

# CITY OF TUCSON

## REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER: 110003  
PROPOSAL DUE DATE: July 23, 2010 AT 4:00 P.M. LOCAL AZ TIME  
PROPOSAL SUBMITTAL LOCATION: Department of Procurement  
255 W. Alameda, 6<sup>th</sup> Floor, Tucson, AZ 85701

MATERIAL OR SERVICE: TCC Catering & Concessions

PRE-PROPOSAL CONFERENCE DATE: July 13, 2010  
TIME: 2:00 P.M., LOCAL AZ TIME  
LOCATION: City Hall, 255 W. Alameda, Tucson, AZ  
Attorney Conference Room, 7<sup>th</sup> Floor

CONTRACT OFFICER: Ruth Estrada  
TELEPHONE NUMBER: (520) 837-4132  
Ruth.Estrada@tucsonaz.gov

Interested offerors may obtain a copy of this complete solicitation by calling (520) 791-4217. A copy of this solicitation and possible future amendments may also be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

### \*\*\*\*NOTICE\*\*\*\*

Effective July 1, 2009, the City will no longer mail Notices of available solicitations via the U.S. Postal Service. Email notifications will be provided to those vendors that have updated their vendor record and selected email as their preferred delivery method. For information on how to update your vendor record, please visit [www.tucsonprocurement.com](http://www.tucsonprocurement.com), click on What's New? and read the section titled "Notice of Solicitations." You may also call (520) 791-4217 if you have questions.

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PUBLISH DATE: July 2, 2010

## INTRODUCTION

The City of Tucson is requesting proposals to provide food and beverage Concession and Catering services for the Tucson Convention Center (TCC). The scope of work includes providing a full range of catering, bar, concessions and vending. It is the City's intent to award this contract as a whole, both the Concessions Services and the Catering Services together.

The City is currently considering building a new hotel which will be adjacent to the TCC. A convention center hotel could impact the concessions and catering services scope of work. Therefore; if and when a hotel is built, the City will most likely issue a new request for proposal with a revised concessions and catering scope of work.

## BACKGROUND

The TCC is located in downtown Tucson at 260 South Church Avenue and sits on 28 acres. The TCC primary use is to host international, national and regional convention and trade shows. The marketing department supplements these events with consumer shows, conferences, concerts, cultural events, community functions, banquets, meetings, seminars and special events of a more local nature.

The TCC opened in 1971 with a total of 145,000 square feet of meeting and exhibit space. Additionally there are meeting rooms and a ballroom totaling 34,000 square feet providing approximately 205,000 total square feet. The complex incorporates a 113,949 square foot (SF) exhibit hall, 23,000 SF of ballrooms, 10,000 SF of meeting rooms, a little theater seating 503 attendees and a music hall seating 2,221. The exhibit halls can be configured in units from approximately 29,920 to 59,800 SF of exhibit space. Each of the main segments of the exhibit hall is served by its own concession stands. The exhibit halls are also extensively utilized to hold food and beverage functions. The estimated annual attendance is 1.2 million.

## SCOPE OF SERVICES CONCESSIONS

### 1. General Information

- a. Contractor shall have exclusive rights to sell food and beverage products, including alcoholic beverages at the TCC concession stands, subject to the exceptions detailed herein. These rights shall not be construed so as to prevent or prohibit an exhibitor from distributing, without charge, a type of good or merchandise which is manufactured and distributed in the normal course of the exhibitor's business, or from selling food items for consumption off the premises.

### 2. Facilities, Equipment and Smallwares

- a. Contractor shall post and display all menu items and prices for all permanent and portable stands. All signs must be consistent with the graphics of the Convention Center and must be approved by the Director. Hand written signs are not permitted.

The facilities and equipment shall have the ability to serve various types of foods and alcohol and be able to support an arena that accommodates 9,600. Contractor shall design and develop concession stands that are modern in appearance and ADA accessible.

- b. The designated spaces pertinent to Contractor's operation are as follows:
  - i. Main Kitchen
  - ii. Food Service Administrative Offices
  - iii. Cash Handling Room
  - iv. Beverage Stockroom
  - v. Permanent Concession Stands
  - vi. Exhibit Halls
  - vii. Parking
  - viii. Arena

ix. Music Hall

### **3. Responsibilities**

- a. Contractor shall be responsible for all aspects of the concessions food service operation, including, but not limited to, the following:
  - i. Opening concession outlets and having them in operation before, during and after all events, at times determined by the Director;
  - ii. Delivering and dispensing all food, beverage, supplies, and other articles for portable concession stands and portable bars, portable cafeterias, and portable carts;
  - iii. Coordinating the final hookup of electricity, and water or drainage on all portable (temporary) stands. Hookups will be made by the TCC staff unless otherwise determined by the Director.
- b. The City shall be responsible for the setup and tear down of all tables and chairs in established concession areas.

## **SCOPE OF SERVICES CATERING**

### **1. General Information**

- a. Contractor shall have exclusive rights to provide catered food and beverage products, including alcoholic beverages, at the TCC, subject to the exceptions detailed herein. These rights shall not be construed so as to prevent or prohibit an exhibitor from distributing, without charge, a type of good or merchandise which is manufactured and distributed in the normal course of the exhibitor's business, or from selling food items for consumption off the premises. The Director reserves the right to obtain outside catering services when necessary.
- b. Off premise catering from the convention center may be permitted subject to the prior written approval of the Director, and an agreed upon commission payment.
- c. The City of Tucson has an annual agreement with Watch Tower Bible and Tract Society of New York, Inc. Contractor will not be able to provide food service to this group. The group is at the TCC between the months of June and August.

### **2. Facilities, Equipment and Smallwares**

- a. Smallwares Inventory - Contractor must maintain 2500 place settings at the Convention Center.
- b. Contractor will recommend and purchase with Director approval, the china, flatware, stemware and buffet ware that is reflective of the style of the facility.
- c. The designated spaces pertinent to Contractor's operation are as follows:
  - i. Main Kitchen / Dish Room
  - ii. Food Service Administrative Offices
  - iii. Ballroom
  - iv. Cash Handling Room
  - v. Beverage Stockroom
  - vi. Exhibit Halls
  - vii. Meeting Rooms
  - viii. Parking
  - ix. Arena
  - x. Music Hall
- d. Contractor shall take full responsibility for the maintenance and cleanliness of the equipment and facilities provided by the City for use under this contract.

### **3. Responsibilities**

- a. Contractor shall be responsible for all aspects of the food service operation, including, but not limited to, the following:
  - i. Covering and draping of tables, placing of decorations (e.g., flags, balloons, drapes, flowers, table stands with numbers, etc.) on tables, cleaning and removing of all service ware and table cloths and draping at the completion of the function in areas where food service functions are held, unless otherwise directed by the Director; and
  - ii. Providing decorations for coffee service, food stations, buffets, etc. to provide a "hotel like" atmosphere suitable for the area.
  - iii. Provision and cleaning of items required for event water services including, but not limited to, water pitchers, trays, ice and glasses. Contractor shall set up and supply the water service for all head tables and lecterns. In addition Contractor will supply a water bubbler, water and disposable cups for each meeting room in TCC.
  - iv. Supplying linens, water, glasses, candy, mints, paper and pencil for classroom style setups sold by TCC as "Business Class" service.
- b. The City shall be responsible for the setup and tear down of all tables and chairs except those used for break service and those specifically required by Contractor for serving and staging.

