

Lower Makefield Township  
Request for Proposal (RFP)

FOOD SERVICE MANAGEMENT, PREPARATION, AND OPERATION AT THE  
TOWNSHIP COMMUNITY POOL FOOD SERVICE DEPARTMENT FOR 2018, 2019, AND  
2020

**Introduction**

Lower Makefield Township (hereinafter sometimes referred to as the "Township") is requesting and accepting sealed proposals for the exclusive right as a contractor to provide all personnel, supplies and management necessary to satisfactorily operate the Food Service Department of the Lower Makefield Township Community Pool for the years 2018, 2019, 2020 with the Township option to extend any agreement an additional two years (2021 and 2022). Please note that all responses to this RFP must be received by Noon, Friday, January 5, 2018, at the address below under the heading "Submission."

**Description of the Lower Makefield Township Pool Property**

The Lower Makefield Township Community Pool (the "Pool") is located at 1050 Edgewood Road, Yardley, Pennsylvania. The Food Service Department snack bar area at the Pool ("Snack Bar") contains the following equipment to be provided, in "AS IS" condition, for the successful contractor's use during the term of the contract:

(1) Walk in refrigerator, (1) Walk in freezer, (1) Stand up refrigerator, (1) Stand up freezer, (1) Ice Maker, (1) B.M. Sandwich Station, (1) Grill with exhaust system, (2) Deep fryers, (1) Avantco Two Door worktop freezer with backsplash, (1) Carnival King Warmer with pump, (1) Nemco 4 suspension bar heat lamp, (1) Nemco 8036 hot dog roller grill, (1) Turbochef Fire countertop pizza oven, and (1) Waring Panini sandwich grill.

**Scope of Services and Other Requirements**

1. The minimum annual rental fee required for consideration is \$3,000.00 per year.
2. Proposals must be for the 2018, 2019, and 2020 seasons.
  - a. Prospective contractors are hereby notified that the Township shall have the option to extend any agreement reached for two additional years, specifically 2021 and 2022.
  - b. In the event the Township elects to exercise its option to extend the agreement reached by it and the successful contractor, the amount payable by successful contractor shall equal the average annual rental fee previously paid to the Township for the 2018 through 2020 seasons.
3. The successful contractor must:
  - a. Prepare, operate, and manage the Snack Bar during the term of the agreement in accordance with all policies, standards and procedures established by the Township and in accordance with all applicable Health and Sanitation laws. It should be understood and agreed that the contractor, including all employees and agents of

- the contractor, is not an employee nor is it an agent of the Township with respect to any relationship that may be established pursuant to the terms and conditions of the final agreement.
- b. Purchase all food, beverages, supplies, small wares and services as needed in the operation of the Snack Bar, including placing all orders and accepting delivery.
  - c. Provide a certified Food Sanitation Manager on site during hours of operation, and other supervisory employees as may be required. The contractor will hire, train, supervise, direct, and if necessary, discipline and discharge non-supervisory personnel working in the Snack Bar. The contractor shall pay its non-management employees at rates in compliance with State and Federal requirements. No employee shall earn less than the minimum wage in effect at the time of service to the contractor. The contractor must guarantee only employees with appropriate working papers and other approvals may be employed. Only employees acceptable to the Township will be assigned duty.
  - d. Operate the Snack Bar in accordance with the pool operation hours, open for service when the pool opens for members and closing one hour prior to the pool closing. The snack bar may close for inclement weather, but must notify the Pool Manager of this decision so the members may be notified.
  - e. Perform the specified services and comply with all applicable workman's compensation, unemployment compensation, employer's liability, background checks and other federal, state, county and municipal laws, ordinances, rules and regulations applicable to location stated above.
  - f. Be responsible for cleanliness of the food storage, preparation and service areas, and equipment. Contractor must comply in all respects with all applicable health and sanitation laws and regulations.
4. Contractor must obtain Township approval of Contractor's Menu, portions and prices to be charged for food and beverages served for each of the pool seasons, by no later than April 30 of each respective calendar year. Failure to obtain Township approval shall constitute a breach by Contractor of its obligations.
  5. Contractor will offer \$1.00 Hot Dog Fridays commencing the first Friday in June and through the balance of the pool season.
  6. Furnish the Township with a certificate of insurance, certifying the contractor carries worker's compensation and comprehensive general liability insurance (including product). The Township must be added as an additional insured on the contractor's general liability policy in the amount of two million dollars. The contractor shall keep all sales records customarily used in concession agreements. The Township will maintain standard audit rights.
  7. The Township and the contractor will jointly request and obtain any necessary licenses and permits required to operate the Food Service Department. The cost of the licenses shall be borne by the Township. The Township will provide and maintain all space needed for the Food Services Department operations and provide all fixed and movable equipment, furniture, fixtures and kitchen equipment. This equipment will be provided on an "AS IS" basis. Township assets may not be moved offsite. The Township will make available all utility services. The Township will be provided full access to all leased and managed areas.
  8. No sub-leases or transfers are permitted.

