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Lakewood City Council  
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CINDY MARX, WARD 4

Noticed 03/24/23

## **PUBLIC NOTICE – PUBLIC WORKS & SUSTAINABILITY**

The Public Works & Sustainability Committee will meet Monday March 27, 2023 at 6:00 p.m. in the Auditorium of Lakewood City Hall at 12650 Detroit Avenue. The meeting is open to the public.

Individuals with disabilities who require accommodations for participation in meetings must request accommodations at least 3 business days ahead of the scheduled meeting. Contact Michelle Nochtka at (216) 529-5906 [michelle.nochtka@lakewoodoh.net](mailto:michelle.nochtka@lakewoodoh.net).

The meeting will be livestreamed on the City's website at the following link:

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[www.lakewoodoh.gov/councilvideos](http://www.lakewoodoh.gov/councilvideos)

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### **PUBLIC COMMENT PROTOCOL (Updated 6/21)**

The public is invited to comment on agenda items in person or by submitting a written comment in advance of the meeting using the eComment platform available [HERE](#). New users must create an eComment account.

### ***The agenda is as follows:***

Approval of the minutes of the March 6, 2023 meeting of the Public Works & Sustainability Committee.

**RESOLUTION 2023-10** - A RESOLUTION authorizing the Mayor or Director of Public Works, to enter into an agreement with Cuyahoga County for the operation of a Public Utility within the boundaries of the City of Lakewood. (*Referred to PWS 03/06/23*)

**RESOLUTION 2023-12** - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an amendment to the concession lease agreement with HELP Foundation, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances. (*Referred to PWS 03/06/23*)

Tristan Rader, Chair

Tom Bullock, Kyle Baker; Members

**PUBLIC WORKS & SUSTAINABILITY COMMITTEE**

A RESOLUTION authorizing the Mayor or Director of Public Works, to enter into an agreement with Cuyahoga County for the operation of a Public Utility within the boundaries of the City of Lakewood.

Whereas, Lakewood recognizes that Cuyahoga County has created a Public Utility pursuant to its authority established under the Constitution and Laws of the State of Ohio; and

Whereas, pursuant to a State Attorney General Legal Opinion (OPINION NO. 2021-015), Cuyahoga County requires that it obtain formal agreements with municipalities where it seeks to operate its Public Utility; and

Whereas, the County has great interest in developing energy microgrids in commercial, industrial and manufacturing districts which can utilize locally generated clean energy, on site battery storage and advanced technologies for resiliency; and

Whereas, the County has identified Lakewood as a strong geographic location and partner to work with to develop a microgrid district within; and

Whereas, Lakewood has no current franchise agreement with any electrical distribution utility which would hinder or foreclose its ability to allow Cuyahoga County to operate its Utility in the City and therefore be able to offer competition to customers; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. That the Mayor or Director of Public Works is hereby authorized to enter into an agreement with Cuyahoga County for the operation of a Public Utility within the boundaries of the City of Lakewood.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in open meetings of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
John Litten, President of Council

\_\_\_\_\_  
Maureen M. Bach, Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Meghan F. George, Mayor

ORDINANCE NO. 2023-12 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an amendment to the concession lease agreement with HELP Foundation, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances.

WHEREAS, the City is the owner of real property located in Lakewood, Ohio, known as Lakewood Park; and

WHEREAS, HELP Foundation, Inc., which through its predecessor in interest, Cornucopia, Inc., previously operated Nature's Bin and continues to operate a prepared food commissary and training center on Sloane Avenue, is a Cleveland- and Lakewood-based nonprofit organization with the special mission of providing work adjustment training for people with disabilities including developmental disabilities, mental illness, autism, visual and hearing impairment, and injuries resulting from accident or illness; and

WHEREAS, HELP Foundation, Inc. has served as the City's concessionaire at Lakewood Park since 2017 with success and without controversy; and

WHEREAS, the City has determined that continuing to make available food concessions at Lakewood Park offered by this local, longstanding non-profit corporation is in the best interests of the City and will further the interests of the City and its residents; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the 2023 park season is nearing; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor is hereby authorized and directed, on behalf of the City, to enter into an amendment to the concession lease agreement with HELP Foundation, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances, with the amendment to be on terms approved by the Director of Law and in substantially the same form as the document attached as Exhibit A.

Section 2. To the extent HELP Foundation, Inc.'s provision of services or other operation under the concession lease agreement conflicts with other established municipal rules and

ordinances related to the presence of persons or the operation of food service in Lakewood Park, the concession lease agreement shall control over those rules and ordinances.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
Clerk

Approved \_\_\_\_\_

\_\_\_\_\_  
Meghan F. George, Mayor

**Exhibit A**

Renewal of Concession Lease Agreement

(See following pages)

**AMENDMENT TO CONCESSION LEASE AND PERMIT**

THIS AMENDMENT TO CONCESSION LEASE AND PERMIT (“Amendment”) is made between the City of Lakewood, Ohio, as lessor (“lessor” or “the City”), and HELP Foundation, Inc., an Ohio non-profit corporation, as lessee (“lessee”) on the date appearing below.

WHEREAS, lessor and lessee wish to extend the term of the original Concession Lease and Permit (“Original Agreement”), which expires April 30, 2022, for another year, maintaining all other aspects of the Original Agreement; now, therefore,

1. **AMENDED TERMS.** The Original Agreement is hereby amended in relevant part to read as follows:

2. **TERM.** The term of this lease shall begin on May 1, 2023 and end on April 30, 2024, and may be renewable on such terms as are approved by the parties.

...

17. **CANCELLATION.**

(A) Termination by the City. In addition to any other right of cancellation under this lease, the City may terminate this lease if any of the following occur:

...

(3) Lessee voluntarily abandons operations at the leased premises for a continuous period of ten days between September 1, 2023 and the termination of the term of this lease;

...

2. **DEFINED TERMS.** Unless specifically defined herein, all capitalized terms used in this Amendment shall have the meaning assigned to them in the Original Agreement.

3. **CONFLICTS.** In the event of a conflict between the provisions of this Amendment and the provisions of the Original Agreement, the provisions of this Amendment shall control.

4. **RATIFICATION.** Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Original Agreement shall remain unchanged and in full force and effect; and the Original Agreement, as herein amended and modified, is hereby ratified and confirmed.

5. **COUNTERPARTS.** This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

WITNESS the signatures of the parties this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Attest:

**CITY OF LAKEWOOD, OHIO**, as lessor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Meghan F. George, Mayor

**HELP FOUNDATION, INC.**, as lessee

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Tamara Honkala, President and CEO