

Seasonal Ice Rink Proposal

Seasonal Ice, LLC

1021 Van Buren Ave
Indian Trail, NC 28079
704.594.2264

Professional Services and Equipment Rental Proposal to Union County, NC Parks & Recreation Department

Date

July 29, 2024

Services Performed By:

Seasonal Ice, LLC
1021 Van Buren Ave
Indian Trail, NC 28079
704.594.2264

Services Performed For:

Union County, NC
500 N. Main Street
Monroe, NC 28112
Attn: Brian Matthews
County Manager

Scope of Work

Provide a 50' x 100' holiday ice skating rink at Sun Valley Commons Shopping Center including setup & strike, event planning services and support.



Period of Performance

The Services shall be performed following the schedule below:

| | |
|---------------------------|--------------------------------------|
| Rink Installation Window: | November 2024 |
| Open to the Public: | November 22, 2024 – January 20, 2025 |
| Rink Removal Window: | January 21, 2025 – January 31, 2025 |

Deliverable Materials

1. High flow portable rink cooling grid for a 50' x 100' Ice Rink
2. Portable refrigeration plant including all pumps, hoses, expansion tanks, etc.
3. Propylene glycol coolant, transfer pump and storage containers
4. Insulation and/or vapor barriers (as required)
5. Modular railing system defining the ice rink
6. Framed cover over rink piping header (chiller end)
7. 300 pairs of rental skates
8. Admission / skate rental shed
9. Tractor mounted ice resurfer
10. Ice maintenance equipment
11. Holiday decoration including Christmas trees, wreaths, etc.
12. Holiday lighting
13. Perimeter fencing to define rink, control entry and secure refrigeration plant equipment.
14. Sound System
15. Fire pits & seating



Supplier Responsibilities

1. Project Management / consultation for complete installation and removal of a temporary Ice-Skating rink
2. Supervision and general labor for set-up and strike.
3. All tools, equipment and supplies for set-up and strike.
4. Forklift or lull, as required for unloading, setup, removal and loading of materials.
5. Travel expenses/Per Diem expenses for Out-Of-Town Professionals.
6. Refrigeration technician on-call 24/7 during the entire term.
7. Commercial general liability coverage for equipment/personnel negligence only, worker's compensation insurance coverage, client added as an additional insured.
8. All transportation and freight to/from the venue.
9. General training regarding rink maintenance & operation.

Customer Responsibilities

1. 3-phase, 480-volt, 400 amp continuous power source for refrigeration plant.
2. Electrical connection by qualified professionals from source to the refrigeration plant.
3. Single phase, 110-volt power source for tools during installation and strike.
4. Continuous water supply available adjacent to the event site.

Note...Items 1 through 4 are being satisfied through the Lease Agreement with the Sun Valley Commons, LLC

5. Level skate change area immediately beside ice rink
6. First aid supplies and first aid response for the public users.
7. Grounds keeping in and around the rink area, trash removal, etc.
8. All Marketing and P.R. in support of the event including graphics and signage.
9. General security presence
10. Any and all sales and use taxes, occupational taxes, and any other license or fees levied upon the Supplier regarding the rental of equipment, the providing of labor and the execution of the Ice Rink installation.



Total Investment

50' x 100' Ice Rink Rental including all the equipment and services listed above:

2024/2025 Season

\$185,500.00/Season

| | Percentage |
|----------------------------|------------|
| Due @ Contract Execution | 50% |
| Due upon opening to Public | 50% |

TERMS AND CONDITIONS:

1. **RENTAL PERIOD.** The rental period shall commence on the date of shipment of the Equipment covered by this Agreement from the point of shipment and shall continue until Seasonal Ice, LLC (hereafter "THE SUPPLIER") removes the Equipment from the location where it was installed. CUSTOMER and THE SUPPLIER shall be collectively known herein as "parties".

