

REQUEST FOR PROPOSALS

**CONCESSION SERVICES AT GOLDEN EAGLE REGIONAL
PARK**

RFP # 24/25-005

**SUBMITTALS DUE NOT LATER THAN: 2:00 PM ON NOVEMBER 26,
2024**



431 PRATER WAY
P.O. BOX 857
SPARKS, NV 89432-0857

Company Name: _____

CITY OF SPARKS
NOTICE TO PROPOSERS
Concession Services at Golden Eagle Regional Park
RFP # 24/24-005

NOTICE IS HEREBY GIVEN that the City of Sparks, Nevada, will receive written sealed proposals only, for the project listed above. Said proposals must be in the hands of the Parks and Recreation Director at the Parks and Recreation Department, 98 Richards Way, Sparks, NV 89431, **NO LATER THAN 2:00 PM ON November 26, 2024**. Proposals postmarked prior to, but not received until after this deadline, will not be accepted. Vendor submittals may not be sent to the City of Sparks via the Internet/e-mail and will not be entertained for award by the City of Sparks. The right is reserved to reject any Proposal or to accept the Proposal which is deemed by the City of Sparks to be in the best interest of the City of Sparks. The City of Sparks reserves the right to waive any irregularities and/or informalities in the proposal process.

All Proposals are to be marked clearly on the outside "RFP for Concession Services at Golden Eagle Regional Park, RFP Number 24/25-005

PROJECT DESCRIPTION:

The work to be performed under this Contract shall be commenced by the successful firm(s) after all executed Contract documents have been submitted for each unique scope of work, and after being notified to proceed by the City of Sparks. Pursuant to NRS 332.065 any Contract entered into under NRS Chapter 332 in which the estimated annual dollar amount exceeds \$100,000 will require written certification that the bidder is not, and will not be, engaged in a Boycott of Israel throughout the duration of the Contract.

All RFPs are to be marked clearly on the outside "RFP FOR CONCESSION SERVICES AT GOLDEN EAGLE REGIONAL PARK, RFP Number 24/25-005." RFPs may be mailed to PO Box 857, Sparks, NV 89432, or delivered to the City of Sparks Parks and Recreation Department, 98 Richards Way, Sparks, NV 89431.

RFP documents may be obtained at the City of Sparks Parks and Recreation Department, 98 Richards Way, Sparks, NV 89431. RFP documents will be ready for pick up on and after **October 25, 2024**. There is no cost for these documents. RFPs may also be downloaded at www.cityofsparks.us. The City of Sparks will not entertain RFPs received by any electronic means.

The right is reserved to reject any and all Proposals or to accept the Proposal which is deemed by the City of Sparks to be in the best interest of the City of Sparks. The City of Sparks also reserves the right to waive any irregularities and/or informalities in the RFP process.

For further information, contact City of Sparks Parks and Recreation Department at (775) [353-2376](tel:775-353-2376).

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1 OVERVIEW

Golden Eagle Regional Park represents the largest public work construction project in the history of the City of Sparks. The park facility is located in the northern section of Sparks (known as Wingfield Springs) at 6400 Vista Boulevard, behind Sparks Fire Station # 5.

The facility opened for operations in the Spring of 2008, and the 130-acre sports complex is a year-round center for numerous adult and youth sports and other community events. Primary park construction is completed and includes 6 adult softball fields, 1 soccer/football field, 2 multi-purpose fields, 2 “Babe Ruth” baseball fields and 2 “youth” baseball fields. The entire 1.2 million square feet of playing surface is covered in artificial turf, representing the largest installation of synthetic turf in North America to-date. The use of artificial materials enables the City of Sparks to program the facility on a (nearly) year-round basis without concerns for damage to turf that is typical in natural turf fields.

A major component of the park construction includes the placement of a 2-story building (Building) in the middle of the 5- softball field “cloverleaf” at the south end of the park. This Building includes offices and storage areas for City operations, but also includes rentable space for the provision of restaurant and concession services to patrons of the park facility. The purpose of this RFP is to identify a single concessionaire that is best able to provide both restaurant and concession services in the Building under contract with the City. A rendering of the park space with the Building designated as Restaurant Building can be found on Attachment A of this RFP.

The Building is located at the south end of the park and not visible from Vista Boulevard.

1.1.1 Facilities/Scope of Operations

The successful concessionaire will be required to operate two separate facilities within the main Building to serve park patrons: a Walk-Up Concession stand and a Restaurant. The City will contract with one concessionaire for the operation of both facilities. The concessionaire has the option of sub-contracting one portion of the operation, with prior written approval of the City. The City reserves the right to reject any sub-contracting arrangement whether it is originally submitted as a part of this RFP or requested during the term of the concessionaire contract.

Concessionaires shall be responsible for all required permits, fees, licenses (liquor, gaming, etc. as applicable) needed for the operation of a restaurant facility at the Building. The concessionaire will be responsible for all tenant improvements within the Building as well as ongoing operational costs to run their facility as designed including the applicable percentage of the City’s total utility costs for the Park.

The City notes that there are two other, smaller buildings located in the northern and central portions of Golden Eagle Regional park that include concession capabilities, identified in Attachment A as Youth Sports Snacks 1 and 2. The City has historically allowed, and intends to continue to allow, other third parties including non-profit groups, to operate limited concessions in these buildings. All proposers acknowledge that this RFP is not intended to encompass or limit operations at Youth Sports Snacks 1 and 2.

All proposers acknowledge that the City may, in its sole discretion, allow individuals or teams participating in events or programs at Golden Eagle Regional Park to bring their own food or beverages, excluding alcohol.

1.2 Facilities:

Restaurant:

Taking up the entire second floor of the Building (approximately 3450 sq.ft.), the restaurant space will be provided to the successful concessionaire **without prior concessionaire improvements**. It is the City’s

expectation that a casual dining restaurant generally or specifically themed as a “sports bar” would be best suited for this space. Only limited electronic gaming in the Restaurant’s bar area is acceptable to the City.

PLEASE NOTE: Nevada state law prohibits smoking in restaurants that are open to patrons under the age of 21. Thus, smoking is prohibited in the restaurant.

Walk-Up Concession Stand: The Walk-Up Concession Stand is a ground-level facility located in the south-west corner of the Building (approximately 600 sq. ft.), intended to serve snacks and beverages typically found at other sports venues, including City Park sports facilities such as Shadow Mountain Sports Complex and Sparks Marina Park. Food preparation will likely be limited to the re-heating of frozen or pre-prepared foods.

1.2.1 Hours of Operation

Due to the programming needs of the facility, there will be required hours of operation in the Walk-Up Concession Stand and the Restaurant to ensure there are adequate services to park patrons. The successful concessionaire may add hours outside of the City required hours of operation, but those additional hours cannot exceed the allowable hours of operations for either facility.

Allowable Hours of Operation (both facilities): 8AM – 12AM (Midnight) Daily

Restaurant - Required Hours of Operation:

8AM – 11PM (Tournaments)

Walk-Up Concession Stand - Required Hours of Operation:

5PM – 11:30PM (League Games)

8AM – 11PM (Tournaments)

League games take place Sunday – Friday from 5PM to 11PM from February – October.

Tournament schedules vary but generally take place most weekends from February through November from 8AM – 8PM)

Failure of a concessionaire to open the Restaurant or Walk-Up Concession Stand during the required hours of operation will constitute a breach of contract.

1.2.2 Timeline

The successful concessionaire will be required to open the Restaurant and Walk-Up Concession Stand no later than March 15, 2025 and operate according to the above schedule through November 30th 2025. The second floor Restaurant shall open no later than May 1, 2025 and operate according to the above required and allowable hours.

Anticipated Volume

Concessionaires responding to this RFP shall note that the following information concerning the physical space and anticipated park participant volume is an estimate based on historical use of the park and anticipated future use and the City shall not be liable for variances in these estimates. The number of visitors and/or visits is based upon programming offered at the facility and does not include facility use for the purpose of casual recreation by the public or practice time by organized teams. Potential concessionaires are encouraged to be knowledgeable of all potential variables when considering their potential response to the RFP. The City of Sparks is proud of the high volume of adult and youth sports participants that play each year in City programs.

Softball Fields

The City of Sparks Parks and Recreation department hosts approximately 450 adult league teams each year. The majority of those teams participate between the months of April and September, 6 nights a week from 5:20 p.m. to 10:00 p.m. That represents approximately 6,500 players or 63,000 visits to the facility (outside of practices). It is estimated that there are roughly 30,000 spectators.

Weekend tournaments generally run from February through November on every weekend. Tournaments bring another 1900-2000 teams annually representing another 25,000 players and 25,000 spectators.

Deep Freeze softball runs Tuesday, Wednesday and Thursday nights from February-March.

Adult Kickball runs Monday nights October - November, and March-June.

Currently, December is the only month without scheduled programming at the complex, however, that is subject to change should the City determine a need.

Other Youth Fields

The Restaurant and Walk-Up Concession Stand that are the subject of this RFP are located in the Building within the cloverleaf of adult softball fields at the south end of the park. There are other fields located between the Building and the entrance of the park that will host other adult and youth sports activities. Please note that these fields ARE NOT immediately adjacent to the Building space. The City notes that there are two smaller buildings, Youth Sports Snacks 1 and 2, located adjacent to these northern and central fields within Golden Eagle Regional park that include concession capabilities. *See Attachment A.* The City has historically allowed, and intends to continue to allow, third parties including non-profit groups to operate concessions in the buildings adjacent to these fields. All bidders acknowledge that this RFP is not intended to encompass or limit operations at the Youth Sports Snacks stands. Although the fields that would be serviced by the Youth Sports Snacks buildings are not in immediate vicinity of the restaurant/concession, the number of participants at these fields are estimated below:

- Four (4) youth baseball fields with approximately 140,000 visits per year
- Two (2) Babe Ruth fields with approximately 107,000 visits per year
- Three soccer/football fields with approximately 181,000 visits per year.

INSTRUCTIONS TO PROPOSERS

2 OBJECTIVES OF THE REQUEST FOR PROPOSAL

The primary objectives of this RFP shall be to:

1. Provide data necessary for the evaluation of competitive proposals submitted by qualified respondents.
2. Result in an Agreement between the successful proposer (unless all proposals are rejected) and the City of Sparks that shall meet the objectives as identified herein.

3 PROPOSER'S REVIEW

Proposers are expected to examine all related documents of the Project Proposal. Failure to do so will be at the proposer's risk.

4 A DULY AUTHORIZED REPRESENTATIVE OF THE PROPOSING FIRM SHALL SIGN THE PROPOSAL DOCUMENT. AN UNSIGNED PROPOSAL MAY BE DISQUALIFIED.

Any questions concerning the REQUEST FOR PROPOSAL process should be referred to the City of Sparks **Parks and Recreation Director Nancy O'Connor at (775) 353-2376** prior to the deadline to submit RFP proposals. If any such questions result in changes to the RFP documents, those documents will be promptly re-published on the City's website. It is the responsibility of potential responders to have the most recent RFP documents.

5 SUBMISSION OF REQUEST FOR PROPOSAL

ONE (1) COMPLETE ORIGINAL AND FIVE (5) DUPLICATE COPIES of the entire proposal submission package shall be delivered by the time and to the place stipulated in the Notice of Request for Proposal. It is the proposer's sole responsibility to see that their proposal is received at the place, date and time specified. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the proposer as unacceptable. Oral, facsimile, telegraph, computer or telephone modifications will not be considered.

