party, or partners, associates or joint ventures in the conduct of their respective endeavors or otherwise.

12. EQUAL OPPORTUNITY; FAIRNESS ORDINANCE. Organization shall provide equal opportunity in employment for all qualified persons, and shall (a) prohibit discrimination in employment because of race, color, creed, national origin, sex, age, sexual orientation, gender identity, or handicap, (b) promote equal employment through a positive, continuing program of equal employment, and (c) cause any subcontractor or

agency receiving funds provided pursuant to this Agreement to do so. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices. Organization agrees to comply with LFUCG's Fairness Ordinance (Ordinance No. 201-99) and all sources of applicable law, including those specified in any Exhibit attached to this Agreement and incorporated herein by reference.

13. SEXUAL HARASSMENT. Organization must adopt or have adopted a written sexual harassment policy, which shall, at a minimum, contain a statement of current law; a list of prohibited behaviors; a complaint process; and a procedure which provides for a confidential investigation of all complaints. The policy shall be given to all employees and clients and shall be posted at all locations where Organization conducts business. The policy shall be made available to LFUCG upon request.

14. INVESTMENT. Any investment of the funds received pursuant to this Agreement must fully comply with any restrictions imposed by law.

15. NO ASSIGNMENT. Organization may not assign any of its rights and duties under this Agreement without the prior written consent of LFUCG.

16. NO THIRD PARTY RIGHTS. This Agreement does not create a contractual relationship with or right of action in favor of a third party against either Organization or LFUCG.

17. KENTUCKY LAW AND VENUE. This Agreement shall be governed in all respects by the laws of the Commonwealth of Kentucky and venue for all actions shall lie in the Circuit Court of Fayette County, Kentucky.

18. AMENDMENTS. By mutual agreement, the parties to this Agreement may, from time to time, make written changes to any provision hereof. Organization acknowledges that LFUCG may make such changes only upon approval of its legislative authority, the Lexington-Fayette Urban County Council, and the signature of its Mayor.

19. NOTICE. Any written notice required by the Agreement shall be delivered by certified mail, return receipt requested, to the following:

For Organization:

Kona Ice of the Bluegrass
P.O. Box 1746
Richmond, KY 40476

For Government:

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507

Attn: Zachary Martin

20. WAIVER. The waiver by either party of any breach of any provision of this Agreement shall not constitute a continuing waiver or waiver of any subsequent breach by either party of either the same or another provision.

21. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, which are not embodied herein shall be effective for any purpose. This Agreement shall replace any previous agreement between the parties on the same subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement at Lexington, Kentucky, the day and year first above written.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: *Linda Gorton*
LINDA GORTON, MAYOR

ATTEST:
Mackenzie Jack
Clerk of the Urban County Council

Deputy

Kona Ice of the Bluegrass

BY: *[Signature]*
TS Lamb

Zach Martin

ATTEST:
Zach Martin

WITNESS: _____

DATE: *5/14/26*

EXHIBIT "A"

Lexington/Fayette Urban County Government Addendum for Services

Request for Proposals – Mobile Frozen Treat Vending Concessions

Mobile Aquatic Concession Sales Considerations

1. Term of Agreement: 1 year with 2 auto renew.
2. Dates of Service: Saturday before Memorial Day – Labor Day, and special events as specified by the Division of Parks and Recreation (DPR). Division Special Events with established food vendors/sponsors are NOT included in this agreement. Other dates to be mutually agreed upon.
3. Times of Service: During the hours of operation of DPR aquatic facilities. 11am-7pm Monday through Saturday, and 12pm-6pm on Sunday.
4. Type of Service: Food and beverage vending from motorized or non-motorized (pushcarts) vehicles on a periodic basis.
5. Location of Service: Inside the Premises of: Castlewood Aquatic Center, Douglass Aquatic Center, Shillito Aquatic Center, Southland Aquatic Center, Tates Creek Aquatic Center, Woodland Aquatic Center, Masterson Station Splash Pad, and Jacobson Splash pad. Vendor will sell concessions in approved location inside of facilities with schedules to be approved by Division. DPR reserves the right to add or remove locations at its discretion.
6. Commission and Payment:
 - a. The vendor shall include, as a component of the bid, the proposed commission percentage on sales they are offering.
 - b. The vendor will provide a detailed sales report from a third party payment processing system, including information on monthly revenue totals. This report will be provided to LFUCG's Division of Parks & Recreation for review by the **7th** day of the subsequent month. The Division of Parks & Recreation will provide an invoice to the vendor by the **15th** of each month, detailing the amount owed to Parks & Recreation based on the agreed upon percentage of sales owed by the vendor. The vendor will pay the invoice within 30 calendar days of the invoice date.
7. Menu Items: Ice cream and frozen confections. Other items must be submitted for approval to DPR.

a. All merchandise available for sale shall be subject to inspection and approval by the DPR's designee. Rejected merchandise shall be immediately removed from the concession facility and shall not be returned for sale.

b. Vendor shall provide and maintain a menu sign in a conspicuous place in or outside the vehicle or cart at all times.

c. The sign shall list all items for sale, the price, hours of operation and the phone number for the DPR. The design and location of the sign shall be approved in advance by the designated agent for the DPR.

d. All menu items will be billed to and paid for by the Vendor.