#### **4. Products and Prices**

- a. Contractor shall note on all menus and sales literature that deviations from the standard menu will be made upon request, and specialty meals will be accommodated. Contractor shall subcontract catering services for any events that require deviations from the standard menu, unless prior written permission is obtained from the Director.

## **SCOPE OF SERVICES GENERAL**

### **1. Operations**

- a. Contractor shall be responsible for all aspects of the operation, including, but not limited to, the following:
  - i. Assigning and relocating a Manager to the TCC fourteen (14) days prior to the start of the Agreement. The Manager will have no additional operational responsibilities to Contractor other than to manage the concession operations at the TCC;
  - ii. Assigning (upon award of the Contract) a qualified representative to answer questions, relating to the food service operation, from Licensees and prospective users of the TCC;
  - iii. Preparing and serving food and beverages in all assigned areas of the TCC;
  - iv. Receiving all food, merchandise, supplies and food equipment at the TCC food receiving area, and then moving these items to kitchen and store in the TCC. The Contractor is responsible for providing all necessary equipment to properly move products from one location to another. Contractor will not be permitted use of the TCC's pallet-jacks or forklifts, except with the written permission of the Director.
  - v. Moving supplies and equipment from storerooms in the TCC to areas where such supplies and equipment are required for food and beverage preparation and service functions. The loading dock will be shared by Contractor, the City and licensees. Deliveries will have to be scheduled so that the activity will not be in conflict with the move-in or move-out of any event;
  - vi. Scheduling semi-annual inspections by the Pima County Health Department in January and July of each year. Copies of the inspections shall be forwarded to the Director for review with the Manager;
  - vii. Developing and executing an acceptable Sales and Marketing Program for the services at the TCC. All advertising and promotional material requires the prior written approval of the Director before it is printed, published, or broadcast. The marketing program shall include participation in the web site maintained by the TCC.
  - viii. Conduct sales efforts for events such as weddings, banquets, etc.
- b. Contractor shall operate within the framework of the TCC event schedule. The City shall, when possible, build reasonable time periods into the event schedule for set-up and removal of Contractor's equipment. However, if necessary, Contractor must provide adequate staff to perform required set-up and removal to

accommodate the TCC schedule. Any use of TCC staff to set up or remove Contractor's equipment will be charged back to Contractor.

- c. Contractor shall obtain and hold all pertinent permits and licenses for the sale of all alcoholic beverages including beer, wine and spirits. These must be limited to the Contractor's interest in this contract and must terminate simultaneously with the expiration or termination of the contract. The privilege to sell alcoholic beverages shall be subject to the provisions of the Alcoholic Beverage Laws of the City, County and State. The Director and Contractor will jointly determine at which events alcoholic beverages may be sold.
- d. The TCC patrons shall not be infringed upon by any activity of Contractor or any of its employees or subcontractors. The activities of Contractor shall be such as to render service to the patrons in a dignified and professional manner and no undue pressure, coercion or persuasion shall be used by Contractor in an attempt to influence the patrons to use the services or products of Contractor. All Contractor's sales shall be conducted and operated within the rules and regulations promulgated by the Director or his/her duly authorized representative and shall in no way interfere with the orderly operation of any event. The sales shall be conducted at such times from and at such locations as are designated by the Director.
- e. Contractor shall at all times exercise total independent, prudent, reasonable, experienced judgment in the serving of alcoholic beverages. Contractor shall, at all times, use only qualified and properly supervised personnel with training and experience in the sale of alcoholic beverages.
- f. Contractor will operate the spaces designated in a manner that is both convenient and safe for the client and the public.
- g. Programming for all events requiring the services of Contractor shall be performed by the Director or an authorized representative. Any programming offered by Contractor utilizing the TCC facilities is subject to the approval of the Director and, if approved, will be incorporated into the official calendar of events.
- h. Contractor is required to have its next senior level of management to the Manager visit the TCC a minimum of once every other month (six times a year).
- i. In the event Contractor desires to sub-license or assign any part of the TCC food and beverage service, Contractor must request prior written permission from the Director.
- j. Contractor shall not interfere with the free distribution of food, beverages or any other items where such distribution has been pre-authorized by the Director. Contractor may be required to provide specialized or modified food and beverage operations upon request of any Licensee, if it has been pre-approved by the Director.
- k. The City reserves the right to issue rules and regulations governing the general provision of operations so as to maintain a consistency of kind, quality of food and beverage service, adequacy of number of personnel providing food and beverage service, and compatibility of food and beverage products with the events at the TCC.
- l. The final decision as to whether or not alcoholic beverages may be sold at any event shall be made by the Director. The decision to refuse service of alcoholic beverage to any individual shall be the sole responsibility of Contractor.
- m. Contractor shall, within three (3) months of the signing of the Contract as a professional entity engaged in the operation of food and beverage services at the TCC, develop a Convention Center Operations Manual (the Manual). The Manual is to set policy and procedures and establish minimum acceptable operational standards. The Director will have final authority in determining the minimum acceptable operational standards.
- n. Contractor's levels of service must be adequate to meet the requirements of TCC events and activities as determined by the Director.
- o. The City is willing to consider any use of any space available at the TCC. This approach to space use provides many opportunities for creative uses of the exhibit hall, lobbies, and meeting rooms. This

willingness to use any space available provides the City and Contractor with the options and alternatives necessary to cooperate in maximizing the use of the facility. The successful Offeror and Convention Center will set a "Booking Policy" for Food Service Events within thirty (30) days of the signing of the Agreement, to maximize space utilization and eliminate potential double booking of space. Current Booking Policies and Procedures give priority to Conventions that have the greatest economic impact for the City and County area over local or public events which do not greatly impact the local economy.