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9. The proposal must be signed by an agent of the company who has authority to bind the company to a firm proposal price.

#### **Site Visit**

A tour of the Snack Bar and Pool may be arranged by contacting the Director of Parks and Recreation. Failure to obtain a visit or to visit the site shall not constitute a basis for bidders to withdraw a proposal or terminate a contract if awarded.

#### **Submission**

Proposals shall be delivered in a sealed envelope clearly marked "Community Pool Snack Stand Management" to the attention of the Township Manager at the Lower Makefield Township Building located at 1100 Edgewood Road, Yardley, PA 19067, during normal business hours, but, in any event, no later than Noon on Monday, January 5, 2018, at which time all proposals shall be opened.

#### **Award**

If the contract is awarded, it will be to the best responsible contractor whose proposal, in the sole judgment of the Township, is most advantageous to the Township. Special considerations may be made to proposals emphasizing menu variety, healthy options and commitment to quality.

The Township expressly reserves the right to reject any and all proposals, and proposals which are deemed less than fair market value, fail to conform to any part of this RFP or which contain conditions may be rejected. The Township expressly reserves the right to waive any non-material defect in any proposal submission.

#### **Contractual Documents**

If awarded, the successful contractor shall sign a Food Service Management Agreement with the Township (hereinafter referred to as the "Agreement."). A substantially final form of the Agreement the successful contractor will sign, subject to any amendments, insertions, addenda as may be agreed to by the Township and successful contractor from time to time, is attached hereto as Exhibit "1."

Exhibit A

LMT Pool Snack Bar Equipment List

Walk in refrigerator

Walk in freezer

Stand up refrigerator

Stand up freezer

Ice Maker

B.M. Sandwich Station

Grill with exhaust system

Two deep fryers

Avantco Two Door worktop freezer w/backsplash

Carnival King Warmer with pump

Nemco 4 suspension bar heat lamp

Nemco 8036 hot dog roller grill

Turbochef Fire countertop pizza oven

Waring Panini sandwich grill

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EXHIBIT 1

**FOOD SERVICE MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT ("Agreement") is executed as of the day 13<sup>th</sup> of April, 2018 by the **TOWNSHIP OF LOWER MAKEFIELD**, a political subdivision of the Commonwealth of Pennsylvania having a principal place of business at 1100 Edgewood Road, Yardley, Pennsylvania 19067 (hereinafter referred to as "Township") and **SICILIA CATERING COMPANY** having a principal place of business at 368 Ramsey Road, Yardley Pa. 19067 (hereinafter referred to as "Contractor").

**RECITAL:**

WHEREAS, the Township desires to engage Contractor to manage and operate the Township's Snack Bar located at the Township Community Pool and Contractor desires to manage and operate the Snack Bar subject to this Agreement.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

**ARTICLE I**

**APPOINTMENT**

The Township grants Contractor the exclusive right to manage and operate the Food Service Department of the community pool, for the term set forth hereinafter. Contractor shall manage the Food Service Department during the term of the Agreement in accordance with the policies, standards and procedures established by the Township, as revised from time to time, and in accordance with all applicable health and sanitation laws. It is understood and agreed that Contractor is serving as a contractor for the Township and neither it nor its officers, directors,

members, partners, employees, or agents is an employee nor an agent of the Township with respect to any relationship that may be established pursuant to the terms and conditions of this Agreement.

## ARTICLE II:

### SERVICES

#### Section 2.1 Operation of Food Service.

Contractor shall provide food and beverages menu must be agreed to, in writing, by Contractor and the Township. Contractor further agrees to provide food and beverages at special functions as are requested with the understanding that before said request is made and the service performed, the parties shall mutually agree upon the food to be provided and the costs for same.

#### Section 2.2 Procurement.

Except as otherwise provided in Article III, Contractor shall purchase food, beverages, supplies, small wares, services and all other items and materials incident to the operation of and as needed in the Snack Bar.

#### Section 2.3 Personnel.

(a) Contractor shall provide a certified Food Safety Manager as required by applicable County and Commonwealth Departments of Health, Statutes, Regulations and polices, and other supervisory employees as may be agreed upon by the parties.