1. The proposal may be withdrawn by the proposer or a properly authorized representative by written request delivered to the place stipulated in the Proposal prior to the scheduled closing time for receipt of proposals.
2. Unauthorized conditions, limitations or provisions attached to a proposal may render it non-responsive and be cause for its rejection.
3. Modifications or withdrawals received after the time set for receipt will not be considered.
4. Vendor proposals must be valid for at least ninety (90) days from proposal submission date.

Altering the proposal language or any document or form may render your proposal non-responsive. Omission of any part of the Proposal Submission Package may render your proposal non-responsive.

Purchases of tangible personal property made by the City of Sparks are exempt from the State Sales Tax and Federal Excise Tax. However, pursuant to NRS 372.325, property sold to or used by a Contractor for the City of Sparks is not exempted.

6 PROPOSAL SCHEDULE

The City will evaluate proposals, the following schedule is subject to change at the City of Sparks' discretion.

| | |
|-----------------------------|-------------------------|
| Publish RFP | October 24, 2024 |
| Proposal due date | November 26, 2024 |
| Select finalist (tentative) | December 5, 2024 |
| Contract Award (tentative) | January 2025 |

6.1 RFP Response

The City of Sparks reserves the right to waive any irregularities and/or informalities in the submitted proposal form, including rejection of any and all proposals. Should the City elect to waive a right it will not constitute an automatic waiver of that right in the future nor will it impact any other right or remedy.

Signed copies of all Addenda and/or bulletins issued to prospective Proposers should be enclosed with the Proposal. Failure of the Proposer to enclose said addenda or bulletins may be considered grounds for rejection of the RFP.

Should the successful Proposer fail to deliver the materials or perform the services in accordance with the stipulated schedule, including any extensions authorized by the City of Sparks, the City may declare the successful proposer in default of contract and recover all damages, costs and fees (including Attorney's fees) allowable by law.

In the case of default by the successful Proposer, the City of Sparks may procure the service(s) from another source and hold the defaulting Proposer responsible for an excess cost occasioned thereby, debar the defaulting proposer for not less than one year or pursue other applicable legal remedies. The successful vendor may not assign their rights and duties under this award without written consent of the City. Such consent shall not relieve the assignor of liability in event of default of their assignee.

The City will notify you in writing if you have been awarded the contract.

7 METHOD OF AWARD

Proposals submitted by interested Proposers will be reviewed by the City's RFP Evaluation Committee. The City of Sparks reserves the right after that review to make an award without further discussion of the Proposal. Therefore, the proposal shall be initially submitted on the most favorable terms the vendor can offer.

8 QUESTIONS / INFORMATION

Questions concerning the Instructions should be addressed to Nancy O'Connor, Parks and Recreation Director at (775) 353-7836, noconnor@cityofsparks.us.

9 PROPOSAL, AGREEMENT AND DISPOSITION

The contents of the proposal and any allowable clarifications thereto submitted by the successful Proposer and accepted by the City of Sparks shall become part of the contractual obligation and incorporated by reference into any ensuing Agreement.

— All proposals shall become the property of the City of Sparks and shall not be returned to the proposer.

— The City reserves the right to meet with select Proposers at any time to gather additional information. Furthermore, the City reserves the right to modify the RFP up until the final contract signing.

— All proposals submitted shall become public record under the laws of the State of Nevada, and the public may be given access thereto after the formal process has been completed. **If Proposers include any information in their proposal that is proprietary in nature or that they would not want to be released to the public, that material must be clearly marked and as “Proprietary”. Proposals should contain sufficient information to be evaluated without reference to any proprietary information.**

— Proposer will serve as the prime contact for the Proposer evaluation phase of this RFP.

— Proposers will assume the responsibility of working closely with the City staff.

EVALUATION OF OFFERS

MEETINGS WITH PROPOSERS

The City of Sparks reserves the right to meet with Proposers to discuss or clarify their proposal responses. All expenses incurred as a result of said meetings shall be the responsibility of the Proposers.

9.1 EVALUATION PROCESS

The City will conduct a comprehensive, fair and impartial evaluation of all Proposals received in response to this RFP. The City may appoint a selection committee to perform the evaluation. Each Proposal will be analyzed to determine overall responsiveness and qualifications under the RFP. Criteria to be evaluated may include the items listed below. The selection committee may select all, some or none of the Proposers for interviews. If the City elects to conduct interviews, Proposers may be interviewed and re-scored based upon these same criteria, or other criteria to be determined by the selection committee. The City may also request additional information from Proposers at any time prior to final approval of a selected Proposer. The City reserves the right to select one, or more, or none of the Proposers to provide services. Final approval of a selected Proposer is subject to the action of the Sparks City Council.

Proposal evaluation shall be based on the following factors; but other factors shall be considered if need shall arise during the evaluation process. These factors are not listed in any particular order of importance. Proposers should note that proposals will be evaluated on factors that do not involve price. The City desires to select the proposal providing, in its judgment, the best value for the City.

The format for responses to this request for qualifications can be in a relative “free-form” format; however, with each response, a *Statement of Qualifications* must be provided that includes the following information:

9.2 Evaluation criteria:

A. **Experience, Background, Qualifications (20 points)**

Criterion shall demonstrate Respondent’s ability to deliver and operate the proposed Restaurant and Walk-Up Concession Stand based on an assessment of the Proposer’s retail experience, including experience with the proposed concepts and professional references. Proposers shall have a minimum of three consecutive years of restaurant management experience.

B. **Proposed Concession Plan:** (50 points total Combined 1 and 2)

1. **Concept and Theme Development** (35 points)

Criterion considers the nature and variety of proposed facilities including merchandising, inclusion of branded products and services, innovation and visual presentation.

2. **Design and Quality of Improvements** (15 points)

Criterion considers the physical design of the Building, including innovation and creativity of concepts.

C. **Compensation Schedule** (30 points)

Financial projections and fee proposals shall be evaluated based on the overall compensation to the City assuming a standardized sales forecast. The Proposer(s) with the highest compensation to the City will receive 30 points. All other Proposers will receive a percentage of points based on the variance of the compensation from the

highest proposal. For example, if a respondent proposes a compensation that equals 75% of the highest proposed fee, that Proposer will receive 75% of the total possible points.

D. Financial Capability of Proposer (Pass/Fail)

Criterion shall be based upon an assessment of the Proposer's ability to provide adequate capitalization to fund improvements as well as maintain continuous operations given existing obligations combined with the obligations detailed in this RFP. Criterion shall be deemed with a rating of either pass or fail.

E. Completeness and Comprehensiveness of the Proposal (Pass/Fail)

Criterion indicates whether the Proposer provided adequate information for the City to evaluate the proposal.

The City will also consider the past performance of the Proposer, and its constituent individuals or entities as applicable, on other leases or contracts with the City or other entities in terms of quality of concession or business operation and reputation as a good tenant. The City of Sparks may solicit from other departments of the City, other government agencies and any other available sources, relevant information concerning the Proposer's record of past performance.

Responses also will be evaluated to ensure compliance with all applicable local, city, state, and federal laws, ordinances, statutes, and/or codes.

10 ADDITIONAL REQUIREMENTS

1. Proposer's previous record of performance and service, including experience; variety and depth of services available; and experience in the industry;
2. Ability to complete implementation of the project within an agreed upon and satisfactory timeframe;
3. Project support;
4. Experience and expertise of staff;
5. Service philosophy.
6. Availability of Proposer support for ongoing consultation with the City of Sparks;
7. Conformance to required contract provisions;
8. Company size, financial strength, and stability;
9. Cost and quality of services;
10. On-site assessment may be required.

The City will be the sole judge of the appropriateness and completeness of any and all proposals and reserves the right to reject any and all proposals and will reserve the right to negotiate those issues not included in the proposal document. The City will not reimburse Proposer for costs incurred in preparing proposals or traveling to the City for a demonstration or assessment.

The City of Sparks is an Affirmative Action/Equal Opportunity Employer. Proposers shall be cognizant of the requirement for compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in regulations of the U.S. Department of Labor (41 CFR part 60).

10.1 REJECTION OF A PARTICULAR PROPOSAL

The City may reject an offer, for any reason, which may include, but not be limited to:

- The Proposer misstates or conceals any material fact in its Proposal;
- The Proposer's Proposal does not strictly conform to the law or to the requirements of the Proposal;
- The Proposal expressly requires or implies a conditional award that conflicts with the method of award stipulated in the Request for Proposal;
- The Proposal is incomplete or does not include documents, including but not limited to licenses, information or specification sheets, bonds, and/or samples, which are required for submission with the Proposal in conjunction with the Specifications; or
- The Proposal has not been executed by the Proposer through an authorized signature on the Proposal Response Form.

10.2 REJECTION OF ALL PROPOSALS

The City may, at its sole and absolute discretion:

- Reject any and all, or parts of any or all, Proposals submitted by prospective Proposers;
- Re-advertise this Solicitation;
- Postpone or cancel the Proposal process for this Solicitation;
- Waive any irregularities or technicalities that are not qualified as a requirement for responsiveness in this Solicitation or in Proposals received in conjunction with this Solicitation; and/or determine the criteria and process whereby Proposals are evaluated and awarded.

No damages shall be recoverable by any challenger as a result of these determinations or decisions by the City; provided, however, that in the event a Court of competent jurisdiction determines that the actions of the City were arbitrary, capricious or void, then said challenger may recover only actual, necessary and reasonable Proposal-preparation costs, including any attorney or consultant fees relating to the preparation of the Proposal. No attorney fees or costs associated with the recovery of the Proposal-preparation costs, including costs for litigation against the City, shall be recoverable by any challenger.

10.3 ELIMINATION FROM CONSIDERATION

A Proposal may not be accepted from, nor any contract be awarded to, any person or firm that is in arrears to the City upon any debt or Contract or which is a defaulter as surety or otherwise upon any obligation to the City.

A Proposal may not be accepted from, nor any Contract awarded to, any person or firm that has failed to perform faithfully any previous contract with the City, State or Federal governments for a minimum period of one (1) year after this previous Contract was terminated for cause.

A Proposal may not be accepted from, nor any Contract awarded to, any person or firm that has pending litigation against the City on the date and time that the proposal opens.

11 NEGOTIATION(S)

The City of Sparks shall reserve the right to negotiate any terms and conditions of proposals received, with the final Proposer(s) prior to acceptance/rejection of said proposal(s).

12 STATUS OF SUCCESSFUL PROPOSER

Successful Proposer shall have the status of an "Independent Contractor" as defined by NRS 284.173, and shall not be entitled to any or all rights, privileges, benefits and emoluments of either an officer or employee of the City of Sparks.

13 GENERAL LIABILITY INSURANCE

The successful Proposer shall procure and maintain during the term of the resultant Agreement: General Liability Insurance and Liquor Liability Insurance in the amount of not less than \$2,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to this project or location.

The City, its officers, agents, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of successful Proposer, including the insured's general supervision of successful proposer; products and completed operations of successful Proposer; or premises owned, occupied or used by successful Proposer. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, agents, employees or volunteers.

The successful Proposer's insurance coverage shall be primary insurance as additional insured as respects the City, its officers, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, agents, employees or volunteers shall be excess of successful proposer's insurance and shall not contribute with it in any way.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

Successful Proposer's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Successful Proposer's insurance coverage shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City except for nonpayment of premium.