## **2. Personnel**

- a. Contractor shall employ a highly skilled professional, full-time, on-site Management Team possessing the necessary experience and expertise to provide the overall management of a first class food and concessions operation. Contractor will present, for approval by the Director, a management organizational chart detailing each position and the salary and benefits to be paid.
- b. Contractor shall employ an on-site Manager at TCC at all times during the term of this contract. The Manager will reside within the Tucson Metropolitan area on a full-time basis. The initial Manager is required to remain on site for the first three (3) years of the contract. All future Managers will be required to remain on site for not less than two (2) years. If Contractor voluntarily transfers the Manager to another location prior to the expiration of the required stay, Contractor will be required to pay a \$20,000 penalty within ten (10) days after the Manager departs.
- c. If at any time the City determines that the Manager is unsatisfactory, Contractor shall within 30 days replace him/her with one who is pre-approved by the City. The City shall not be liable for any breach of the Manager's contract with Contractor.
- d. All employees of Contractor shall be neatly attired in uniforms; the design shall be subject to the prior approval of the Director. All employees of Contractor are required to wear a name identification tag at all times while at the TCC. The Management Team may be neatly attired in normal business attire in lieu of uniforms.
- e. Contractor shall employ and compensate its own employees, and all employees shall meet all the requirements of this contract. Contractor shall train and closely supervise all its employees so that they are aware of and habitually practice high standards of cleanliness, courtesy and service required.
- f. Possession or use of alcoholic beverages and/or illegal drugs by employees of Contractor will not be tolerated. The City reserves the right to remove any employee of Contractor from the TCC premises whenever it is in the best interest of the City.
- g. Contractor shall be required to have all staff, including management, involved in the service of alcoholic beverages complete an Alcohol Awareness Training Program that has been approved by the State of Arizona.
- h. All employees of Contractor shall enter and leave the TCC via entrance(s) designated by the Director. Only employees actually working shall be permitted in the TCC without charge. Surplus of employees will not be permitted for any event.
- i. Contractor will be provided with City designated parking for all management and hourly service staff without charge.

## **3. Products and Pricing**

- a. Contractor will endeavor to continually increase gross receipts through its own sales efforts, its policies and procedures, the quality of the food and beverages it serves and the quality and experience of the people it employs at the TCC.
- b. Contractor shall provide products and services of a quality and price consistent with those presently being offered locally in competing facilities.

- c. Contractor must maintain availability that is competitive with other local commercial vendors. Effort shall be made by Contractor to maximize use of the TCC facilities by avoiding exorbitant pricing, unavailability of service, inferior quality or other non-competitive practices. The City reserves the right to intercede in those instances where the City determines that Contractor is failing to provide competitive and representative services. If Contractor consistently fails to perform for a particular portion of the food and beverage services, then the City reserves the right to obtain service from other vendors without terminating the Contract. Should the City need to obtain services from other vendors, the City shall not be in breach of the contract.
- d. The quality of items sold and services performed at the TCC are the essence of the Contract. Therefore, all food, beverage and other items sold or kept for sale at the TCC shall be of first quality, wholesome and pure and must conform in all respects to all applicable federal, state, and county health statues, ordinances and regulations. No imitation, adulterated or misbranded article shall be sold or kept for sale and all merchandise offered for sale at TCC shall be stored and handled with due regard for sanitation, and shall conform with the quality, type, brand, size, and weights as agreed upon and approved by the City. All food products sold to individuals through various outlets shall be prepared and handled to provide fresh, high quality products. Contractor will only serve fresh brewed coffee, not instant, liquid, or freeze-dried coffee. When it is not feasible to serve fresh brewed coffee, the Contractor may serve instant, liquid or freeze-dried. Written policies shall be developed and adhered to regarding shelf life of all perishable merchandise. All merchandise kept for sale shall be subject to inspection and approval by the Director. Contractor will comply with industry standards of beer, wine, and other alcoholic beverages regarding quality, quantity, storage and handling.
- e. Contractor shall meet with the Director annually to review products to be sold and prices to be charged. Contractor shall submit a detailed written price schedule for all items it proposes to sell, showing size, weight, grade, cost, and price of item alone with a price comparison sheet of the local market which shall be subject to final approval of Director. Any price changes must be by mutual agreement of the Director and Contractor and shall be documented in writing. Whenever unique economic conditions result in unusual cost increases to Contractor, the City will consider interim price changes. All prices of all products initially proposed and accepted by the City shall be used as the basis for current and future pricing.
- f. The proposed food and beverage service shall allow for competitive pricing, with service availability and capability for a 24 hour, 365 days per year operation for all TCC functions at all times to the extent convenient to the utilization of the TCC by its Licensees, show managers, and patrons.
- g. The City reserves the sole right to grant advertising and sponsorship rights for food and beverage supplies consumed in the TCC. Contractor shall not execute any supplier contracts for supplies at the TCC, other than those cancelable on 30 days notice, without the prior written consent of City, which consent may not be arbitrarily withheld. Pursuant to granting advertising and sponsorship rights, the City reserves the final right to specify any or all of Contractor's product sources of supply. Nonetheless, Contractor shall, in its sole discretion, select its vendors and sources of supply and shall not be obligated to use sources of supply whose level of quality, services and/or prices are not competitive with the marketplace. It is the intent of the City to be able to receive the full benefit of the exclusive outlet rights for food and beverage products, provided competitive levels of quality, services and/or prices are maintained.
- h. Due to the importance of high quality food and beverage for the long term success of the facility, provisions of this document relating to food and beverage quality and service, including staffing levels and appearance of staff persons, are considered material terms of the contract.

#### **4. Maintenance and Cleanup**

- a. Contractor shall maintain all equipment used in performance of its duties in a good state of repair, including maintenance or repair necessitated by ordinary wear and tear.
- b. Contractor shall be responsible for keeping clean, covered, polished and in good repair, all equipment and facilities provided by the City, whether permanent or temporary, for use in the performance of this contract. Damage incurred to the property of the City as a direct result of negligence or lack of maintenance on the part of Contractor will be paid for by the Contractor.

- c. Contractor shall maintain all food and beverage service facilities in a clean and sanitary condition in accordance and consistent with all applicable rules, demands and requirements of law, pertinent health and other authorities of the City, County and State of Arizona and any other department having jurisdiction.
- d. Contractor shall engage exterminators to control vermin and pests as is necessary or required by law. Such extermination services shall be required in all areas where food is prepared, dispensed or stored.
- e. Contractor shall be responsible for the professional removal of grease to avoid any spillage. Collection will be made at least biweekly. Grease traps will be pumped at least quarterly.
- f. All refuse and waste materials created by Contractor's operations, in all food service areas including carts and portable cafeterias, shall be promptly disposed of after each event by Contractor. Refuse and waste shall be directly placed into a compactor designated by the City, from which it shall be removed by the City. Waste foods shall be kept in closed metal or plastic containers until removed from the TCC. Such removal shall be made promptly to a central collection area designated by the City, from which it shall be removed by the City. The entire area, including the floor in the seating areas and the area within a radius of 25 feet of each food service area, shall be kept free and clear of all waste, debris, food and beverage spills by Contractor. Repairs, resulting from all nuisance and damage done to floors, walls, windows or other property within said food service areas, by reason of Contractor's operation in said areas shall be at Contractor's expense. In the event that Contractor does not sufficiently clean the stated area, the City will clean the same and submit an invoice to Contractor for services rendered. Nothing contained herein shall be construed to alter or affect any duty which Contractor has or may have under applicable local, state or federal laws and regulations.
- g. Contractor shall be responsible for the regular servicing of fire protection and fire extinguishing systems in the kitchen and food preparation areas to ensure they are fully operable. The Contractor may request that the City schedule the servicing and forward the invoice to Contractor for payment, as is the current practice.
- h. Contractor will develop and adhere to a recycling program approved by the City.
- i. Contractor shall be responsible for maintaining its office in a neat, clean and professional manner.