(b) Contractor shall hire, train, supervise, direct, and, if necessary, discipline and discharge non-supervisory personnel working at the Snack Bar. Contractor shall pay its non-management employees at rates in compliance with State and Federal requirements except, however, no employee shall earn less than the minimum wage in effect as of the date of service to Contractor. Furthermore, Contractor guarantees that only employees with appropriate working papers and other approvals shall be employed by Contractor.

(c) Background checks for all employees as required by the Pennsylvania Child Protective Services Law (23 Pa. C. S. Section 6301, et. seq.) shall be performed and certifications shall be provided to the Township's Director of Parks and Recreation, in compliance with applicable law.

Section 2.4 Menus and Prices.

(a) Menus, portions and prices to be charged for food and beverages served shall be as mutually agreed upon by the parties, which said agreement shall be accomplished no later than the month of April of each year during the Term of this Agreement.

(b) Contractor also agrees to provide "\$1.00 Hot Dog Fridays" commencing the first Friday in June through the balance of each "pool season" (as described hereinafter) during the Term.

Section 2.5 Cleaning.

Contractor shall be responsible for the cleaning and cleanliness of the food storage, preparation and service areas of the Snack Bar, and Contractor agrees that it shall comply in all respects with all applicable health and sanitation laws and regulations.

Section 2.6 Books, Accounts, Records.

Contractor shall maintain up-to-date books of account and all sales and use tax records and returns. All such records and statements shall be kept and prepared in accordance with acceptable accounting practices and all said records shall be maintained for a period of three (3) years after the expiration or termination of this Agreement. Upon receipt of the Township's demand therefor, Contractor shall make available for examination by the Township or its auditors at the Township building during regular business hours the aforementioned books of account and sales and use tax records.



Section 2.7 Licenses and Permits.

The Township and Contractor shall jointly request and attempt to obtain such licenses and permits as are necessary to operate the Food Service Department, which said licenses and permits shall be maintained on the snack bar premises and the cost of securing the license shall be borne by the Township.

ARTICLE III

TOWNSHIP'S OBLIGATIONS

Section 3.1 Space and Equipment.

The Township shall provide and maintain all space needed for the Food Service Department operations and provide all fixed and movable equipment, furniture, furnishings, fixtures, and kitchen equipment which said equipment is identified in the attached **Exhibit "A."** The parties, however, acknowledge and agree that same is being provided on an "AS IS" basis and there is no obligation on the part of the Township to expand the Food Service Department to accommodate this Agreement or to replace any of the equipment identified in **Exhibit "A."** At termination of this Agreement, Contractor shall return to the Township the fixtures, equipment, furniture and the like in the same condition as when received, normal wear and tear excepted.

Section 3.2 Utilities.

Township shall make available all utility services, including gas, electricity, hot and cold running water, and all other utility services necessary for the efficient, economical, and sanitary operation of the Snack Bar.

Section 3.3 Cleaning and Repair.

(a) Cleaning of the Snack Bar, including the aforementioned designated eating areas, shall be in accordance with the provisions of paragraph 2.5 of this Agreement.

(b) With respect to repairs, if said repairs are "minor repairs," which are defined to be \$50.00 or less, then the repairs shall be borne by Contractor but in the event repairs are deemed to be a "major repair," i.e. in excess of \$50.00 then the cost of same shall be borne by the Township. However, the Township shall have no responsibility to repair any of the equipment which may be utilized by Contractor that is not owned by the Township. Contractor shall be solely responsible for garbage and trash removal and extermination service expenses for the Food Service Department so as to guarantee that same shall operate according to the highest sanitary standards. These obligations shall begin with the initial set up and shall conclude on September 30 annually during each pool season.

#### ARTICLE IV

##### FINANCIAL ARRANGEMENTS

###### Section 4.1 Compensation.

As of the execution of this Agreement, Contractor shall pay the Township the annual amount specified in paragraph 4.2, below, as compensation to the Township so as to permit Contractor to operate the Snack Bar at the Lower Makefield Township Community Pool. Payment for each season under this Agreement shall be due on or before June 30 of the respective calendar year.

###### Section 4.2 Term and Renegotiation.

This Agreement shall be for three (3) consecutive pool seasons ("pool season" defined as Memorial Day Weekend through Labor Day Weekend) in calendar years 2018, 2019 and 2020 (collectively, the "Term"), but it is understood and agreed that the payment referred to in Section 4.1 of this Article shall be a payment for each year so that the total compensation shall be Eighteen

Thousand (\$18,000) Dollars which shall be averaged for the three pool seasons at the rate of Six Thousand (\$6,000) Dollars per pool season (hereinafter the "Annual Rate").