Insurance is to be placed with insurers with a Best's rating of no less than A-VII. The City with the approval of the Risk Manager may accept coverage with carriers having lower Best's ratings upon review of financial information concerning successful proposer and insurance carrier. The City reserves the right to require that the successful proposer's insurer be licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms approved by the City. **All certificates and endorsements are to be addressed to the City and be received and approved by the City before any work commences.** The City reserves the right to require complete, certified copies of all required insurance policies at any time. Correspondence shall be sent to the City of Sparks Parks and Recreation Department, 98 Richards Way, Sparks, NV 89431.

14 INDUSTRIAL INSURANCE

It is understood and agreed that there shall be no Industrial Insurance coverage provided for successful Proposer or any sub-contractor of the Proposer by the City. Successful Proposer agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the City to make any payment under this Agreement to provide the City with a certificate by an insurer in accordance with NRS. 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 616A to 616D.

15 PROFESSIONAL LIABILITY INSURANCE

Successful proposer will maintain professional liability insurance during the term of this agreement and for a period of three (3) years thereafter. Such coverage shall be a minimum amount of \$1,000,000 per occurrence and as an annual aggregate. Premium costs incurred shall be borne by the Proposer at no cost to the City. Successful proposer shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this exhibit.

16 WORKERS' COMPENSATION INSURANCE

Proposer shall carry and maintain workers' compensation and employer's liability insurance meeting the statutory requirements of the State of Nevada, including but not limited to NRS 616B.627 and NRS 617.210 or provide proof that compliance with the provisions of Nevada Revised Statutes Chapters 616A-D and all other related chapters is not required. It is understood and agreed that there shall be no coverage provided for Proposer or any Subcontractor of the Proposer by the City. Proposer agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the City to make any payment under this Agreement to provide City with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210.

17 LIQUOR LIABILITY INSURANCE

If alcoholic beverages are sold, used, delivered, or stored on or from the Premises, Concessionaire shall maintain throughout the term of this lease, (in addition to the other types of insurance required herein), at its expense, insurance covering any claims, including defense costs, arising under applicable law relating to the manufacture, storage, sale, use or giving away of any fermented, alcoholic, or other intoxicating liquor or beverage, which claims could be asserted against the City, Proposer or the Premises. Such insurance shall be in an amount of no less than \$2,000,000.00 but in no event shall such coverage be less than that customarily carried by prudent operators of similar establishments in the area of the Premises or as required by law.

18 FUNDING OUT CLAUSE

In the event the City of Sparks fails to obligate requisite funds for any ensuing fiscal year(s) for payment of amounts due against an Agreement resultant from this Request for Proposal, necessitating cancellation of the resultant agreement, the successful Proposer shall agree to hold the City of Sparks free from any charge or penalty.

19 STAFFING

Staffing shall consist of professionals having a broad-based knowledge of the proposed project.

The Proposer shall assume complete and total liability and responsibility for all aspects of their employees or subcontractors performance, project parameters, and its operation/management as outlined in the special terms and conditions of this Request for Proposal.

20 PROPOSED CONTRACT IS CONTAINED WITHIN THIS RFP PROPOSAL SUBMISSION PACKAGE

The Proposal Submission Package consists of the following materials:

- Statement of Qualifications
- Additions/Deletions and/or Exceptions Page
- Miscellaneous Additional Information
-

Omission of any portion of the Proposal Submission Package may cause rejection of the proposal. See the instructions to proposer's section.

21 PROGRAM AND ADDITIONAL REQUIREMENTS

Proposer shall:

1. Upon contract award, Proposer (now Concessionaire) shall furnish the owner's and all key personnel's contact phone numbers so that the City may contact them during schedule and non-scheduled hours such as weekends, holidays etc.
2. Concessionaire shall have clear and accurate knowledge of City's aims to provide safe food and beverages at a fair price to the Golden Eagle Regional Park patrons. Concessionaire is obligated to adhere to and to perform in a timely manner all related administrative policies that pertain to this agreement.
Concessionaire shall have a clear understanding of the required and allowable hours of operation, staffing and equipment/supplies and operating requirements.
3. The Concessionaire shall assume complete and total liability and responsibility for all aspects of their employees or sub-concessionaires' performance, contract requirements and its operation/management.
4. The City of Sparks is not liable for any costs incurred by Concessionaire prior to entering into a formal contract. Costs for developing the proposals or any other such expenses incurred by Concessionaire in responding to this RFP, are entirely the responsibility of the vendor and shall not be reimbursed in any manner by the City of Sparks.

Proposer's Checklist

Firms are instructed to complete and return the following forms in order for their proposals to be complete. Failure to return the following items may result in your proposal being declared non-responsive.

1. Proposer Information Sheets (3 pages)
2. Awarded Contract Information
3. Affidavit of Non-Collusion
4. Certification Regarding Debarment
5. References
6. Experience – Narrative answers to 5 questions – attach additional sheets as necessary
7. Proposed Concession Plan – Narrative answers to 5 questions – attach additional sheets as necessary
8. Compensation schedule
9. Additions, deletions or exceptions.
10. Proposer Acknowledgement

Proposer Information

COMPANY INFORMATION:

| |
|---------------------------------------|
| Company Name: |
| Contact Name: |
| Address: |
| City: |
| State / Zip Code: |
| Telephone Number including area code: |
| Fax Number including area code: |
| E-mail: |

COMPANY BACKGROUND

- 1) Has your company ever failed to complete any contracts awarded to it? No___ Yes___ (If yes, please provide details.)
- 2) Has your company filed any arbitration request or law suits on contracts awarded within the last five years? No___ Yes___ (If yes, please provide details.)
- 3) Does your company now have any legal suits or arbitration claims pending or outstanding against it or any officers relating to the performance of a public contract? No___ Yes___ (If yes, please provide details.)
- 4) Does your company now employ any officers or principals who were with another firm when that company failed to complete a contract within the last five years? No___ Yes___ (If yes, please provide details.)
- 5) Has your company had a contract partially or completely terminated for default (cause) within the past five years? No___ Yes___ (If yes, please provide details.)
- 6) Has your company been found non-responsible on a government bid within the last five years? No___ Yes___ (If yes, please provide details.)

Proposer Information

BUSINESS LICENSING INFORMATION All vendors doing business within the City of Sparks are required to obtain and maintain a current business license from the City of Sparks prior to commencement of work (Sparks Municipal Code Section 5.08.020A). Vendor(s) awarded a contract resulting from this bid shall be required to obtain a current business license if they do not already hold one.

| |
|---|
| City of Sparks Business License Number: |
| Date Issued: |
| Date of Expiration: |
| Name of Licensee: |
| City, State, Zip Code of Licensee: |
| Telephone Number of Licensee: |
| Taxpayer Identification Number: |

CONTRACTOR LICENSE INFORMATION (IF APPLICABLE):

| |
|---|
| Nevada State Contractor's License Number (If Applicable): |
| License Classification(s): |
| Limitation(s) of License: |
| Date Issued: |
| Date of Expiration: |
| Name of Licensee: |
| City, State, Zip Code of Licensee: |
| Telephone Number of Licensee: |

Proposer Information

DISCLOSURE OF PRINCIPALS:

a) **Individual and/or Partnership:**

| |
|------------------------|
| Owner 1) Name: |
| Address: |
| City, State, Zip Code: |
| Telephone Number: |
| |
| Owner 2) Name: |
| Address: |
| City, State, Zip Code: |
| Telephone Number: |
| |
| Other 1) Title: |
| Name |
| |
| Other 2) Title: |
| Name: |

b) **Corporation:**

| |
|---|
| State in which Company is Incorporated: |
| Date Incorporated: |
| Name of Corporation: |
| Address |
| City, State, Zip Code: |
| Telephone Number: |
| President's Name: |
| Vice-President's Name: |
| Other 1) Name: |
| Title: |

Awarded Contract Information

If your company is determined to be the awardee of the contract for this scope of work, the contract form for the work will be routed via electronic means. Therefore, please identify the authorized individual that will be signing the resulting contract. Presumably this will be the company owner or corporate officer authorized to bind the company for future work.

COMPANY INFORMATION:

| |
|---------------------------------------|
| Company Name: |
| Authorized Name: |
| Title: |
| Individual E-Mail Address: |
| Telephone Number including area code: |
| Mailing Address: |

1 AFFIDAVIT OF NON-COLLUSION

STATE OF _____)

COUNTY OF _____)

I, _____ (Name of party signing this affidavit and the Proposal Form),
_____(Title), being duly sworn do depose and say: That
_____(Name of person, firm, association, or corporation)
has not, either directly or indirectly, entered into agreement, participated in any collusion, or otherwise
taken any action in restraint of free competitive bidding in connection with this contract.

Signature

Title

Sworn before me this ___day of _____, ____

(SEAL)

Signature

Title

This form must be notarized and returned with the bid. Failure to notarize this form may be cause for disqualification from consideration for this contract.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILTY MATTERS
(This form to be signed and returned at the time of bid)**

The prospective proposing firm, _____ certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. Any exceptions provided will not necessarily result in denial of award, but will be considered in determining bidder responsibility and whether or not the City will enter into contract with the party. For any exception noted, indicate on an attached sheet to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

I am unable to certify to the above statement. My explanation is attached.

Signature _____ Date _____

REFERENCES - Provide four (4) references, with whom Proposer has provided with Concessionaire or Restaurateur Services during the past three (3) years.

Reference No. 1:

Firm/Company Name: _____
Contact Name: _____ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone No. _____ Fax No: _____
_____ Email: _____

Reference No. 2:

Firm/Company Name: _____
Contact Name: _____ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone No. _____ Fax No: _____
_____ Email: _____

Reference No. 3:

Firm/Company Name: _____
Contact Name: _____ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone No. _____ Fax No: _____
_____ Email: _____

Reference No. 4:

Firm/Company Name: _____
Contact Name: _____ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone No. _____ Fax No: _____
_____ Email: _____

EXPERIENCE, BACKGROUND, QUALIFICATIONS - Prepare and submit narrative responses to address the following items. If Proposer is proposing as a team or joint venture, provide the same information for each member of the team or joint venture.

1. Describe Proposer's experience relevant to the scope of restaurant and concession services contemplated by this RFP, with emphasis upon operation and management experience. Please note that the City requires potential vendors to have a MINIMUM of three (3) consecutive years experience in the restaurant industry to be considered under this RFP. List relevant operation and management experience for businesses of similar size and scope by including the following:
 - a. Name and location/address for each;
 - b. Food service and/or merchandise concepts offered;
 - c. Average annual sales volume; and
 - d. Length of time and reason(s) for leaving or closing business.
 - e. Provide photographs of the interior and exterior for each business listed, if available.

2. Describe Proposer's specific concession experience within a park or municipal setting, if applicable. If Proposer has operated a concession within a City facility or for the City in the past, include the following:
 - a. Identify the department for which concession services were provided;
 - b. Name and location/address for each;
 - c. Food service and/or merchandise concepts offered;
 - d. Average annual sales volume; and
 - e. Length of time and reason(s) for leaving or closing business.
 - f. Provide photographs of the interior and exterior for each business listed, if available.

3. List key personnel who will be assigned and actively involved in the management and operation of the proposed concession (include resumes for each listing relevant experience, licenses, certifications, associations, specialized training, etc.).

4. If Proposer is proposing as a team or joint venture, describe the rationale for selecting the team and the extent to which the team members or joint venturers have worked together in the past.

5. Additional Information. Identify any additional skills, experiences, qualifications, and/or other relevant information about the Proposer's qualifications.