## **5. Facilities, Equipment and Smallwares**

- a. All equipment, furnishing and fixtures, including Equipment Improvements permanently attached to the TCC, all mobile equipment furnishing and fixtures; all china, glassware, cutlery and utensils of whatever kind and source, as well as all office equipment and furnishings provided or installed by or under the direction of the Contractor, shall be the property of City. All such equipment and furnishings must not be loaned or removed from the TCC. No modifications or alterations may be made to this equipment without the express written permission of the Director prior to any work being started.
- b. Title to all property furnished by the City shall remain with the City. Contractor will be required to certify the inventory at least annually.
- c. At the end of the term or upon termination, Contractor shall leave all facilities and equipment in good condition, normal wear and tear excepted. Contractor and the City shall jointly conduct a closing inventory, documenting any damaged and/or missing equipment. Contractor is responsible for replacing damaged, lost, and missing service ware as required to maintain the original inventory levels.
- d. Contractor shall be responsible for any loss or damage to property of the City which results from the acts or omissions of Contractor, including, without limitation, failure on the part of Contractor to maintain and administer that property in accordance with sound management practices.

## **6. Financial Provisions**

- a. The Contract will be structured so that Contractor will pay a percentage of the gross receipts as a commission. Gross receipts shall be defined as the total amount of money or other items of value received or receivable, directly or indirectly, by Contractor or any Agent or employee of Contractor from all sales, cash or credit, regardless of whether such credit accounts or a portion of such accounts are collected, made as a

result of the service rights granted under the agreement, excluding City of Tucson and Arizona sales taxes collected by Contractor or in the event of prepayment of sales taxes, excluding any amount so prepaid by Contractor. The total amount of the service charge (gratuity) that is charged to licensees is excluded. The sale of any goods, food, beverage or other items that are returned by the purchasers and accepted by Contractor, exclusive of any sales tax, may be deducted from Gross Receipts. Gross Receipts must be reported without consideration for overages and shortages.

- b. The Contractor shall contribute 1% of gross receipts to a marketing reserve. The marketing reserve will be used as mutually agreed upon by the Contract and the TCC. At the time of contract expiration, any excess funds shall become the City's.

## **7. Utilities**

- a. Contractor shall pay an additional one and one half percent (1.5%) of its total gross receipts to the TCC in exchange for the electricity, gas and water service provided by the City for Contractor's operation. Said payment shall be made monthly, fifteen (15) days after the close of each accounting period. The City reserves the right to adjust this percentage if deregulation or other factors cause a substantial increase in utility costs. An amendment signed by both the City and the Contractor shall be processed prior to any change.
- b. Contractor shall be responsible for the cost of local and long distance phone charges, phone instruments and their maintenance, as determined by the City.
- c. Contractor shall develop an effective and continuous energy management and conservation program.

## **8. Records, Accounting and Auditing**

- a. Contractor shall provide to the Director, no later than forty-eight (48) hours prior to an event, a fully executed copy of the agreement between the Contractor and the Licensee in conformance with the Contractor approved price list.
- b. Contractor shall use non-resettable electronic cash registers at all sales locations; this shall include any sub-contracted service provider. Contractor shall accept payment via credit card. The number and placement of cash registers shall meet with the approval of the Director.
- c. Contractor shall provide to the Director, no later than forty-eight (48) hours after the completion of the calendar week, a revenue report detailing gross receipts by sales category for each event held during that week. If an event is held in multiple venues, or over multiple days, the report should segregate the report by venue and, or day.
- d. Contractor shall collect, and remit on a timely basis, all sales and other taxes required by city, county, state, and federal authorities, and shall pay any applicable sales, use, or related taxes generated under this contract.
- e. Contractor shall maintain and retain thorough records of all business transactions and activities for at least three years from the end of the contract year in which the transactions, activities, and expenditures occurred. These records shall be maintained on site and in accordance with generally accepted accounting principles. Contractor shall give to the City, through any authorized representative, access to and the right to examine and copy all records, books, papers, or documents relating to, or arising from, the performance of this contract, for a period of three years during, and following the termination of the contract. The records shall be available for examination within five days of a written request.
- f. Contractor shall have an annual financial statement audit of local operations performed by a certified public accounting firm selected by the Contractor and approved by the Director. The audit shall commence not later than ninety (90) days after the end of the contract year. Two copies of the report shall be submitted to the Director. One copy shall be submitted to the Internal Audit Division of the City's Finance Department for review.

- g. The City shall be entitled, at any time, to conduct an inventory of equipment and products maintained by the Contractor at the TCC.

**9. Miscellaneous**

- a. Contractor will pay all bills and payroll incurred in the normal operation under this contract according to established terms of credit.
- b. Contractor will comply with all OSHA and ADA requirements as well as all federal, state and local laws, regulations and ordinances. Contractor shall be responsible for any fines imposed for violations of any of these requirements.
- c. Contractor shall provide, at least annually, loss or claim runs under all insurance required herein.
- d. Contractor shall procure and keep in force, during the contract period, all permits and licenses required by the laws, ordinances, and regulations of the City of Tucson, Pima County, the State of Arizona, and the federal government.
- e. The following exhibits are provided for the Offeror's information, but there is no guarantee as to their accuracy or reliability. The awarded Contractor will be expected to make every effort to increase Gross Receipts through an aggressive marketing plan, as a benefit to both Contractor and the City. In any case, the City makes no representation as to the potential value of the awarded contract.
- Attachment A - Revenue from Alcohol Sales, Concession and Catering for April 2009 through March 2010
  - Attachment B - Event Listing for August 2010 through July 2011

**10. Additional Definitions**

- a. Accounting Period: Refers to a calendar month, in which twelve calendar months occur each fiscal year, for a total of 365 days.
- b. Alcoholic Beverages: Includes wine, distilled spirits, beer and any other beverages containing alcohol.
- c. Automated Vending: Food service vending from automatic machines.
- d. Catering Services: Pre-arranged food and beverage related functions at an established price per person or per meal, provided to Licensees and their invitees pursuant to the terms and conditions of agreement(s) between the licensee and the TCC and/or Contractor.
- e. Concession Services: Over-the-counter cash and credit card sales conducted at fixed and mobile food and beverage areas at the TCC.
- f. Director: Refers to the Director of the TCC, who shall be the City's contract representative.
- g. Licensee or Show Manager: Any person or entity that may from time to time enter into any agreement for the use of the TCC for a particular purpose.
- h. Manager: The key person in the Management Team assigned by Contractor to manage operations at the TCC under this contract.
- i. Smallwares: Glassware, china, flatware, decorations, bar service ware, pots, pans, kitchen utensils, storage containers, and buffet ware.