The Township shall have the option to unilaterally extend this Agreement for the 2021 and 2022 pool seasons, and the compensation for the 2021 and 2022 pool seasons, if extended, shall be at the Annual Rate.

## ARTICLE V

### DISTRIBUTION OF RISK

#### Section 5.1 Worker's Compensation.

Contractor shall provide and maintain Worker's Compensation Insurance on all of its employees working in the Food Service Department. Contractor shall provide proof of workers' compensation insurance, as described.

#### Section 5.2 Insurance.

Contractor shall furnish Township with a certificate of insurance, in form acceptable to Township, evidencing that Contractor carries worker's compensation and comprehensive general liability insurance (including product) in such amounts as are acceptable to Township. Insurance certificates must be forwarded to the Township prior to the beginning of operation. The Township must be added as an additional insured on Contractor general liability policy which shall be in the amount of Two Million Dollars (\$2,000,000.00), at minimum, combined single limit of liability per occurrence and, at minimum, a Four Million Dollar (\$4,000,000.00) annual aggregate.

#### Section 5.3 Indemnification.

Except to the extent of the Township's gross negligence or willful misconduct, Contractor shall indemnify and hold the Township and the Township's officers, administrators, members of its board of directors, employees, attorneys and agents (collectively, the "Township Indemnitees")

harmless from and against any and all liabilities, injuries (including death), losses, damages, costs, including reasonable attorney fees, judgments, settlements, claims, actions, causes of action, penalties, awards or expenses of any nature to the extent arising out of Contractor's, or its shareholders', members', partners', officers', directors', employees', personnel's, contractors', subcontractors', consultants', therapists' or agents' (collectively, the "Contractor Indemnitors") performance or omission of performance pursuant hereto or in connection herewith from, including but not limited to, the following: (1) any and all labor, employment, unemployment compensation, or workers' compensation claims or causes of action or other claim or cause of action arising from an employment, collective bargaining or contractor relationship between Contractor and any of the other Contractor Indemnitors or any collective bargaining unit; (2) the intentional, negligent or wrongful performance, acts or omissions of any of Contractor Indemnitors in connection with any services provided pursuant to this Agreement; (3) the intentionally improper, negligent or wrongful disclosure, storage, handling (including, but not limited to, maintaining the security of) by any of Contractor Indemnitors of any records or information of the Township received by it under this Agreement; (4) any breach, violation, inaccuracy, or misrepresentation of or contained in any term, condition, covenant, representation, warranty or covenant of Contractor contained herein or any omission of a material fact necessary to be stated herein in order to make such statement not a breach, violation, inaccurate or misrepresentation; (5) the claim of malpractice, ineffective rendering of service or other claim related to the negligent, wrongful or intentionally improper provision of services by any of Contractor Indemnitors in connection with this Agreement; and (6) any claim, notice, violation, citation, breach or other failure alleging violation of any of Contractor Indemnitors with respect to any federal, state or local law, regulation, ordinance, contract, or other obligation. Contractor Indemnitor's duty to

indemnify the Township Indemnitees shall not be limited to the available proceeds of insurance coverage.

Section 5.4 Assumption of Risk.

Contractor undertakes and assumes all risk of any dangerous condition, whether known or unknown, identified or not identified, on the property.

Section 5.5 Fire and Casualty Insurance.

Contractor shall not be held responsible for damage to or destruction of the Snack Bar areas, or Township's buildings, equipment, improvements, or other property whatsoever because of fire, explosion, and any other cause normally covered in standard form fire and casualty insurance policies with extended coverage endorsements, unless the fire or loss may be attributed to the negligence of Contractor or Contractor's agents or employees. The Township shall keep the Snack Bar, buildings, and other property, including the contents insured against loss or damage by fire, explosion, and similar casualties.

## ARTICLE VI

### TERMINATION

Section 6.1 Termination.

In the event of termination prior to the expiration of the pool season, by agreement of the parties, the Annual paid pursuant to a prior provision of this Agreement shall be prorated over the Term so as to determine a daily rate and in that event, the Township shall be required to reimburse Contractor for compensation paid to the Township in advance for the appropriate number of days when its services were not utilized at the Snack bar. If, however, this Agreement is terminated by reason of a default of Contractor, then the Township shall be entitled to recover against Contractor any and all expenses incurred as a result of the termination of the Agreement by Contractor Prior

to a distribution to Contractor, as a result of the termination of the Agreement, except by reason of default of Contractor, the Township shall be permitted to charge back on any unpaid electric charges prior to disbursing any portion of the Annual Rate to Contractor.