8. Sales Restrictions: No alcoholic beverages or tobacco products may be sold or advertised. Pepsi products only (purchased through DPR approved vendor). No items may be sold in glass containers. Bottled drinks in plastic containers must be sold as individual units.

9. Utilities: All vehicles will be self-contained with regard to power and water requirements. Vehicles may not discharge wastewater onto parks property.

10. Maintenance: Vehicle or Pushcart must be kept in a clean and servicable condition. Exhaust gasses from vehicle cannot be noticable from a distance in excess of 10 feet from vehicle. Motor noise must be kept to acceptable levels as determined by the DPR. Vendor will provide for a publically accessible trash receptacle on or in the vehicle. Vehicle must have license plate or vehicle ID number permanently applied for customer reference.

11. Sanitation: Vendor must comply with all local, state and federal public health regulations for the safe and sanitary handling of food and beverage products and the general maintenance of the concession facility. Employees must have appropriate food handling permits. All licenses and permits must be available for on-site inspection by DPR representatives.

12. Termination: The DPR reserves the right to terminate the vendor agreement for any reason with thirty (30) days notice.

13. Assignment of Agreement: Vendor shall not sublet or assign any concession agreement or portion of an agreement without the express written permission of the DPR.

14. Insurance: Vendor must comply and provide proof of insurance requirements as specified in Risk Management Provisions.

f. Vendor and/or staff will not use tobacco products while on parks property. The use and/or possession of alcohol or illegal drugs/substances by vendor/staff while on parks property will result in the immediate termination of the agreement.

g. Vendor will be responsible for all inventories and ensure the quality of merchandise being sold.

h. Vendor will provide at vendor's expense all utensils, condiments, plates, napkins and other paper products used to serve menu items for sale.

i. Vendor WILL NOT represent themselves as an agent or employee of the Division of Parks and Recreation or LFUCG.

j. Vendor or employees of the vendor WILL NOT leave the concession vehicle for the purpose of selling or "hawking" items to patrons of the park facility.

k. Vendor WILL NOT post signs in any park area without the expressed written approval of the DPR.

l. Any chime, bell, noisemaker or voice/sound effect public address system used for the purpose of calling attention to the vendor's vehicle must comply with local noise restrictions. The length of any instance of sound produced by any mechanical or electronic device may not exceed 15 seconds followed by a period of one minute of silence.

m. All vehicles must comply with local, state and federal safety regulations. All motorized vehicles must be properly licensed, including current registration tags, tax payments and permits. All vehicles must be attended at all times; no vehicles may be left unattended at any time.

n. Vendor assumes complete and sole liability for any and all Federal, State and local taxes applicable to the income and transactions of the vendor.

o. Vendor shall only have the right to vend in the designated aquatics facilities for the described purposes in a final agreement. Any deviation from the sole intent of the agreement or conflict with or between any provisions of a final agreement shall be grounds for the immediate cancellation of contract.

18. The Request for Proposal submission must include the following items:

a. All LFUCG requirements must be complete.

KONA
ICE

& Beverly Ann's &

FORVILEY
TOM'S
COFFEE TRUCK



Scott Lamb | Owner
P.O. Box 1746
Richmond, KY 40476

March 1, 2026

TO: Lexington Parks & Rec
RE: Mobile Frozen Treat Vending/Concessions

Following is our bid for Lexington Aquatic locations:

1. Jacobson Park Splash Pad:

- a. May 23 – September 7, 2026.
- b. 7 days a week weather permitting.
- c. 30% of gross sales minus sales tax.
- d. Will provide square sales report.
- e. Menu – 2 sizes of shaved ice (\$5, \$7), 25 flavor choices, TopZ add on (Super sour sprinkles), Blended Fruit Smoothies

2. Masterson Station Splash Pad:

- a. May 23 – September 7, 2026.
- b. 7 days a week weather permitting.
- c. 30% of gross sales minus sales tax.
- d. Will provide square sales report.
- e. Menu – 2 sizes of shaved ice (\$5, \$7), 25 flavor choices, TopZ add on (Super sour sprinkles), Blended Fruit Smoothies

3. Southland Aquatic Center:

- a. May 25 – September 2, 2024
- b. Every day M-S – weather permitting
- c. 30% of gross sales minus sales tax
- d. Do have portable unit to put inside pool fencing (3'x6' unit, chair, ice cooler)
- e. ** Would like to leave the unit there for the duration of the dates. This would require an electrical hookup (120V). Would add an extra 1% of sales to compensate.
- f. Bid for 2024 - \$5000 or 30% of sales whichever is greater.
- g. Will provide square sales report.
- h. Menu – 2 sizes of shaved ice (\$5, \$7), 6 flavor choices, TopZ add on (Super sour sprinkles)

Bid for 2026:

Given written permission (permit) from P&R, our bid would be \$5000 or 30% whichever is greater for 2026 for both of the splash pads and Southland Aquatic Center combined.