## INSTRUCTIONS TO OFFERORS

### 1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

**City:** The City of Tucson, Arizona

**Contract:** The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.

**Contractor/Consultant:** The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

**Contract Representative:** The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.

**Director of Procurement:** The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

**May:** Indicates something that is not mandatory but permissible.

**Offeror:** The individual, partnership, or corporation who submits a proposal in response to a solicitation.

**Shall, Will, Must:** Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

**Should:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.

3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.

4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.

5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

### 6. PREPARATION OF PROPOSAL:

A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.

B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.

C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.

- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
  - E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
  - F. Periods of time, stated as a number of days, shall be in calendar days.
  - G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
  - H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
  - I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.
- 7. PAYMENT DISCOUNTS:** Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period.
- 8. TAXES:** The City of Tucson is exempt from federal excise tax, including the federal transportation tax.
- 9. PROPOSAL/SUBMITTAL FORMAT:** An original and 4 copies (5 total) of each proposal should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office97 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page.** Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.
- 10. EXCEPTIONS TO CONTRACT PROVISIONS:** A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.
- 11. PUBLIC RECORD:** All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.
- 12. CONFIDENTIAL INFORMATION:** The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.
- 13. CERTIFICATION:** By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:
- A. The submission of the offer did not involve collusion or other anti-competitive practices.
  - B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
  - C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
  - D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.
- 14. WHERE TO SUBMIT PROPOSALS:** In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED

PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.

15. **LATE PROPOSALS:** Late proposals will be rejected.
16. **OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.
17. **WITHDRAWAL OF PROPOSAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
18. **DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
19. **CONTRACT NEGOTIATIONS:** Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).
20. **VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.
21. **CITY OF TUCSON BUSINESS LICENSE:** Prior to the award of a Contract, the successful offeror must obtain a City of Tucson Business License or a written determination that a business license is not required issued by the City's Business License Section. The business license must remain valid throughout the life of this contract. Contractor must provide a valid copy of the business license or a written determination that a business license is not required prior to award and at contract renewal. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at [tax-license@tucsonaz.gov](mailto:tax-license@tucsonaz.gov).
22. **UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.
22. **AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
  - (1) waive any immaterial defect or informality; or
  - (2) reject any or all proposals, or portions thereof; or
  - (3) reissue the Request for Proposal.

A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.

23. **PROPOSAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.
24. **PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:
  - A. The name, address, and telephone number of the protestant;
  - B. The signature of the protestant or its representative;
  - C. Identification of the Request for Proposal or Contract number;
  - D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and

E. The form of relief requested.

## I. PROPOSAL EVALUATION REQUIREMENTS CONCESSIONS

### 1. PROPOSAL EVALUATION CRITERIA - (listed in relative order of importance)

#### A. Experience & Qualifications of the Firm

- Prior Experience
- Reference checks
- Financial ability

#### B. Pricing Proposal

- Proposed commission

#### C. Experience & Qualifications of the Management Team

- Prior Experience
- Reference checks

#### D. Sales and Marketing Approach

- Marketing plans
- Contribution to enhancing events business
- Subcontracting plans for special requirements

#### E. Operational and Equipment Plan

### 2 REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Questionnaire shall be submitted in the same order as requested and must contain, at a minimum, the following:

#### A. Experience & Qualifications of the Firm: MINIMUM REQUIREMENTS: Offerors must be in the primary business of managing and providing concession services for a minimum of five (5) years, with at least three (3) years in a major venue. These conditions can be met if one or more of an Offeror's principals, partners or corporate officers have the equivalent experience while in a senior management position with another firm.

1. Describe how the firm meets the above Minimum Requirements.
2. Provide a brief history of your firm, including addresses for all locations, years in business in concessions and years in a major venue doing same.
3. Respond to the applicable requirements in the Scope of Services - General.
4. Respond to the requirements listed in the Scope of Services - Concessions.
5. Identify a minimum of five current and previous contracts with similar scope. Provide a contact name and phone number for reference purposes. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
6. Identify all contracts you have failed to complete (under present or previous name). Provide details, including the date, contracting agency and reason for failure to fulfil the contract.
7. Identify all agencies by whom you have been disbarred, or otherwise prohibited from competing for a contract (under present or previous name). Provide details, including the date, contracting agency, contact name and number and reason for disqualification. Also, identify if you have been requalified by those agencies.
8. Identify all contracts you have had terminated for cause (under present or previous name). Provide details, including the date, contracting agency, contact name and number and reason for default.
9. Submit a list of all other convention centers that Offeror serves or has served. Please provide detailed information, e.g., facility name, contact, position, address and telephone number of the facility, length of time served, dates served nature of services provided.
10. Identify at least three (3) facility references, including the name of the contract, contact name and telephone number, type of operation (i.e., convention center, stadium, performing arts center, and arena). Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
11. Identify at least three (3) customer (licensees of other facilities served) references; including the name of the contract, contact name and telephone number, type of service provide. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
12. Identify all accounts lost or not renewed within the term of the contract for any reason within the most recent twelve (12) months. Please provide detailed information i.e. facility name, contact, position, address, and telephone number.

13. Indicate the Offeror's ability and willingness to begin full operations at the TCC no later than September 2010, if selected as Contractor.
14. Provide a current, audited financial statement for the most recent fiscal year of the Offeror, including balance sheet, income statement and statement of cash flow.
15. Provide a statement indicating the source and amount of financing required to fulfill the terms and conditions of these specifications.

**B. Pricing Proposal**

1. Complete the Price Page.

**C. Experience & Qualifications of the Concession Manager and Team**

1. Submit a complete organizational chart detailing all proposed management, identifying full time positions and hourly positions, including sales personnel. Include proposed management salaries and hourly wages along with the types of benefits offered. The function of the Manager shall not include any operational responsibilities.
2. Specify who your on-site Concessions Manager will be. Include a resumé of prior positions, performance record in the food service field and what unique talents that person brings to the facility. The Director will have the right of approval initially and throughout the term of the Agreement. Please note that if you are selected as a finalist for an interview, you may be asked to have your proposed onsite Concessions Manager join us for the interview.
3. Specify positions of management staff and their job descriptions as detailed in your organizational chart.
4. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of the Contract, if awarded to you. This chart is to identify the next senior level of management responsible for the administration, of the Contract. Provide a resume of that manager. Please note that if you are selected as a finalist, we may ask you to have your next senior level of management join us for an interview.
5. Specify how your on-site management team will fill the required service staffing levels. The Offeror should address how service employees will be recruited, hired, trained, supervised, and motivated to meet the needs of the City. Specifically what, when, and how these functions will be accomplished.
6. Identify any subcontractors, if any, you might propose to use in the operation.
7. Identify at least three (3) facility references for key personnel, including the name of the contract, contact name and telephone number, type of operation (i.e., convention center, stadium, performing arts center, and arena). Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
8. Identify at least three (3) customer (licensees of other facilities served) references for key personnel; including the name of the contract, contact name and telephone number, type of service provide. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.