PROPOSED CONCESSION PLAN - Prepare and submit the following items.

1. Concept Development Plan. Describe Proposer 's proposed plan for food service operation to include the following:
 - a. Food service and/or merchandising concepts and theme;
 - b. Proposed merchandise categories or menu and the approximate price range for each category; and
 - c. Visual presentation.
 - d. Identify three stores and/or restaurants within the Reno/Sparks area for price comparison purposes that are comparable to the Proposer's.

2. Design of Facilities Plan. Describe Proposer's plan for proposed capital improvements to be made to the space and the dominant design theme. Include with response the following:
 - a. Photographs of existing facilities and/or renderings of the proposed facility to illustrate the proposed design.
 - b. Identify proposed architectural design team, specifying prior experience in the design of retail and/or food service facilities (including resumes and project experience).

3. Projected Sales, Net Income and Cash Flow Statements. Provide a good faith estimate derived from the proposed operation(s) for the first three years of the Term. Include the following:
 - a. Expected annual gross sales;
 - b. Cost of goods sold;
 - c. Operating expenses;
 - d. Net income and cash flow;
 - e. Effect of proposed compensation to the City on net income and cash flow; and
 - f. Major assumptions used in developing the sales projections.

4. Capital Investment and Financial Sources Plan. Provide a detailed cost estimate for the Proposer's proposed improvements and additional start-up costs. Include with response, Proposer's source of funds (cash, bank loan, etc.) for said improvements and start-up costs. Note: Respondent's proposed estimate should delineate all improvements; equipment; furnishing and fixtures; architectural design and engineering fees; working capital; initial inventory; improvements completion bond; and other capital investments.

5. Additional Information. Provide any additional plans and/or relevant information about Proposer's approach to providing the required services.

COMPENSATION SCHEDULE

A. **Proposed Minimum Guarantee Rent:** Indicate the Minimum Guarantee Rent you propose to pay the City during the term of the Contract. Note: Proposed rent shall be paid to the City in equal monthly installments during the term.

| Payment to City | |
|----------------------------------|----------|
| Minimum Guarantee Rent (Year 1): | \$ _____ |
| Minimum Guarantee Rent (Year 2): | \$ _____ |
| Minimum Guarantee Rent (Year 3): | \$ _____ |
| Minimum Guarantee Rent (Year 4): | \$ _____ |
| Minimum Guarantee Rent (Year 5): | \$ _____ |

B. **Gaming Revenue:** Indicate the expected number of electronic gaming machines anticipated to be installed in the Restaurant bar area, if any, and the percentage of the monthly gross revenue that would be remitted to the City as overhead.

Number of proposed gaming machines _____

Percentage of gross monthly revenue remitted to the City _____

C. **Proposed Percentage Fee Rate(s):** In the table below, please enter the proposed Percentage Fee Rate(s) of Gross Receipts per year to be paid to the City that is in addition to the Minimum Guarantee Rent detailed above. Percentage Fees to be paid to the City on a schedule to be negotiated but no less than once per year.

| | Percentage Fee Rate |
|--------|----------------------------|
| Year 1 | _____ % |
| Year 2 | _____ % |
| Year 3 | _____ % |
| Year 4 | _____ % |
| Year 5 | _____ % |

ADDITIONS, DELETIONS AND/OR EXCEPTIONS PAGE

[ATTACH ADDITIONAL PAGES IF NECESSARY]

A Proposer deviating from specifications must specify any and all deviation(s). Failure to note said exceptions shall be interpreted to convey that the Proposer shall Proposer to perform in the manner described and/or specified in this RFP solicitation. If exception(s) are taken or alternatives offered, complete descriptions must be shown separately. Pricing information offers are to be submitted on the RFP item schedule cost sheet or specifically detailed on this exceptions page or attachment to this page. If no exceptions are taken write "none."

IF FURTHER SPACE IS REQUIRED, PLEASE ATTACHED ADDITIONAL PAGES AS NEEDED

SIGNATURE: _____

PRINT NAME: _____

COMPANY NAME: _____

ADDRESS: _____

DATE: _____

CITY OF SPARKS ACKNOWLEDGMENT AND EXECUTION:

STATE OF _____)
) SS
County of _____)

_____ (Name of Principal) being first duly sworn, deposes and says: That he/she is the Proposer, or authorized agent of the Proposer for whom the aforesaid described work is to be performed by; that he/she has read the Plans, Specifications, and related documents including but not limited to, any addenda issued and understands the terms, conditions, and requirements thereof; that if his/her bid is accepted that he/she agrees to furnish and deliver all materials except those specified to be furnished by the City of Sparks (Owner) and to do and perform all work for the **CONCESSION SERVICES AT GOLDEN EAGLE REGIONAL PARK**, Proposal # **24/25-005**, together with incidental items necessary to complete the work to be constructed and/or services to be provided in accordance with the Specifications, Plans, and Contract Documents annexed hereto.

TO THE PARKS AND RECREATION DEPARTMENT DIRECTOR OF THE CITY OF SPARKS:

The undersigned, as Proposer, declares that the only persons or parties interested in this proposal, as principals, are those named herein, the Bidder is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid: that this proposal is made without collusion with any other person, firm or corporation; that he/she has carefully examined the location of the proposed work; the proposed form of Contract, the Contract Provisions, Plans, Specifications and Contract Documents incorporated therein referred to and made part thereof; that he/she proposes and agrees if this proposal is accepted, that he/she will contract with the City of Sparks in the form of the Contract prescribed, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the Contract and annexed Contract Provisions, Plans and Specifications, in the manner and time prescribed and according to the requirements of the Project Representative as therein set forth, it being understood and agreed that the quantities shown herein are approximate only and are subject to increase or decrease, and that he/she will accept, in full, payment therefore the indicated prices.

| | |
|-------------------------------------|--------------------------------------|
| | Contractor/Bidder: |
| (Printed Name of Contractor/Bidder) | _____ |
| | BY: _____ |
| | Firm: _____ |
| | Address: _____ |
| | City: _____ |
| | State / Zip Code: _____ |
| | Telephone Number: _____ |
| | Fax Number: _____ |
| | E-mail Address: _____ |
| (Signature of Principal) | Signature: _____ |
| | DATED this _____ day of _____, 2024. |

State of Nevada)
) SS.
County of _____)

On this _____ day of _____, in the year 2023, before me,

_____/Notary Public, personally appeared _____ Personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he (she) executed it. WITNESS my hand and official seal.

Notary's Signature: _____ My commission Expires: _____

GENERAL CONDITIONS

General Conditions



GENERAL CONDITIONS

*Please Read Carefully
These Provisions Are a Part of Your Bid and any Contract Awarded*

Scope of Bid/Proposal: Bids/Proposals are hereby requested for **CONCESSION SERVICES AT GOLDEN EAGLE REGIONAL PARK**, Number 24/25-005 as per specifications herein.

The bidder agrees that:

- A. Bidder has carefully examined the specifications, and all provisions relating to the item(s) to be furnished or the work to be done; understands the meaning, intent, and requirements; and
- B. Bidder will enter into a written contract and furnish the item(s) or complete the work in the time specified, and in strict conformity with the City of Sparks specifications for the prices quoted.

Note: Bidder is defined as any individual, partnership, or corporation submitting a bid, proposal, or quotation in response to a request for bid (RFB), request for proposal (RFP), request for information (RFI) or request for quotation (RFQ). A bidder may also be referred to as a bidder, contractor, supplier or vendor.

The use of the title “Bidder,” “Vendor,” “Contractor” or “Consultant” within this solicitation document and any resulting contract shall be deemed interchangeable and shall refer to the person or entity with whom the City of Sparks is soliciting and/or contracting for the service or product referenced within the bid document.

1. Items Offered:

If the item offered by the bidder has a trade name, brand and/or catalog number, such shall be stated in the bid. If the bidder proposes to furnish an item of a manufacturer or vendor other than that mentioned on the face hereof, bidder must specify maker, brand, quality, catalog number, or other trade designation. Unless such is noted on the bid form, it will be deemed that the item offered is that designated even though the bid may state “or equal”.

2. Brand Names:

Whenever reference to a specific brand name is made by the City, it is intended to describe a component that has been determined to best meet operational, performance, or reliability standards of the City, thereby incorporating these standards by reference within the specifications. These specifications are not meant to limit the vendor; they are guidelines to minimum qualifications. The bidder shall indicate their compliance or non-compliance for each line of the specification. Any deviations from the specifications or where submitted literature does not fully support the meaning of the specifications must be clearly cited in writing by the bidder. An equivalent (“or equal”) may be offered by the bidder, subject to evaluation and acceptance by the City. It is the bidder’s responsibility to provide, at bidder’s expense, samples, test data, or other documentation the City may require to fully evaluate and determine acceptability of an offered substitute. The City reserves the sole right to reject a substituted component that will not meet or exceed City standards.

3. Samples:

Samples may be required for bid evaluation and testing purposes. Bidders shall agree to provide samples upon request and at no additional cost to the City.

4. Withdrawal of Bids/Proposals:

Bids/Proposals may be withdrawn by written or facsimile notice received prior to the exact hour and date specified for receipt of bid. A bid may also be withdrawn in person by a bidder, or bidder’s authorized representative, prior to the exact hour and date set for receipt of bids. Telephone withdrawals are not permitted.

5. Late Bids, Modifications, or Withdrawals:

Bids, modifications of bids, or bid withdrawals received after the exact time and date specified for receipt will not be considered.

General Conditions



6. Mistake in Bid:

- (a) If the bidder discovers a mistake in bid prior to the hour and date specified for receipt of bid, bidder may correct the mistake by withdrawing the bid in accordance with Item 4 above and resubmit prior to the stated bid deadline.
- (b) If within seventy-two hours of the bid closing and prior to the issuance of a purchase order or a contract, the apparent low bidder discovers a mistake in bid of a serious and significant nature, bidder may request consideration be given to withdrawing the bid. The mistake must be evident and provable. The right is reserved by the City to reject any and all requests for withdrawal of bids. The decision of the Purchasing Manager is final as regards acceptance or rejection of requests for withdrawal after closing of bids.
- (c) A mistake in bid cannot be considered once a purchase order or contract is issued.

7. Signature:

All bids shall be signed and the title and firm name indicated. A bid by a corporation shall be signed by an authorized officer, employee or agent with his or her title.

8. Exceptions:

A bidder deviating from specifications must specify any and all deviation(s). Failure to note said exceptions shall be interpreted to convey that the bidder shall propose to perform in the manner described and/or specified in this bid solicitation. If exception(s) are taken or alternatives offered, complete descriptions must be shown separately.

9. Confidential Information:

Any information deemed confidential or proprietary should be clearly identified by the bidder as such. It may then be protected and treated with confidentiality only to the extent permitted by state law. Otherwise the information shall be considered a public record. Information or data submitted with a bid will not be returned.

10. Quality:

Unless otherwise required in the specifications, all goods furnished shall be new and unused.

11. Litigation Warranty:

The bidder, by bidding, warrants that bidder is not currently involved in litigation or arbitration concerning the materials or bidder's performance concerning the same or similar material or service to be supplied pursuant to this contract of specification, and that no judgments or awards have been made against bidder on the basis of bidder's performance in supplying or installing the same or similar material or service, unless such fact is disclosed to the City in the bid. Disclosure may not disqualify the bidder. The City reserves the right to evaluate bids on the basis of the facts surrounding such litigation or arbitration and to require bidder to furnish the City with a surety bond executed by a surety company authorized to do business in the State of Nevada and approved by The City of Sparks in a sum equal to one hundred percent (100%) of the contract price conditional on the faithful performance by bidder of the contract in the event the bid is awarded to bidder, notwithstanding the litigation or arbitration.