Section 6.2 Insolvency.

If either party has reasonable cause to believe the other is insolvent, or if any petition in bankruptcy or under any law for the relief of debtors is filed by or in respect of either party, then at the option of the other party, the Agreement shall immediately terminate. In no event shall the Agreement become an asset in any such proceeding nor shall either party be bound hereby after any act of bankruptcy by the other. Any delay by either party in the exercise of the right to terminate under this Section shall not diminish or waive that right. Any termination hereunder shall be without prejudice to the accrued rights of the parties.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Notices.

All notices shall be in writing and sent by certified mail, return receipt requested addressed as follows:

**To Township:** Lower Makefield Township  
Community Pool  
1100 Edgewood Road  
Yardley, PA 19067  
Township Manager

**To Contractor:** Stephen Sicilia  
Owner  
368 Ramsey Road  
Yardley Pa 19067

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or to such other persons or places as either party may, from time to time, designate by notice.

Section 7.2 Successors and Assigns.

The provisions hereof shall be binding upon and inure to the benefit of the parties and to their respective successors and assigns. The Agreement cannot be assigned by either party without the prior written consent of the other.

Section 7.3 Force Majeure.

If, because of weather, acts of God, strikes or other labor disputes, vendor delays, or other unavoidable cause, either party is unable to perform its obligations hereunder, such non-performance shall not be considered a breach of the Agreement.

Section 7.4 Equal Opportunity Employer.

Contractor affirms that it is an Equal Opportunity Employer and shall comply with all laws and regulations prohibiting employment discrimination in the performance of the Agreement.

Section 7.5 No Employment Relationship.

Nothing in this Agreement shall be construed to create an employment or agency relationship, partnership or joint venture between the Township and Contractor. The employees, agents or subcontractors of one party shall not be considered the employees or subcontractors of the other party. At all times the employees of Contractor shall be deemed to be employees of Contractor (or its affiliate, as the case may be), and Contractor (or its affiliate, as the case may be) shall have sole and exclusive authority over all such employees and labor matters for such employees, including, without limitation, determination of wages, benefits, vacation and holiday schedules, hours of work, job assignments, and other terms and conditions of employment. Nothing herein shall be construed to create an employer-employee relationship between the Township and Contractor, or any employee of Contractor.

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Section 7.6 Confidentiality.

All financial, statistical, operating and personnel data, information and concepts including recipes and menus, relative to or utilized in Contractor's business or the businesses of any of Contractor's subsidiary shall be the property of Contractor and shall be kept confidential. The Township shall instruct its agents, servants, employees and independent contractors as to same. The use of such data by the Township, including the use in any computer program, shall not destroy Contractor's ownership or its confidentiality. Those parts of the computer programs created by the Township, based on Contractor's data or concepts, shall be confidential and the property of Contractor unless the parties mutually agree in writing to the contrary. Notwithstanding anything to the contrary contained herein, it is understood and agreed that the Township shall be required to comply with the Right to Know Law (65. P. S. section 66.1 et. seq.) and other requirements with respect to making certain information public.

Section 7.7 Waiver.

A failure of either party to insist upon or enforce any term or provision or to exercise any right, option, or remedy of the Agreement, or to require at any time performance of any provision hereof, shall not be construed as a waiver of any such term or provision. No waiver by either party of any term or provision hereof shall be binding unless made in writing and signed by such party. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

Section 7.8 Severability.

If any provisions of the Agreement are held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect.



Section 7.9 Entire Agreement and Amendments.

This Agreement contains all the agreements of the parties, superseding any prior agreements and writings and may not be changed other than by an agreement in writing signed by the parties.

Section 7.10 Applicable Law.

This Agreement should be construed in accordance with the laws of the Commonwealth of Pennsylvania.

Section 7.11 Venue; Dispute Resolution.

Any disputes between the parties shall be venued and heard in the Court of Common Pleas of Bucks County.

Section 7.12 Headings.

The headings in this Agreement are for convenience of reference only and shall not affect the construction hereof.

Section 7.13 Counterparts.

This Agreement may be executed via electronic signatures and in counterparts, each of which shall constitute an original, and all of which shall constitute one Agreement. By executing this Agreement, each party acknowledges receipt of a duly executed copy.

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

ATTEST:

**SICILIA CATERING COMPANY**

*Subana J. Ellison*

By: *Stefania Lici*

Title: owner

ATTEST:

**LOWER MAKEFIELD TOWNSHIP**

*John D.*

By: *R. R. R.*

Title: Treasurer