**D. Sales and Marketing Approach**

1. Submit a "Take-over" plan to demonstrate smooth and timely transition for staff and transparent change over for licensees, show managers and patrons of the TCC.
2. Identify the type and style of service that you would propose for a public show held in the Exhibit Hall, with an average daily attendance of 5,000.
3. Identify the type and style of service that you would propose for a three (3) day trade show with an average attendance of 2,500.
4. Describe a detailed program directed to the concession sales and marketing effort for this facility. Provide supporting material that may be pertinent.
5. Submit proposed sample menus for both concession food and beverage at the facility. Include pricing, portion size where applicable and a listing of the minimum purchasing standards your company adheres to for all major food provisions. Prices for Concessions and Bar items are to be inclusive of all costs and sales tax.
6. Submit a copy of the Offeror's accounting policy, a general outline of the procedures and a copy of any software that would be used in the control of the food and beverage services.
7. Submit a general outline of the personnel policies and training, programs that are currently in use in other facilities operated by Offeror.
8. Submit a general outline of purchasing policies.
9. Describe details of measurable Quality Control or Quality Assurance programs that Offeror currently has in effect in similar facilities and would employ at the Convention Center.
10. Provide a description of recycling programs.

**E. Operational and Equipment Plan**

1. Submit a detailed equipment schedule including soda and beer dispensers, hotdog and popcorn machines etc., cash registers, office equipment and such other equipment required to provide concession services.
2. Explain how the Equipment Reserve will be used. There will be a 1.5 point required in the reserve.

## II. PROPOSAL EVALUATION REQUIREMENTS CATERING

**1. PROPOSAL EVALUATION CRITERIA - (listed in relative order of importance)**

**A. Experience & Qualifications of the Firm**

- Prior Experience
- Reference checks
- Financial ability

**B. Pricing Proposal**

- Proposed commission

**C. Experience & Qualifications of the Management and Team**

- Prior Experience
- Reference checks

**D. Sales and Marketing Approach**

- Marketing plans
- Contribution to enhancing events business
- Subcontracting plans for special requirements

**E. Operational and Equipment Plan**

**2 REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA:** The narrative portion and the materials presented in response to this Questionnaire shall be submitted in the same order as requested and must contain, at a minimum, the following:

**A. Experience & Qualifications of the Firm:**

**MINIMUM REQUIREMENTS:** Offerors must be in the primary business of managing and providing catering services for a minimum of five (5) years, with at least three (3) years in a major venue. These conditions can be met if one or more of an Offeror's principals, partners or corporate officers have the equivalent experience while in a senior management position with another firm.

1. Describe how the firm meets the Minimum Requirements.
2. Provide a brief history of your firm, including addresses for all locations, years in business in catering and years in a major venue doing same.
3. Respond to the applicable requirements in the Scope of Services - General.
4. Respond to the Additional Requirements listed in the Scope of Services - Catering.
5. Identify a minimum of five current and previous contracts with similar scope. Provide a contact name and phone number for reference purposes. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
6. Identify all contracts you have failed to complete (under present or previous name). Provide details, including the date, contracting agency and reason for failure to fulfill the contract.
7. Identify all agencies by whom you have been disbarred, or otherwise prohibited from competing for a contract (under present or previous name). Provide details, including the date, contracting agency, contact name and number and reason for disqualification. Also, identify if you have been requalified by those agencies.
8. Identify all contracts you have had terminated for cause (under present or previous name). Provide details, including the date, contracting agency, contact name and number and reason for default.
9. Submit a list of all other convention centers that Offeror serves or has served. Please provide detailed information, e.g., facility name, contact, position, address and telephone number of the facility, length of time served, dates served nature of services provided.
10. Identify at least three (3) facility references, including the name of the contract, contact name and telephone number, type of operation (ie.g., convention center, stadium, performing arts center, and arena). Experiences

with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.

11. Identify at least three (3) customer (licensees of other facilities served) references; including the name of the contract, contact name and telephone number, type of service provide. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
12. Identify all accounts lost or not renewed within the term of the contract for any reason within the most recent twelve (12) months. Please provide detailed information i.e. facility name, contact, position, address, and telephone number.
13. Indicate the Offeror's ability and willingness to begin full operations at the TCC no later than 4/1/2000 for the 90-day transition period, if selected as Contractor.
14. A current, audited financial statement for the most recent fiscal year of the Offeror, including balance sheet, income statement and statement of cash flow.
15. A statement indicating the source and amount of financing required to fulfill the terms and conditions of these specifications.

#### **B. Pricing Proposal**

1. Complete the Price Page.

#### **C. Experience & Qualifications of the Food Service Manager and Team**

1. Submit a complete organizational chart detailing all proposed management, identifying full time positions and hourly positions. Include proposed management salaries and hourly wages along with the types of benefits offered. In addition, Contractor must have an adequate number of qualified sales personnel available to answer questions of licensees and show managers. The function of the Sales Manager shall not include any operational responsibilities.
2. Specify whom your on-site Food and Beverage General Manager will be. Include a resume of prior positions, performance record in the food service field and what unique talents that person brings to the facility The Director will have the right of approval initially and throughout the term of the Agreement. Please note that if you are selected as a finalist for an interview, you may be asked to have your proposed onsite Food and Beverage General Manager join us for the interview.
3. Specify positions of Executive Chef and members of the management staff and their job descriptions as detailed in your organizational chart.
4. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of the Contract, if awarded to you. This chart is to identify the next senior level of management responsible for the administration, of the Contract. Provide a resume of that manager. Please note that if you are selected as a finalist, we may ask you to have your next senior level of management join us for an interview.
5. Specify how your on-site management team will fill the required service staffing levels. The Offeror should address how service employees will be recruited, hired, trained, supervised, and motivated to meet the needs of the City. Specifically what, when, and how these functions will be accomplished.
6. Identify any subcontractors, if any, you might propose to use in the operation.
7. Identify at least three (3) facility references for key personnel, including the name of the contract, contact name and telephone number, type of operation (i.e., convention center, stadium, performing arts center, and arena). Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.
8. Identify at least three (3) customer (licensees of other facilities served) references for key personnel, including the name of the contract, contact name and telephone number, type of service provide. Experiences with the City and entities which evaluation committee members represent shall be taken into consideration when evaluating qualifications and experience.

#### **D. Sales and Marketing Approach**

1. Submit a "Take-over" plan to demonstrate smooth and timely transition for staff and transparent change over for licensees, show managers and patrons of the TCC.
2. Identify the type and style of service that you would propose for a three (3) day trade show with an average attendance of 2,500 and for which on each day, a sit down lunch for 500 people is served.
3. Identify they type and style of service that you would propose for a series of holiday parties on Friday and Saturday evenings including the first night of 2,500 and 1,000 the second night.
4. Identify proposed minimum staffing guidelines for all front of house positions. Include: 1) Table Service Breakfast, 2)Table Service Lunch, 3) Table Service Dinner, 4) Buffet breakfast, 5) Buffet Lunch, 6) Buffet

Dinner, 7) Reception Served, 8) Hosted Bar, 9) Cash Bar, include both number of servers used per number of guests and number of captains per number of servers.