12. Royalties, Licenses and Patents:

Unless otherwise specified, the bidder shall pay all royalties, license and patent fees. The bidder warrants that the materials to be supplied do not infringe any patent, trademark or copyright and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City from all loss or damages, whether general, exemplary or punitive, as a result of any actual or claimed infringement asserted against the City, the bidder or those furnishing material to bidder pursuant to this contract.

General Conditions



13. Performance Standards:

Performance of work and acceptability of equipment or materials supplied pursuant to any contract or award shall be to the satisfaction and full discretion of the City.

14. Americans with Disabilities Act (ADA) Standards:

Bidders shall be required to comply with current ADA Standards in preparing their bids and executing work required under any contract resulting from this bid. Completed work must comply with current ADA Standards.

15. Warranties:

(a) Unless otherwise specified, all workmanship, material, labor or equipment provided under the contract shall be warranted by bidder and/or manufacturer for a minimum of twelve (12) months after acceptance by City. Greater warranty protection will be accepted. Lesser warranty protection must be indicated by bidder on the bid proposal as an exception.

(b) Bidder shall be considered primarily responsible to the City for all warranty service, parts and labor applicable to the goods or equipment provided by bidder under this bid or award, irrespective of whether bidder is an agent, broker, fabricator or manufacturer's dealer. Bidder shall be responsible for ensuring that warranty work is performed at a local agency or facility convenient to City and that services, parts and labor are available and provided to meet City's schedules and deadlines. If required and defined within the Scope of Work, the Bidder will post a performance bond after contract award to guarantee performance of these obligations. Bidder may establish a service contract with a local agency satisfactory to City to meet this obligation if bidder does not ordinarily provide warranty service.

16. Addenda:

The effect of all addenda to the bid documents shall be considered in the bid, and said addenda shall be made part of the bid documents and shall be returned with them. Before submitting a bid, each bidder shall ascertain whether or not any addenda have been issued, and failure to acknowledge any such addenda may render the bid invalid and result in its rejection.

All potential bidders are responsible for monitoring the City website regarding the availability of new bid documents or addenda (where applicable). The City of Sparks will not be responsible for the results of any potential failures in automatic notification systems to potential bidders or plan holders with respect to these documents and will not adjust bid schedules or requirements due to any potential failures of those systems. It is the responsibility of all potential bidders/responders to monitor the Purchasing Division's website for any changing information prior to submitting their bid/proposal. The City of Sparks will not be responsible for the timeliness or completeness of information provided by any 3rd party bid listing or re-selling service.

17. Specifications to Prevail:

The detailed requirements of the Specifications, Scope of Work or Special Conditions shall supersede any conflicting reference in these General Conditions or the stated language on the City of Sparks Standard Purchase Order that are in conflict therewith.

18. Taxes:

The City is exempt from State, City and County Sales Taxes per NRS 372.325. The City will furnish Exemption Certificates for Federal Excise Tax when applicable. The successful bidder shall pay all taxes, levies, duties and assessments of every nature, which may be applicable to any work or materials under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. The successful bidder shall make any and all payroll deductions required by law. The successful bidder herein indemnifies and holds

General Conditions



the City harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

19. Conflict of Interest:

No City employee or elected or appointed member of City government, or member of the employee's immediate family, may participate directly or indirectly in the procurement process pertaining to this bid if they:

- (a) Have a financial interest or other personal interest that is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence, judgment or action in the performance of their official duties.
- (b) Are negotiating for or have an arrangement concerning prospective employment with bidder. The bidder warrants to the best of his knowledge that the submission of the bid will not create such conflict of interest. In the event such a conflict occurs, the bidder is to report it immediately to the Purchasing Manager. For breach or violation of this warranty, the City shall have the right to annul this contract without liability at its discretion, and bidder may be subject to damages and/or debarment or suspension.

20. Disqualification of Bidder:

Any one or more of the following may be considered as sufficient for the disqualification of a prospective Bidder and the rejection of the Bid:

- (a) The Bidder is not responsive or responsible.
- (b) The quality of services, materials, equipment or labor offered does not conform to the approved plans and specifications.
- (c) There is evidence of collusion among prospective Bidders (Participants in such collusion will receive no recognition as Bidders).
- (d) The Bidder lacks the correct contractor's license classification required for the defined scope of work.
- (e) Lack of competency, understanding of the scope of work, adequate machinery, plant and/or equipment as revealed in routine due diligence associated with bid evaluation.
- (f) Unsatisfactory performance record as shown by past work for the City of Sparks, judged from the standpoint of workmanship, progress, and quality of services/goods provided.
- (g) Uncompleted work which, in the judgment of the City of Sparks, might hinder or prevent the prompt completion of additional work, if awarded.
- (h) Failure to pay or satisfactorily settle all bills due for labor and/or material on any contract(s).
- (i) Failure to comply with any requirements of the City of Sparks.
- (j) Failure to list, as required, all subcontractors who will be employed by the Bidder.
- (k) Any other reason determined, in good faith, to be in the best interest of the City of Sparks.

21. Gratuities:

The City may rescind the right of the bidder to proceed under this agreement if it is found that gratuities in the form of entertainment, gifts, cash or otherwise are offered or given by the bidder, or any agent or representative of the bidder, to any officer or employee of the City with the intent of influencing award of this agreement or securing favorable treatment with respect to performance of this agreement.

22. Indemnification:

To the fullest extent permitted by law, upon award, Bidder shall hold harmless, indemnify, defend and protect City, its affiliates, officers, agents, employees, volunteers, successors and assigns ("Indemnified Parties"), and each of them from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or related to any act or omission of Bidder, its employees, agents, representatives, or Subcontractors in any way related to the performance of work under this Agreement by Bidder, or to work performed by others under the direction or supervision of Bidder, including but not limited to:

General Conditions



1. Personal injury, including but not limited to bodily injury, emotional injury, sickness or disease, or death to persons;
2. Damage to property of anyone, including loss of use thereof;
3. Penalties from violation of any law or regulation caused by Bidder's action or inaction;
4. Failure of Bidder to comply with the Insurance requirements established under this Agreement;
5. Any violation by Bidder of any law or regulation in any way related to the occupational safety and health of employees.

In determining the nature of the claim against City, the incident underlying the claim shall determine the nature of the claim, notwithstanding the form of the allegations against City.

If City's personnel are involved in defending such actions, Bidder shall reimburse City for the time and costs spent by such personnel at the rate charged City for such services by private professionals.

In cases of professional service agreements, requiring professional liability coverage:

If the insurer by which a Consultant is insured against professional liability does not so defend the City and applicable agents and/or staff, and the Consultant is adjudicated to be liable by a trier of fact, the City shall be entitled to reasonable attorney's fees and costs to be paid to the City by the Consultant in an amount which is proportionate to the liability of the of the Consultant.

Nothing in this contract shall be interpreted to waive nor does the City, by entering into this contract, waive any of the provisions found in Chapter 41 of the Nevada Revised Statutes.

23. Insurance:

BIDDERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT BIDDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF THE APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

The City may, unless otherwise required by law, waive or reduce the insurance requirements itemized here, at the discretion of the city's Contracts and Risk Manager.

Should work be required on City premises or within the public right-of-way, upon award of the contract, the bidder shall provide proof of insurance for the types of coverage, limits of insurance and other terms specified herein, prior to initiation of any services under City, Bid, Proposal or Contract. Coverage shall be from a company authorized to transact business in the State of Nevada and the City of Sparks and shall meet the following minimum specifications:

Bidder shall at its own expense carry and maintain at all times the following insurance coverage and limits of insurance no less than the following or the amount customarily carried by Bidder or any of its subcontractors, whichever is greater. Bidder shall also cause each subcontractor employed by Bidder to purchase and maintain insurance of the type specified herein. All insurers must have AM Best rating not less than A-VII, and be acceptable to the City. Bidder shall furnish copies of certificates of insurance evidencing coverage for itself and for each subcontractor. Failure to maintain the required insurance may result in termination of this contract at City's option. If Bidder fails to maintain the insurance as set forth herein, City shall have the right, but not the obligation, to purchase said insurance at Bidder's expense.

General Conditions



Bidder shall provide proof of insurance for the lines of coverage, limits of insurance and other terms specified below prior to initiation of any services. Coverage shall be from a company authorized to transact business in the State of Nevada and the City of Sparks. Bidder and any of its subcontractors shall carry and maintain coverage and limits no less than the following or the amount customarily carried by Bidder or any of its subcontractors, whichever is greater.

| Applicable to this Contract | Insurance Type | Minimum Limit | Insurance Certificate | Additional Insured | Waiver of Subrogation |
|------------------------------------|---|----------------------|------------------------------|---------------------------|------------------------------|
| Yes | General Liability/Umbrella (Excess) Liability | \$2,000,000 | ✓ | ✓ | ✓ |
| Yes | Automobile Liability | \$1,000,000 | ✓ | ✓ | |
| Yes | Workers' Compensation | Statutory | ✓ | N/A | ✓ |
| Yes | Employer's Liability | \$1,000,000 | ✓ | N/A | |
| Yes | Professional Liability | \$1,000,000 | ✓ | N/A | N/A |
| Yes | Liquor Liability | \$2,000,000 | ✓ | ✓ | ✓ |

Commercial General Liability

Bidder shall carry and maintain Commercial General Liability (CGL) and, if necessary to meet required limits of insurance, commercial umbrella/excess liability insurance with a total limit of not less than the limits specified herein.

For contracts that are for the construction or improvement of public facilities, the Bidder shall obtain and maintain products and completed operations liability coverage through the statute of repose after completion of the project. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage, or damage to the named insured's work unless Subcontractor carries and maintains separate policies providing such coverage and provides Bidder evidence of insurance confirming the coverage.

Minimum Limits of Insurance

- \$2,000,000** Each Occurrence Limit for bodily injury and property damage
- \$2,000,000** General Aggregate Limit
- \$2,000,000** Products and Completed Operations Aggregate Limit
- \$10,000** Medical Expense Limit

If Commercial General Liability Insurance or other form with a general aggregate limit is used, it shall be revised to apply separately to this PROJECT or LOCATION.

Coverage Form

Coverage shall be at least as broad as the unmodified Insurance Services Office (ISO) Commercial General Liability (CGL) "Occurrence" form CG 00 01 04/13 or substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal

General Conditions



and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Additional Insured

City, its officers, agents, employees, and volunteers are to be included as insureds using the applicable ISO additional insured endorsement(s) or substitute forms providing equivalent coverage, in respects to damages and defense arising from: activities performed by or on behalf of Bidder, including the insured's general supervision of Bidder; products and completed operations of Bidder; premises owned, occupied, or used by Bidder. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, or volunteers. Additional insured status for City shall apply until the expiration of time within which a claimant can bring suit per applicable state law.

Primary and Non-Contributory

Bidder's insurance coverage shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City, its officers, agents, employees, and volunteers. There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured. Any insurance or self-insurance maintained by City, its officers, employees, or volunteers shall be excess of Bidder's insurance and shall not contribute with it in any way.

Waiver of Subrogation

Bidder waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this agreement. Insurer shall endorse CGL policy as required to waive subrogation against the City with respect to any loss paid under the policy.