2. **PAYMENT.** In the event the CUSTOMER fails to remit any amounts due, or the CUSTOMER fails to perform any of its numbered points of responsibility stated herein, this shall be deemed breach of contract; THE SUPPLIER will stop all work and remove from the site all of its operating equipment, with no refund of any deposits or amounts paid by the CUSTOMER. If the CUSTOMER withholds payment because of THE SUPPLIER's failure to carry out the work in accordance with this Agreement, the CUSTOMER must provide THE SUPPLIER with written notice of such intention and state the reasons therefor. When such grounds have been removed or satisfied, payment shall immediately be made to THE SUPPLIER in any amount withheld. If any payment is not tendered when due, CUSTOMER agrees to pay a late charge from the date such payment becomes due of one and one-half percent (1.5%) per month, or the highest legally permitted rate, whichever is less, on any balance past due, together with all costs incurred by THE SUPPLIER to collect overdue amounts.

3. **USE AND MAINTENANCE.** CUSTOMER shall not use, operate, maintain or store the Equipment improperly, carelessly, or in violation of any applicable law or regulation or for any purpose other than in the conduct of CUSTOMER's business. CUSTOMER shall not sublease the Equipment, permit the use of the Equipment by anyone other than CUSTOMER or change the use or location of the Equipment specified in the Agreement, without the prior written consent of THE SUPPLIER. CUSTOMER shall not alter the Equipment or affix any accessory to it if doing so would impair its originally intended function or use or reduce its value. Any alteration or addition to the Equipment shall be the sole responsibility of and at the sole risk of the CUSTOMER.

4. **INSPECTION.** The parties shall inspect all of the Equipment upon arrival on the event site and shall document the condition of such Equipment. THE SUPPLIER shall have the right at any time to enter the premises occupied by the Equipment and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.

5. **DAMAGE TO EQUIPMENT.** CUSTOMER shall be liable to THE SUPPLIER for all loss or damage to the Equipment in its possession, including loss caused by fire, theft, natural disaster, terrorism, or any other damage which occurs while the equipment required herein is in the possession of the CUSTOMER; it is at the CUSTOMER'S option to purchase and provide property insurance coverage for the equipment required herein.

6. **INDEMNIFICATION.** To the extent permitted by applicable North Carolina law, CUSTOMER shall indemnify, defend and hold harmless THE SUPPLIER against any and all loss, expense, liability or penalty which may arise out of any negligent or willful act or omission of CUSTOMER, CUSTOMER's employees, agents, assigns or subcontractors arising out of the operation, use, handling and/or maintenance of the Equipment. THE SUPPLIER shall indemnify, defend and hold harmless the CUSTOMER against any and all loss, expense, liability or penalty which may arise out of any negligent or willful act or omission of THE SUPPLIER, THE SUPPLIER's

employees, agents, assigns, subcontractors or any third party not employed by or under the control of the CUSTOMER, arising out of the operation, use, handling, maintenance and/or transportation of the Equipment.

7. **INSURANCE IN PLACE BY THE CUSTOMER.** CUSTOMER shall, at its own expense, maintain public liability insurance coverage in such amounts as is necessary to fully protect the CUSTOMER against claims for personal and property damage arising out of the staging of the Event, and the use of the facilities and equipment required herein by participating skaters and spectators. The CUSTOMER shall provide evidence of such insurance coverage naming THE SUPPLIER as a certificate holder, and as an additional insured party; such certificate shall be delivered to THE SUPPLIER no later than ten(10) days prior to the rental period stated herein. The provisions of this paragraph shall survive the termination of this Agreement.

8. **INSURANCE IN PLACE BY THE SUPPLIER.** THE SUPPLIER assumes all risk and liability for the erection and dismantlement of the Equipment required herein when performed by THE SUPPLIER'S employees, agents, assigns, subcontractors or any third party under direct control or under direct contract to THE SUPPLIER, and for all personal injuries and property damages arising therefrom or incidental thereto. The provisions of this paragraph shall survive the termination of this Agreement. THE SUPPLIER shall maintain, at THE SUPPLIER's expense, insurance coverage in accordance with the requirements set forth in the attached Exhibit A, which Exhibit A is incorporated herein by reference. THE SUPPLIER's insurance, as required herein, shall not be construed to offer the CUSTOMER, any insurance coverage as protection for any and all claims of personal injury and/or property damage arising out of a spectator's attendance at the Event and/or their voluntary participation in the ice skating activities, and any and all injuries or claims which may result therefrom, except in those cases where THE SUPPLIER, THE SUPPLIER's equipment, and/or in such cases in which THE SUPPLIER's employees are negligent.