5. Describe a detailed program directed to the catering sales and marketing effort for this facility. Provide supporting material that may be pertinent.
6. Submit proposed sample menus for catered food and beverage at the facility. Include pricing, portion size where applicable and a listing of the minimum purchasing standards your company adheres to for all major food provisions. Prices for catered functions are to be inclusive of all costs, but exclusive of service charge and sales tax. Prices for Bar items are to be inclusive of all costs and sales tax.
7. Submit a copy of the Offeror's accounting policy, a general outline of the procedures and a copy of any software that would be used in the control of the food and beverage services.
8. Submit a general outline of the personnel policies and training, programs that are currently in use in other facilities operated by Offeror.
9. Submit a general outline of purchasing policies.
10. Describe details of measurable Quality Control or Quality Assurance programs that Offeror currently has in effect in similar facilities and would employ at the Convention Center.
11. Provide a description of recycling programs.

**E. Operational and Equipment Plan**

1. Submit a detailed equipment schedule including china, silverware, cutlery, pots and pans, glassware, cooking utensils and serving equipment, cash registers, portable cafe equipment, office equipment and such other equipment required to provide the food and beverage services.
2. Explain how the Equipment Reserve will be used. There will be a 1.5 point required in the Reserve.

### **III. PROPOSAL EVALUATION REQUIREMENTS CAPITAL IMPROVEMENT OF FACILITIES**

- A. As part of the selection process, in conjunction with other evaluation criteria, the City will consider all reasonable capital improvements proposed. These improvements must be conducive to the enhancement and increased revenue of this concession. Award of the contract shall not be deemed approval of the proposed improvements, and all laws must be complied with before the successful Contractor will be permitted to make any capital improvements to the concession.
- B. Submit a plan, including a detailed cost estimate and proposed schedule, outlining any proposed Capital and Equipment Improvements. If applicable, include a detailed description of enhancements and upgrades for the Exhibit Hall kitchen and the Ballroom kitchen.
- C. Identify the amount of money your organization would supply toward the Capital Improvement of the facilities. Any capital improvements approved by the City are required to be completed at the concessionaire's expense, by the concessionaire, and shall be incorporated into the agreement. All proposed capital expenditures must be fully amortized by the end of the contract term. All capital improvements shall become the property of the City.

### **IV. PROPOSAL EVALUATION REQUIREMENTS GENERAL**

- A. **Shortlist:**  
The City reserves the right to shortlist the offerors on all of the stated criteria. However, the City may determine that shortlisting is not necessary.
- B. **Interviews:**  
The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.
- C. **Additional Investigations:**

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

**D. Prior Experience:**

Experiences with the City and entities that evaluation committee members represent may be taken into consideration when evaluating qualifications and experience.

## SPECIAL TERMS AND CONDITIONS

1. **TERM AND RENEWAL:** The term of the contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the contract for four (4) additional one-year periods. In the event that the City exercises such right, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price. The contractor shall agree that price stated in the original contract shall apply unless a percent of increase or decrease is quoted.
2. **LICENSES:** Contractor shall maintain in current status all Federal, State, and Local licenses and permits required for the operation of the business conducted by the Contractor.
3. **SAFETY:** Contractor shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees including- the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under this Contract by Contractor. Contractor agrees to fully cooperate with the City in any employee and public safety program sponsored by the City. Contractor agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times.
4. **COMPENSATION:** The Contractor shall compensate the City at the percentages proposed and accepted under this RFP. Percentage compensation shall be based upon the gross amount of revenue for each event, including novelties in the concession group.
5. **KEY PERSONNEL:** It is essential that the contractor provide adequate experienced personnel, capable of, and devoted to, the successful accomplishment of work to be performed under this contract. The Contractor must agree to assign specific individuals to the key positions.
  - A. The Contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
  - B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.
6. **PENALTIES:** If the Contractor fails a health inspection, any subsequent fine shall be applied to Contractor and shall be payable within thirty days to the City.
7. **CONFLICT OF INTEREST:** Contractor shall be prohibited from proposing on this RFP if Contractor has attempted or made contact with any elected or non-elected City Official in an attempt to influence the award of this RFP or alter it in any manner. Future conflicts shall be grounds for contract default.
8. **INSURANCE:** The Contractor agrees to:
  - A. Obtain insurance coverage of the types and amounts required in this section and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy. Contractor will present to the City written evidence (Certifications of Insurance) of compliance with this section. Said evidence shall be to the City Procurement Director's satisfaction.
  - B. The Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
  - C. Provide and maintain minimum insurance limits as applicable.

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Workmen's Compensation	Statute
Employer's Liability	\$100,000
Comprehensive General Liability Insurance Including: (1) Products & Completed Operations	\$2,000,000 Bodily Injury Combined Single Limit 100,000 Property Damage

- (2) Premises & Operations
- (3) Blanket Contractual

Comprehensive Automobile Liability Insurance Including: (1) Non-Owned, (2) Leased & (3) Hired Vehicles	\$1,000,000 Bodily Injury Combined Single Limit \$100,000 Property Damage
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- Commercial General Liability Insurance on the "occurrence" form (not Claims Made) covering all operations by or on behalf of Contractor providing- insurance for bodily injury and property damage liability for the limits of liability indicated below and including coverage for:
- Contractual Liability for Bodily Injury or Property Damage assumed by Contractor under the Save Harmless and indemnification Provision of its contract with the City.
- Personal Injury Liability - with the contractual Exclusion deleted;
- Employees of Contractor as Additional Insured
- Liquor Law (common or statutory) Liability including any liability there may be under any Dram-Shop law.
- Explosion, Collapse, and Underground Hazards
- Cross Liability or Separation of Insurers clause
- \$2,000,000 Aggregate for Products-Completed Operations
- \$2,000,000 General Aggregate

The policy shall be endorsed to provide that the General Aggregate Limit applies separately to the Tucson Convention Center located at 260 South Church, Avenue, Tucson, AZ.

The Worker's Compensation policy shall be endorsed to provide that the insurance company waives its rights of subrogation against the City of Tucson and its Mayor and Council, its Commission, agents and employees of the City, and the TCC.

All insurance shall be provided by companies licensed / admitted in Arizona and rated by A.M. best as "A VIII" or better.

The insurance extended by this endorsement for the persons or organizations shown in the Schedule shall apply as primary insurance and other insurance including Self Insurance and Self Insured Retention for such person or organization shall be excess insurance only and shall not be called upon to contribute with this insurance.