Endorsements

Policy forms or endorsements are required confirming coverage for all required additional insureds. The forms or endorsements for CGL shall be at least as broad as the unmodified ISO additional insured endorsement CGO 20 10 07/04 and CG 20 37 07/04 or substitute forms providing additional insured coverage for products and completed operations.

A waiver of subrogation in favor of City shall be endorsed to the policy using an unmodified Waiver of Transfer of Rights of Recovery of Others to Us ISO CG 24 04 05 09, or a substitute form providing equivalent coverage.

Business Automobile Liability

Minimum Limits of Insurance

\$1,000,000 Combined Single Limit per accident for bodily injury and property damage or the limit customarily carried by Bidder, whichever is greater. No aggregate limit may apply. Coverage may be combined with Excess/Umbrella Liability coverage to meet the required limit.

Coverage Form

Coverage shall be at least as broad as the unmodified Insurance Services Office (ISO) Business Automobile Coverage form CA 00 01 10/13, CA 00 25 10/13, CA 00 20 10/13 or substitute form providing equivalent coverage. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

Pollution liability coverage at least as broad as that provided under the ISO pollution liability—broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement

General Conditions



(MCS 90) shall be attached for all contracts involving transportation of “hazardous material” as this term is defined by applicable law, including, but not limited to, waste, asbestos, fungi, bacteria and mold.

Additional Insured

City, its officers, agents, employees, and volunteers are to be included as insureds with respect to damages and defense arising from the ownership, maintenance or use of automobiles owned, leased, hired, or borrowed by the Bidder. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, or volunteers. Additional insured status for City shall apply until the expiration of time within which a claimant can bring suit per applicable state law.

Endorsements

A policy endorsement is required listing all required additional insureds. The endorsement for Business Automobile Liability shall be at least as broad as the unmodified ISO CA 20 48 10/13 or a substitute form confirming City’s insured status for Liability Coverage under the Who Is An Insured Provision contained in Section II of the coverage form ISO CA 00 01 10/13.

Waiver of Subrogation.

Bidder waives all rights against City, its officers, agents, employees, and volunteers for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this agreement. Bidder’s insurer shall endorse policy to waive subrogation against City with respect to any loss paid under the policy.

Workers’ Compensation and Employer’s Liability

Bidder shall carry and maintain workers’ compensation and employer’s liability insurance meeting the statutory requirements of the State of Nevada, including but not limited to NRS 616B.627 and NRS 617.210 or provide proof that compliance with the provisions of Nevada Revised Statutes Chapters 616A-D and all other related chapters is not required. It is understood and agreed that there shall be no coverage provided for Bidder or any Subcontractor of the Bidder by the City. Bidder agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the City to make any payment under this Agreement to provide City with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210.

It is further understood and agreed by and between City and Bidder that Bidder shall procure, pay for and maintain the above-mentioned coverage at Bidder's sole cost and expense.

Should Bidder be self-funded for workers’ compensation and employer’s liability insurance, Bidder shall so notify City in writing prior to the signing of this Contract. City reserves the right to approve said retentions, and may request additional documentation, financial or otherwise, for review prior to the signing of this Contract.

Upon completion of the project, Bidder shall, if requested by City, provide a Final Certificate for itself and each Subcontractor showing that Bidder and each Subcontractor had maintained the required Workers Compensation and Employer’s Liability by paying all premiums due throughout the entire course of the project.

Nevada law allows the following to reject workers’ compensation coverage if they do not use employees or subcontractors in the performance of work under the contract:

- Sole proprietors (NRS 616B.627 and NRS 617.210)
- Unpaid officers of quasi-public, private or nonprofit corporations (NRS 616B.624 and NRS 617.207)
- Unpaid managers of limited liability companies (NRS 616B.624 and NRS 617.207)
- An officer or manager of a corporation or limited liability company who owns the corporation or company (NRS 616B.624 and NRS 617.207)

General Conditions



If a Bidder has rejected workers' compensation coverage under applicable Nevada law, the Bidder must indicate the basis for the rejection of coverage and complete, sign and have notarized an Affidavit of Rejection of Coverage. The Affidavit must be completed, signed and notarized prior to performance of any work.

Minimum Limits of Insurance

| | |
|------------------------|--|
| Workers' Compensation: | Statutory Limits |
| Employer's Liability: | \$1,000,000 Bodily Injury by Accident – Each Accident |
| | \$1,000,000 Bodily Injury by Disease – Each Employee |
| | \$1,000,000 Bodily Injury by Disease – Policy Limit |

Coverage Form

Coverage shall be at least as broad as the unmodified National Council on Compensation Insurance (NCCI) Workers Compensation and Employer's Liability coverage form WC 00 00 07/11 or substitute form providing equivalent coverage.

OTHER INSURANCE COVERAGES (IF APPLICABLE)

Professional Liability Insurance (if Applicable) \$1,000,000 each claim limits of liability or whatever limit is customarily carried by the Bidder, whichever is greater, for design, design-build or any type of professional services. If coverage is required on a claims-made or claims-made and reported basis, any applicable retroactive or pending & prior litigation dates must precede the effective date of this contract. Continuous coverage shall be maintained, or an extended reporting period shall be obtained for a period of at least three (3) years following completion of the project.

Liquor Liability Insurance

Minimum Limits of Insurance

If alcoholic beverages are sold, used, delivered, or stored on or from the Premises, Concessionaire shall maintain throughout the term of this lease, (in addition to the other types of insurance required herein), at its expense, insurance covering any claims, including defense costs, arising under applicable law relating to the manufacture, storage, sale, use or giving away of any fermented, alcoholic, or other intoxicating liquor or beverage, which claims could be asserted against the City, Bidder or the Premises. Such insurance shall be in an amount of no less than \$2,000,000.00 but in no event shall such coverage be less than that customarily carried by prudent operators of similar establishments in the area of the Premises or as required by law. At any and all times that such policy or policies are not in full force and effect, Bidder shall not make or permit any sale of, or give away, any alcoholic liquor on the premises, and any such sale or gift at any such time or times of non-coverage shall constitute a default under this lease and entitle the City to recover from Bidder as damages all sums of money which the City, and its employees, agents and servants or any of them may become legally liable to pay to any person or persons for defense costs, attorney fees, bodily injury, fatal or non-fatal, for injury to means of support or for injury to property as a result of such non-coverage.

ALL COVERAGES

Coverage shall not be suspended, voided, canceled, or non-renewed by either BIDDER or by the insurer, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to CITY except for ten (10) days' notice for nonpayment of premium.

DEDUCTIBLES AND RETENTIONS

Any deductibles or self-insured retentions that exceed \$100,000.00 per occurrence or claim must be declared to and approved by the City's Contracts and Risk Manager and prior to signing this Contract. City is entitled to request and receive additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retentions. Any changes to the deductibles or self-insured retentions made during

General Conditions



the term of this Contract or during the term of any policy must be approved by City's Contracts and Purchasing Manager prior to the change taking effect. Bidder is responsible for any losses within deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS

Should City and Bidder agree that higher coverage limits are needed warranting a project policy, project coverage shall be purchased and the premium for limits exceeding the above amount may be borne by City. City retains the option to purchase project insurance through Bidder's insurer or its own source.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, agents, employees, or volunteers.

ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-VII and acceptable to the City. City, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's ratings upon review of financial information concerning Bidder and insurance carrier. City reserves the right to require that Bidder's insurer be a licensed and admitted insurer in the State of Nevada, or meet any applicable state and federal laws and regulations for non-admitted insurance placement.

VERIFICATION OF COVERAGE

Bidder shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Prior to the start of any Work, Bidder must provide the following documents to City of Sparks, Attention: Purchasing Division, P.O. Box 857, Sparks, NV 89432-0857:

- A. Certificate of Insurance.** Bidder must provide a Certificate of Insurance form to the City of Sparks to evidence the insurance policies and coverage required of Bidder.
- B. Additional Insured Endorsements.** An original Additional Insured Endorsement, signed by an authorized insurance company representative, must be submitted to the City of Sparks, by attachment to the Certificate of Insurance, to evidence the endorsement of the City of Sparks as additional insured.
- C. Policy Cancellation Endorsement.** Except for ten (10) days' notice for non-payment of premium, each insurance policy shall be endorsed to specify that without thirty (30) days prior written notice to the City of Sparks, the policy shall not be suspended, voided, cancelled or non-renewed, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address specified above. A copy of this signed endorsement must be attached to the Certificate of Insurance. If endorsements are not available, Bidder shall be responsible to provide prior written notice to City as soon as practicable upon receipt of any notice of cancellation, non-renewal, reduction in required limits or other material change in the insurance required under this Agreement.
- D. Bonds (as Applicable).** Bonds as required and/or defined in the original bid documents.

All certificates and endorsements are to be addressed to the City of Sparks, Purchasing Division and be received and approved by City before work commences. The City reserves the right to require complete certified copies of all required insurance policies at any time.

SUBCONTRACTORS

General Conditions



Bidder shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all the requirements stated herein.

MISCELLANEOUS CONDITIONS

1. Bidder shall be responsible for and remedy all damage or loss to any property, including property of City, caused in whole or in part by Bidder, any Subcontractor, or anyone employed, directed, or supervised by Bidder.
2. Nothing herein contained shall be construed as limiting in any way the extent to which Bidder may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractors under it, and such coverage and limits required herein shall not be deemed as a limitation on Bidder's liability under the indemnities granted to City in this contract.
3. In addition to any other remedies City may have if Bidder fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:
 - a. Purchase such insurance to cover any risk for which City may be liable through the operations of Bidder under this Agreement and deduct or retain the amount of the premiums for such insurance from any sums due under the Agreement;
 - b. Order Bidder to stop work under this Agreement and/or withhold any payments which become due Bidder here under until Bidder demonstrates compliance with the requirements hereof; or,
 - c. Terminate the Agreement.
4. If Bidder's liability policies do not contain the standard ISO separation of insureds condition, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

24. Safety Program:

Upon award, the Bidder shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The Bidder shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury, or loss to:

1. All employees on the work site and all other persons who may be affected thereby.
2. All the work, materials, and equipment to be incorporated therein, whether in storage on or off the site.
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

Bidder shall comply with all applicable laws, ordinances, rules, regulations, and others of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by existing conditions and progress on the work, all necessary safeguards for safety and protection, including posting danger signs, other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities. Bidder shall comply with OSHA'S Hazard Communication Standards.

Bidder shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents. This person shall be Bidder's superintendent unless otherwise designated in writing by Bidder to the Owner and the Engineer.

25. Award of Contract:

- (a) Bids/Proposals will be analyzed and award will be made to the lowest, responsive and responsible bidder whose bid conforms to the solicitation and whose bid is considered to be most advantageous to the City, price and other factors considered. Factors to be considered may include, but are not limited to: bidder's

General Conditions



past performance, total unit cost, economic cost analysis, life cycle costs, warranty and quality, maintenance cost, durability, the operational requirements of the City and any other factors which will result in the optimum economic benefit to the City.