9. **ELEMENTS REQUIRED TO LIMIT LIABILITY.** The CUSTOMER shall provide certain elements which shall act to limit liability, to the specifications of THE SUPPLIER, including but not limited to: on-site management or personnel in well-identified uniforms, various signage stating the acceptance of risk by the skater and spectator, tickets or wristbands or stickers including liability waiver, public address announcements emphasizing safety, and any and all other strategies designed to limit liability as determined by the CUSTOMER and THE SUPPLIER in advance of any public opening.

10. **TIMING.** THE SUPPLIER shall begin installation of the Equipment required herein no later than seven(7) days prior to the public opening of the event; if the CUSTOMER has not properly prepared or cleared the Event site making the event site totally available to THE SUPPLIER on the required dates stated herewith, the CUSTOMER shall give additional time to THE SUPPLIER to properly install the equipment as required herein in an amount equal to the time the event site is unprepared for installation. In cases where the CUSTOMER has not adequately prepared the site or has not completed the preparation of the site as per the timing stated within this Agreement, the CUSTOMER shall be liable for an additional fee in an amount equal to the prorated daily rate of the total fee for Equipment rental and professional services stated within

this Agreement, times the total number of days of delay.

11. **SEVERABILITY AND ENFORCABILITY.** Any provision of this Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent that such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions thereof, and any invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina.

12. **INDEPENDENT CONTRACTORS.** It is understood and agreed that each of the parties hereto is an Independent Contractor engaged in the operation of its own respective business and that neither party shall be considered to be an agent of the other party for any person and any purpose whatsoever, except as otherwise expressly stated in this Agreement.

13. **WARRANTY.** THE SUPPLIER makes no warranties, express or implied, regarding the merchantability and fitness of the equipment for any particular purpose. No agreement varying or extending the foregoing warranties, remedies, or any other limitation herein will be binding upon THE SUPPLIER unless in writing, signed by a duly authorized officer of THE SUPPLIER. Under no circumstances shall THE SUPPLIER be held liable for any special, indirect, incidental, or consequential damages. The contract price shall be the limit on THE SUPPLIERS' liability, whether founded in contract, statute, or tort (including negligence), arising out of, or resulting from (i) this Agreement or the performance or breach thereof, (ii) the design, manufacture, delivery, sale, repair, replacement or the use of any Equipment, or (iii) the furnishing of any service; provided, however, that in no event shall this limitation of liability serve to limit CUSTOMER's ability to recover claims made on the insurance coverages which the SUPPLIER is required to maintain pursuant to this Agreement. THE SUPPLIER hereby informs the CUSTOMER that acts of God, power failures, acts of terrorism, and/or vandalism to THE SUPPLIER's equipment may cause the melting of the ice surface or portions thereof and/or damage to the ice surface; accordingly, to the extent permitted by applicable North Carolina law, CUSTOMER shall protect, defend, indemnify and hold harmless THE SUPPLIER against any and all claims, demands, damages, expenses, or causes of action of everykind of any person, on account of personal injuries, property damage, and any other damage arising out of such acts of God, power failures, vandalism, and/or terrorism. THE SUPPLIER hereby informs the CUSTOMER that above-average daytime temperatures, direct sun, and warm, windy conditions may cause melting of the ice surface; THE SUPPLIER and the CUSTOMER shall work together to minimize the negative effects of such conditions.

14. **TAXES AND FEES.** CUSTOMER shall pay all personal property taxes, license fees, and registration fees which may now or hereafter be imposed upon the possession, lease or use of the equipment.

15. **OWNERSHIP AND ENCUMBERANCES.** Title to and ownership of the equipment is, and shall at all times remain with THE SUPPLIER, and CUSTOMER shall have no right, title or interest therein, or thereto except the right of possession and use of the equipment pursuant to the terms of the Agreement. CUSTOMER shall not remove or deface any plate or marking on the equipment identifying THE SUPPLIER as the owner of the equipment or the manufacturer's

serial number. The equipment is, and shall at all times remain personal property notwithstanding its use or manner of attachment to any other personal or real property. CUSTOMER shall keep the equipment free and clear of any and all levies, liens, security interests and encumbrances of any kind and shall give THE SUPPLIER prompt notice of any attachment or judicial process affecting the equipment.

16. AMENDMENTS. No change, modification, amendment or waiver of any of the terms or conditions of this Agreement shall be binding upon the parties unless made in writing and duly executed by both parties hereto.

17. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all previous or contemporaneous statements, purchase orders, agreements, and representations (except those written representations expressly incorporated in this Agreement). This agreement shall be binding and inure to the benefit of the parties, their successors, or their assigns.

Agreed to this _____ day of _____, 2024.

SUPPLIER:

CUSTOMER:

Seasonal Ice, LLC

Union County, NC

Signature

Signature

Brian W. Matthews

Print Name

Print Name

County Manager

Title

Title

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Deputy Finance Officer

Approved as to Legal Form **CAM**

Exhibit A

- I. At THE SUPPLIER's sole expense, THE SUPPLIER shall procure and maintain the following minimum insurances with insurers authorized to do business in North Carolina and rated A-VII or better by A.M. Best, or as otherwise authorized by the Union County Risk Manager.

A. WORKERS' COMPENSATION

Statutory (coverage for three or more employees) limits covering all employees, including Employer's Liability with limits of:

| | |
|-----------|-------------------------|
| \$500,000 | Each Accident |
| \$500,000 | Disease - Each Employee |
| \$500,000 | Disease - Policy Limit |

B. COMMERCIAL GENERAL LIABILITY

Covering Ongoing and Completed Operations involved in this Agreement.

| | |
|-------------|-----------------------------------------|
| \$2,000,000 | General Aggregate |
| \$2,000,000 | Products/Completed Operations Aggregate |
| \$1,000,000 | Each Occurrence |
| \$1,000,000 | Personal and Advertising Injury Limit |

C. COMMERCIAL AUTOMOBILE LIABILITY

| | |
|-------------|----------------------------------|
| \$1,000,000 | Combined Single Limit - Any Auto |
|-------------|----------------------------------|

II. ADDITIONAL INSURANCE REQUIREMENTS

- A. THE SUPPLIER's General Liability policy shall be endorsed, specifically or generally, to include the following as Additional Insured:

UNION COUNTY, ITS OFFICERS, AGENTS AND EMPLOYEES ARE INCLUDED AS ADDITIONAL INSURED WITH RESPECTS TO THE GENERAL LIABILITY INSURANCE POLICY.

Additional Insured status for Completed Operations shall extend for a period of not less than three (3) years from the date of final payment.

- B. Before commencement of any work or event, THE SUPPLIER shall provide a Certificate of Insurance in satisfactory form as evidence of the insurances required above.
- C. THE SUPPLIER shall have no right of recovery or subrogation against Union County (including its officers, agents and employees).

- D. It is the intention of the parties that the insurance policies afforded by THE SUPPLIER shall protect both parties and be primary and non-contributory coverage for any and all losses covered by the above-described insurance.
- E. Union County shall have no liability with respect to THE SUPPLIER's personal property whether insured or not insured. Any deductible or self-insured retention is the sole responsibility of THE SUPPLIER.
- F. Notwithstanding the notification requirements of the Insurer, THE SUPPLIER hereby agrees to notify Union County's Risk Manager at 500 North Main Street, Monroe, NC 28112, within two (2) days of the cancellation or substantive change of any insurance policy set out herein. Union County, in its sole discretion, may deem failure to provide such notice as a breach of this Agreement.
- G. The Certificate of Insurance should note in the Description of Operations the following:

Department: Parks and Recreation
Contract #: 9126

- H. Insurance procured by THE SUPPLIER shall not reduce nor limit THE SUPPLIER's contractual obligation to indemnify, save harmless and defend Union County for claims made or suits brought which result from or are in connection with the performance of this Agreement.
- I. Certificate Holder shall be listed as follows:

Union County
Attention: Risk Manager
500 North Main Street
Monroe, NC 28112

- J. If THE SUPPLIER is authorized to assign or subcontract any of its rights or duties hereunder and in fact does so, THE SUPPLIER shall ensure that the assignee or subcontractor satisfies all requirements of this Agreement, including, but not limited to, maintenance of the required insurances coverage and provision of certificate(s) of insurance and additional insured endorsement(s), in proper form prior to commencement of services.

- III. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. THE SUPPLIER shall ensure that THE SUPPLIER and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this provision by THE SUPPLIER will be considered a breach of this Agreement, which entitles Union County to terminate this Agreement, without penalty, upon notice to THE SUPPLIER.