## 9. DEFAULT AND TERMINATION

- 1) The City may declare this Contract terminated in its entirety upon the happening of any one or more of the following and may exercise all rights of entry and re-entry with or without process of law, upon the premises occupied by Contractor hereunder:
  - a) If the rentals, fees, charges or other money payments which Contractor has agreed to pay hereunder, are unpaid after the date specified for such payments.
  - b) Discovery of fraud or deliberate material misrepresentation of financial or other records which results in underpayment of rentals, fees, charges or other money payments due.
  - c) If Contractor has failed in the performance of any duty or obligation required to be performed hereunder.
  - d) Upon the happening of any act or omission which results in the suspension or revocation of any act, power license, permit or authority which terminates the conduct of any of Contractor's operations in the convention center or suspends it for any time in excess of five (5) days except, with respect to the license to sell and serve alcoholic beverages, if the suspension is in excess of two (2) days.
  - e) If the interest or estate of Contractor under this contract is transferred to, passes to or devolves upon, by operation of law or otherwise, any other person, firm or corporation other than a subsidiary or affiliate of Contractor in a merger of a constituent corporation in a consolidation.

- f) Contractor shall voluntarily abandon, desert, vacate or discontinue all or part of its operations in the convention center or any other action that result in a failure by Contractor to provide the public and others with the services contemplated by this contract.
  - g) In the event Contractor cannot perform its obligations under the Contract because of a labor dispute, such non-performance will not be considered a default; provided, however, that in the event of a labor dispute, the City may operate the concessions until the labor dispute is settled. During the period of operation by the City, the City shall be entitled to use all facilities and equipment at TCC and any supplies and inventory of Contractor on hand and Contractor shall not be entitled to any moneys received from such operations. In such event, the City agrees to pay Contractor a sum equal to the cost of Contractor's supplies and inventory consumed by the TCC in such operation. In the event said labor dispute remains unresolved for a period in excess of thirty (30) consecutive days, the City retains the option to terminate the Contract upon 30 days notice.
  - h) Subject to the provisions of Federal Law, in the event a decree or order by court having, jurisdiction shall be issued a) adjudging Contractor bankrupt or insolvent; or b) approving as properly filed a petition seeking, reorganization of Contractor under any section of the National Bankruptcy Act, as amended; c) ordering or approving the winding, up or liquidation of Contractor's affairs; or d) appointing a receiver or a liquidator or a trustee in bankruptcy for Contractor or its property; if Contractor shall institute proceedings to be adjudicated a voluntary bankrupt or shall consent to the filing of any bankruptcy or insolvency proceedings against it, or shall file a petition or answer a consent seeking, a reorganization under any section of the National Bankruptcy Act, as amended, or under any state insolvency law, or shall admit in writing- its inability to pay its debts generally as they become due, or take any action in furtherance of any of the aforesaid purposes, or shall abandon the Contract, then the City may immediately terminate the Contract and all rights of Contractor to continue to operate the concession and/or catering thereunder. In the event of such termination, Contractor shall be liable, but not in limitation, for all payments required to be made to the City up to and including said date of termination.
  - i) In the event of an emergency situation or natural catastrophe beyond the control of the City, the City may terminate this Contract upon five (5) days written notice. The type of the emergency situation or natural catastrophe contemplated shall include, but not be limited to, occurrences of the following:
    - i) Conditions which render the TCC or any part thereof unsafe or unavailable for their intended use whether such conditions result from fire, storm, explosion, earthquake, flood, riot, civil commotion or otherwise.
    - ii) Acts or activities which, if not terminated quickly, may result in substantial damage to either the facility or its operations or in direct and substantial interference with the use of the TCC.
  - j) Upon sole determination of the City, Contractor is not providing the required quality of service.
- 2) In the event Contractor shall default in any of the payments, obligations or conditions set forth in the Contract, the Director may notify Contractor of such default in writing.
  - 3) Written notice referred to in this article shall be deemed delivered upon presentation to any person designated by Contractor as the manager or, in the case of notice by Contractor, the Director or by mailing the same certified or registered mail to the address for Contractor in the proposal, or the address listed in the agreement.
  - 4) Failure on the part of the City to notify Contractor of default shall not be deemed a waiver by the City of its rights of default of Contractor and notice at a subsequent time will have the same effect as if promptly made.
  - 5) Within five (5) days of receipt of notice of default from the City, Contractor shall correct such default if the default is with respect to any payment required to be made by Contractor, or within ten (10) days of receipt of the notice of the default if it is of any other nature. In the event Contractor fails to correct the default to the satisfaction of the City within the time specified, or such greater period as the City may permit, the City shall have all rights accorded by law, including the right to immediately terminate the Contract. Such termination shall not relieve Contractor of any liability to the City for damages sustained by virtue of any default by Contractor.
  - 6) Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the Contract, and in the event the City prevails, Contractor shall pay all expenses of such action including the City attorney fees and costs at all stages of the litigation.

- 7) Termination of the Contract by the City upon default shall be sufficient grounds for the forfeiture of the bonds required to be posted by Contractor, and the bonds shall so specify.
- 8) In the event that the Contract is terminated upon default, the City may assume immediate control of the operation and all equipment installed at the TCC and the City may continue to operate the same until satisfactory arrangements may be reached with Contractor concerning the default, the City shall obtain the services of another Contractor.
- 9) Upon termination, the City agrees to purchase equipment at depreciated value. Amortized purchase of equipment would apply for any reason of termination. Upon termination, Contractor shall immediately remove its employees and property from the premise.

## STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CERTIFICATION OF COMPLIANCE WITH A.R.S. SEC. 35-393 ET SEQ.:** By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-393 et seq. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Tucson Procurement Code up to and including termination of this contract.
7. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
8. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
9. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
10. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
11. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
  - A. Amend the contract or enter into supplemental verbal or written agreements;
  - B. Grant time extensions or contract renewals;
  - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

12. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall

prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

- 13. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 14. DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- 15. EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 16. FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

- 17. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 18. GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

- 19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.

- 20. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.

**21. INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, paid vacation or sick days by the City.

The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses.

**22. INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.

**23. INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.

**24. LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

**25. LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.

**26. NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.

**27. NON-EXCLUSIVE CONTRACT:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

**28. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

**29. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

**30. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

**31. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not

inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

- 32. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- 33. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- 34. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 35. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- 36. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- 37. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 38. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- 39. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
- 40. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

- 41. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
- 42. WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

**PRICE PAGE**

**GROUP ONE**

Concessions Commission \_\_\_\_\_ %

**GROUP TWO**

Catering Commission \_\_\_\_\_ %

**GROUP THREE**

Vending Commission \_\_\_\_\_ %

## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

\_\_\_\_\_  
Company Name

Name: \_\_\_\_\_

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Authorized to Sign

Fax: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Title

### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. \_\_\_\_\_.

**CITY OF TUCSON**, a municipal corporation

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, 2010.

Awarded this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
As Tucson City Attorney and not personally

\_\_\_\_\_  
Mark A. Neihart, C.P.M., CPPB, A.P.P., CPM  
As Director of Procurement and not personally

## **ATTACHMENTS**

Attachment A – Revenue from Alcohol Sales, Concession and Catering for April 2009 through March 2010

Attachment B – Event Listing

Attachment C – Current Catering and Concession Inventory

Attachment D – Current Catering/Concession Menus

Attachment E – TCC Floor Plans