- (b) The City reserves the right to reject any item or items, to waive informalities, technical defects and minor irregularities in bids/proposals received; and to select the bid(s) or proposal(s) deemed most advantageous to the City. Should the City elect to waive a right it will not constitute an automatic waiver of that right in the future nor will it impact any other right or remedy. The City may consider bids/proposals submitted on an "all or nothing" basis if the bid/proposal is clearly designated as such.
- (c) The City reserves the right to award one or more contracts on the bids/proposals submitted, either by award of all items to one bidder or by award of separate items or groups of items to various bidders as the interests of the City may require, unless the bidder clearly specifies otherwise in his bid.
- (d) Upon acceptance by the City of Sparks, the solicitation, bid, proposal, or price quotation and issuance of a purchase order issued to the successful bidder shall be deemed to result in a binding contract incorporating those terms and these General Conditions without further action required by either party. Items are to be furnished as described in the bid and in strict conformity with all instructions, conditions, specifications, and provisions in the complete contract, as defined by this clause or any related integrated agreement.

26. Request for Proposal (RFP) Submittals:

In the case of Request for Proposals (RFP's), it should be noted that the documents submitted by prospective bidders are competitive sealed proposals and not competitive sealed bids. When proposals are opened, prices and other information will not be made public until the proposal is awarded. There shall be no disclosure of any bidder's information to competing bidders prior to the award of the proposal.

By their nature, proposals will include a number of variables that will vary based on the complexity of the product or service addressed within the proposal. Therefore, the evaluation of RFP's and the recommendation for award will not be based on price alone. Selection criteria will be better defined for each scope of work in the Special Conditions section of this bid.

Upon award of the contract, the executed contract and proposals will become public information. Accordingly, each proposal should be submitted on the vendor's most favorable terms from a price and technical standpoint.

27. Appeals/Protests – Bids Only (Not Applicable to Request for Proposals):

A person who submits a bid on a contract may, after the bids are opened and within 5 business days after the date the "Recommendation to Award" is issued by the City, unless otherwise stated in the Special Conditions, file a notice of protest regarding the awarding of the contract. The City's "Recommendation to Award" will be dated and posted on the City's public website within the area where bid notices and bid re-caps are posted (Currently: <http://www.cityofsparks.us/bids>).

- (a) A notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.
- (b) A person filing a notice of protest may be required by the governing body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this State or submit other security, in a form approved by the governing body or its authorized representative, to the governing body or its authorized representative who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:
 - (1) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest;
 - or
 - (2) Two hundred fifty thousand dollars (\$250,000).

General Conditions



- (c) A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the governing body or its authorized representative on the protest.
- (d) A person who submits an unsuccessful bid may not seek any type of judicial intervention until the governing body or its authorized representative has made a determination on the protest and awarded the contract.
- (e) A governing body or its authorized representative is not liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who submits a bid, whether or not the person files a notice of protest pursuant to this section.
- (f) If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the governing body or its authorized representative in an amount equal to the expenses incurred by the governing body or its authorized representative because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

28. Documentation:

Due to the time constraints that affect contract performance, all required documents, certificates of insurance and bonds shall be provided to the City within ten (10) calendar days following award or date of request by City, whichever is later. Any failure to comply may result in bid being declared non-responsive and rejected, and at City's option, the bid bond may be attached for damages suffered.

29. Discounts:

- (a) Prompt payment discounts will not be considered in evaluating bids for award. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of bids.
- (b) In connection with any discount offered, time will be computed from date of delivery and acceptance, or invoice receipt, whichever is later. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the City check.
- (c) Any discount offered other than for prompt payment should be included in the net price quoted and not included in separate terms. In the event this is not done, the City reserves the right to accept the discount offered and adjust prices accordingly on the Purchase Order.

30. Seller's Invoice:

Invoices shall be prepared and submitted in duplicate to the address shown on the Purchase Order. Separate invoices are required for each Purchase Order. Invoices shall contain the following information: Purchase Order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price and extended totals.

31. Inspection and Acceptance:

Inspection and acceptance will be at destination unless specified otherwise, and will be made by the City department shown in the shipping address or other duly authorized representative of the City. Until delivery and acceptance, and after any rejection, risk of loss will be on the bidder unless loss results from negligence of the City.

32. Lost and Damaged Shipments:

Risk of loss or damage to items prior to the time of their receipt and acceptance by the City is upon the bidder. The City has no obligation to accept damaged shipments and reserves the right to return at the bidder's expense damaged merchandise even though the damage was not apparent or discovered until after receipt of the items.

General Conditions



33. Late Shipments:

Bidder is responsible to notify the City department receiving the items and the Purchasing Manager of any late or delayed shipments. The City reserves the right to cancel all or any part of an order if the shipment is not made as promised.

34. Document Ownership:

All technical documents and records originated or prepared pursuant to this contract, including papers, reports, charts, and computer programs, shall be delivered to and become the exclusive property of the City and may be copyrighted by the City. Bidder assigns all copyrights to City by undertaking this agreement.

35. Advertisements, Product Endorsements:

City employees and agencies or organizations funded by the City of Sparks are prohibited from making endorsements, either implied or direct, of commercial products or services without written approval of the City Manager. No bidder may represent that the City of Sparks has endorsed their product or service without prior written approval.

36. Optional Cooperative Purchase Agreement

It is intended that any other public agency (i.e., city, county, district, public agency, municipality or state agency) shall have the option to participate (A.K.A. "join" or "piggyback") in any award made as a result of this solicitation. The City of Sparks shall incur no financial responsibility in connection with purchase orders or contracts made by the bidder with another public agency resulting from this solicitation. The public agency utilizing the original contract shall accept sole responsibility for placing orders and making applicable payments to the vendor. Should the Bidder not wish for a contract resulting from this bid to be used by other public agencies, they have the option to decline that option at the time of request.

37. Vendor Workplace Policies

No Vendor providing a service, program or activity to the public on behalf of the City shall discriminate against any person because of sex, race, color, creed, national origin or disability. Vendor, if providing a service, program or activity to the public on behalf of the City, shall comply with the Americans with Disability Act and City's policies pursuant thereto when providing said service, program or activity.

The City of Sparks is an Affirmative Action/Equal Opportunity Employer. Bidders shall be cognizant of the requirements for compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in regulations of the U.S. Department of Labor (41 CFR part 60).

38. Business License Requirement:

All companies doing business with, or within, the City of Sparks are required to obtain and maintain a current business license from the City of Sparks prior to the commencement of work per Sparks Municipal Code Section 5.08.020A. Bidder(s) awarded a contract resulting from this bid shall be required to obtain a current business license if they do not already possess one.

39. City Provisions to Prevail:

Except as indicated in the specifications, the City's standard General Conditions shall govern any contract award. Any standard terms and conditions of bidder submitted by bidder shall not be acceptable to City unless expressly agreed to by the City. The City reserves the right to reject bidder's bid as non-responsive, to consider the bid without bidder's standard terms and conditions, or to require bidder to delete reference to such, as a condition of evaluation or award of the bid. If, after award of contract, bidder (contract vendor) provides materials or services accompanied by new or additional standard terms or conditions, they too shall be considered void and City may require deletion as a further condition of performance by vendor.

General Conditions



40. Invalid Provisions:

In the event that any one or more of the provisions of this agreement shall be found to be invalid, illegal or unenforceable, the remaining provisions shall remain in effect and be enforceable.

41. Amendments and Modifications:

The Purchasing Manager may at any time, by written order, and without notice to the sureties, make a modification to the contract or an amendment to the Purchase Order, within the general scope of this contract, in (1) quantity of materials or service, whether more or less; (2) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the City; (3) method of shipment or packing; and (4) place of delivery. If any such change causes an increase or decrease in the cost or the time required for the performance of this contract, an equitable adjustment shall be made by written modification of the contract or amendment to the Purchase Order. Any claim by the bidder for adjustment under this clause must be asserted within 30 calendar days from the notification date.

42. Assignment:

Vendor shall not assign or delegate duties or responsibilities under this agreement, in whole or in part, without prior written approval of the City.

43. Disputes After Award:

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Purchasing Manager, who shall reduce this decision to writing and mail a copy to the bidder. The decision of the Purchasing Manager shall be final and conclusive, unless bidder requests arbitration within ten (10) calendar days. Pending final decision of a dispute, the bidder shall proceed diligently with the performance of the contract and in accordance with the Purchasing Manager's decision.

44. Arbitration after Award:

Any and all disputes, controversies or claims arising under or in connection with the contract resulting from this bid, including without limitation, fraud in the inducement of this Contract, or the general validity or enforceability of this Contract, shall be governed by the laws of the State of Nevada without giving effect to conflicts of law principles, may be submitted to binding arbitration before one arbitrator, and shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association in a private manner in Washoe County, Nevada. This award shall be final and judgment may be entered upon it in any court having jurisdiction thereof. In reaching this final award, the arbitrator shall have no authority to change or modify any provision of this Contract. All other expenses of arbitration shall be borne equally by the parties. All fees, including legal fees, shall be borne by the party who incurred them. All costs of enforcement shall be borne by the losing party. Each party shall have the right to discovery in accordance with the Nevada Rules of Civil Procedure.

45. Lawful Performance:

Vendor shall abide by all Federal, State and Local Laws, Ordinances, Regulations, and Statutes as may be related to the performance of duties under this agreement. In addition, all applicable permits and licenses required shall be obtained by the vendor, at vendor's sole expense.

46. Annual Appropriation of Funds:

Multi-year term supply and service contracts and leases are subject to annual appropriation of funds by the City Council. The City plans and makes appropriations to the City Budget with respect to a fiscal year that starts July 1st and ends June 30th of each year. Payments made under term contracts and leases are considered items of current expense. Purchase Orders are funded when issued; therefore, they are current expense items and are not subject to any subsequent appropriation of funds.

General Conditions



Continuance of a multi-year contract beyond the limits of funds available shall be contingent upon appropriation of the requisite funds in the ensuing fiscal year and the termination of this contract due to lack of appropriation shall be without penalty.

47. Extension:

When in the City’s best interest, this agreement may be extended on a daily, month-to-month, or annual basis by mutual agreement of both parties. Services and/or materials received under an extension shall be in accordance with pricing, terms, and conditions, as described herein.

48. Termination:

The City may terminate this agreement and be relieved of any consideration to the vendor should vendor fail to perform in the manner required. Furthermore, the City may terminate this agreement for any reason without penalty upon giving thirty (30) days written notice to the vendor. In the event of termination, the full extent of City liability shall be limited to an equitable adjustment and payment for materials and/or services authorized by and received to the satisfaction of the City prior to termination.

49. Venue:

This agreement shall be governed by and interpreted according to the laws of the State of Nevada, and venue for any proceeding shall be in Washoe County.

50. Boycott of Israel (NRS 332.065) (This Section IS IS NOT Applicable to this bid):

Pursuant to NRS 332.065 any Contract entered into under NRS Chapter 332 in which the estimated annual dollar amount exceeds \$100,000 will require written certification that the bidder is not, and will not be, engaged in a Boycott of Israel throughout the duration of the Contract. The term “Boycott of Israel” has the meaning ascribed in NRS 332.065(5). Bidder certifies that it is not, and will not be, engaged in a Boycott of Israel throughout the duration of the Contract.

Special Conditions and Specifications (Specific to Project)

In instances where the Special Conditions conflict with the General Conditions, the Special Conditions will prevail with respect to that instance or item(s).

1. **RECITALS:** The City requires certain concession services be performed, and the Contractor represents that they are qualified, equipped, staffed, ready, willing and able to perform and render such services as shall be necessary, required or desired, for and on behalf of the City. Further, the contractor represents they have read and understand RFP Number 24/25-005 for the provision of such services and that the original RFP and the contractor's response to the RFP are included as components to this contract.

2. **SCOPE OF SERVICES:** During the term of this Agreement, Contractor shall operate from the Premises, including the Restaurant and Walk-Up Concession Stand (as shown in Exhibit A) a food concession business, serving food, alcoholic and nonalcoholic beverages to all patrons of Golden Eagle Regional Park ("Park") as well as the general public. Further, Contractor shall have the exclusive right to offer food, beverage and catering business at the Premises. This Agreement is contingent on Contractor obtaining a City of Sparks business license and liquor license and comply with all applicable federal, state and city laws, ordinances and regulations.

2.1. Contractor shall apply for a business, liquor, and gaming license (if applicable) within thirty (30) days of the effective date of this agreement.

2.2. HOURS OF OPERATION SHALL BE AS DEFINED IN THE RFP (SECTION 5).

2.3. Contractor shall operate and maintain the concession area in a first-class manner and shall keep the premises in a safe, sanitary, clean, orderly and inviting condition at all times, in accordance with current policies and practices as regulated by the Washoe County District Health Department and to the satisfaction of the city. Daily and complete housekeeping activities shall be performed by the contractor in all areas under its control and operation. All concessions shall be operated as a convenience to the general public, therefore all food, beverages, confections and other items sold or kept for sale under the concession shall be of high quality, wholesome and conform in all respects to federal, state and Washoe County district health department laws, ordinances and regulations. Service shall be prompt, clean, courteous and efficient.

2.4 Contractor shall fully cooperate with the city in providing food and beverage services for scheduled events at Golden Eagle Regional Park.

2.5 Contractor shall have the right to conduct additional services after the required hours of operations for the Walk-Up Concession Stand and within the allowable hours of operations for the Restaurant. Private parties may be conducted provided, however, that any event or activity does not interfere with normal park operations.'

2.6 Retail prices for all food, beverages, and confections at the concession stand shall be evident to the general public either by a "reader board", a printed menu, or both. The Walk-Up Concession Stand may only provide reheated frozen or pre-prepared foods.

2.7 Contractor shall retain an active, qualified, competent and experienced manager.

2.8 All staff shall be instructed by contractor's management for proper:

* preparation methods and timing;

* dress (uniform);

* personal hygiene;

* cleaning and sanitary procedures;

* responsibilities and duties

- 2.9. Contractor's employees shall be polite and courteous at all times, providing exceptional customer service.
- 2.10. Housekeeping and sanitation programs shall meet and be maintained within the highest standards of cleanliness.
- 2.11. All of contractor's employees shall be instructed in, and shall practice, proper hygiene.
- 2.12. All employees shall be clean, courteous, efficient, and neat in appearance.

3. **BUSINESS LICENSE:** Contractor shall be required to obtain a City of Sparks business license, prior to commencing performance.

4. **LIQUOR LICENSE:** Contractor shall be required to promptly apply for a liquor license from the appropriate governmental entity authorized to issue licenses for selling, dispensing and consuming alcoholic beverages on the premises.

- 4.1 Failure to obtain said liquor license within 120 days of full execution of this Agreement, or such additional time as may be mutually agreed, shall result in cancellation of this Agreement unless otherwise agreed to in writing by the city.
- 4.2 Notwithstanding anything to the contrary in this Agreement, Contractor shall not be obligated to perform any of the other requirements in this Agreement until the liquor license for the Contractor is obtained. City shall cooperate with Contractor in applying for and obtaining the liquor license.

5. **TERM OF AGREEMENT:** This Agreement shall be for ten (10) years. At the expiration of the initial term, the agreement may be extended by Contractor for up to one (1) option period of five (5) years. Contractor shall provide written notice to City at least 120 days prior to the end of Term or first option period, as applicable, of its exercise of this option to extend. Rent during the option periods shall be on the same terms and conditions as during the initial term. During the initial term and in any renewal term, the City may terminate the agreement for cause upon 30 days' notice to Contractor.

6. **INVESTMENT BY CONTRACTOR:** Contractor shall provide, at his own expense, all required tenant improvements, decorations, fixtures, equipment, supplies, utensils, furniture, chairs, tables, cooking equipment, furnishings, and appliances which may be necessary to the operation of concession other than existing improvements already provided by the City. The City represents the existing plumbing is in good working order and repair.

- 6.1 Intended furniture and decoration shall be inspected and approved, which approval shall not be unreasonably withheld, by the City prior to installation by the contractor.
- 6.2 Contractor-provided fixtures and appliances will remain the property of the Contractor until year nine (9) and ten (10) months of the initial ten (10) year term. In the two months remaining in the initial term, the City will own the fixtures and appliances. In the event the Contractor provides 120-day notice exercising the option to extend, the fixtures and appliances will remain the property of the contractor through the end of the initial term until year four (4) and ten (10) months into the five (5) year option period.

7. **COST OF OPERATION:** Contractor shall bear, at his own expense, all costs of operating all concessions, and shall pay, in addition to the compensation to the City, all other costs connected with the use of the premises and facilities, including, maintenance, (except the building structures and outside walls and roofs), insurance, any and all taxes, janitorial services and supplies, and all permits and licenses required by law. The Contractor shall not pay for direct water, sewer, electricity, gas, and garbage costs, but will be liable for 25% of the Park's total utility costs.

8. **RENT/SECURITY DEPOSIT:** On the date this Agreement is executed, Contractor shall pay the City the sum of \$1,000.00 as security for the faithful performance by the Contractor of the Terms, Conditions and Covenants of this Agreement. In the event the Contractor defaults pursuant to Section 26, the City is entitled to retain the rent/security deposit as liquidated damages.
9. **COMPENSATION AND TIME OF PAYMENT:** The amount/rate of compensation shall be \$ 8,333 monthly (\$100,000 annually) and 6% of annual sales in excess of the natural breakpoint (\$1,666,667). For illustration purposes only, if annual sales were \$2,000,000 then percentage rent would be \$20,000 (\$2,000,000 less breakpoint of \$1,666,667 equals \$333,333 times 6% equals \$20,000). Such percentage rent, if any, shall be paid within 60 days of the end of each contract year. City shall receive the monthly payment within fifteen (15) days after the end of each month of the term hereof. The annual report of gross receipts per section 10 below shall be submitted within 60 days of the end of each contract year. The Parties agree that the amount of compensation from the date of execution of this Agreement until April 1, 2010 shall be \$4,000 per month in recognition of the extensive improvements to the premises being undertaken by Contractor.
10. **GROSS RECEIPTS:** The term "gross receipts" as used herein shall include all receipts net of taxes, whether collected or accrued, derived by Contractor or any licensee, concessionaire, or tenant of Contractor, from all business conducted upon or from the premises, including but not limited to receipts from sale of food, beverages, alcoholic beverages, gambling, merchandise, and rental of space, or from any source whatsoever derived from operation and occupation of the concession.
11. **RECORDS, ACCOUNTS, AND STATEMENTS:** Contractor shall keep on the premises, or such other place within Washoe County, Nevada approved by the City, true, accurate, and complete records and accounts of all sales, rentals, and business being transacted upon or from the premises and shall give the City or the City's representative access during reasonable business hours to examine and audit such records and accounts. Within fifteen (15) days after each month of the term hereof, Contractor shall deliver to the City a written monthly statement of the gross receipts for such month certified as true and complete by Contractor or its Certified Public Accountant, to be true, accurate, and complete.
- 11.1 Within sixty (60) days after the end of each contract year of this agreement, Contractor shall deliver to the city a written statement of the gross receipts for that contract year. Said statement shall be certified as true, accurate, and complete by contractor.
- 11.2 Contractor shall obtain and install cash registers or other accounting equipment acceptable to the city, to be used in all operations at which cash and payments are received for the proper control and account of revenue. Contractor shall record all sales from the concession operations in this equipment. Such machines shall be non-resettable and shall supply an accurate recording of all sales on tape and a receipt of each transaction.
- 11.3 The City shall have the right at any reasonable time to examine and audit said records and accounts.
12. **LICENSES AND PERMITS:** Contractor shall pay for all licenses, permits, and fees necessary for Contractor to construct improvements, if any, and conduct Contractor's business on the premises.
13. **SALES AND USE TAX:** It is also agreed and understood that the applicable Nevada State Sales and Use Tax on concession fees shall be paid by Contractor.
14. **LATE CHARGES:** In the event Contractor fails to pay any payment due hereunder within (10) days of

the due date, there shall be added to such payment a late charge of one hundred fifty dollars (\$150.00).

15. **INSPECTIONS:** The City shall reserve the right, but shall have no affirmative obligation, to have designated representatives for the City review, inspect, and evaluate the operation and condition of the food service facilities with respect to the safety, sanitation and maintenance of the facilities and equipment, all of which shall be maintained at levels satisfactory to the Washoe County Health District.

15.1. Contractor shall comply with all current federal, state, and Washoe County, health and sanitation regulations, including any which may become effective during the effective period of this agreement.

16. **HAZARDOUS SUBSTANCES AND MATERIALS:** Contractor shall maintain on- site, Material Safety Data Sheets (MSDS), as defined and prescribed in 29 C.F.R Section 1910.1200, or from time to time as amended, for all hazardous substances purchased by Contractor for use under this Agreement.

16.1 Contractor shall appraise personnel of the hazards to which they may be exposed in using, handling, transporting, or disposing of hazardous substances, and to obtain medical treatment for those who may be affected by the substance.

16.2 Contractor shall immediately report all spills of hazardous substances to the Washoe County Health District; the City of Sparks Parks and Recreation Department Director; and the City of Sparks Risk Manager.

17. **CITY RESPONSIBILITIES:** The City shall be responsible for the following:

17.1 Provide, as mutually agreed, the space/facilities as mutually agreed to by the parties commonly known as the downstairs concession area, all of which shall be and remain the sole property of the city.

17.2 Outside maintenance and repair of the building structure and city equipment resulting from negligence of the contractor.

17.3 **The City will not be responsible, nor shall the City guarantee, the following services:**

The City does not guarantee an uninterrupted supply of water, natural gas or electric current; nor does the City guarantee uninterrupted service in providing any utilities. The City shall not be liable to Contractor or to others for any loss, damage, cost or expense which may result from the interruption or failure of any utility services.

The City does not guarantee uninterrupted access to the facility in the event of snow or other significant weather, natural or man-made events that may block the street or service road(s) to the facility. The City shall not be liable to Contractor or to others for any loss, damage, cost or expense which may result from the interruption or access.

17.4 The City shall continue to enforce the following rule at all times throughout the term and extended term, if exercised, of this Agreement on all playing fields irrespective of the use of such fields: "No alcoholic beverages may be brought into the Park. Any person not abiding will be removed from the Park. 2nd offense and the person will be suspended for the year from the Park. The consumption of alcoholic beverages in the parking lot is prohibited. During tournaments and sports events, one team ice chest may be brought in and stored in the dugout only. This ice chest must be marked as the team chest and may be inspected by City Staff or Tournament Directors. Team ice chests may only include water or drinks for participants. No other ice chests or coolers are allowed within the sports complex.."

18. **CONTRACTOR RESPONSIBILITIES:** Contractor shall be responsible for the following items for the duration of this Agreement:

18.1 Provide laundry, paper, kitchen and janitorial supplies, uniforms, linen, and grease removal services associated with kitchen, food service, and bar areas.

18.2 Provide daily cleaning of food preparation and service areas.

- 18.3 Promptly pay any and all taxes imposed by the local, state or federal government with respect to its operation of the food service program at a city facility.
- 18.4 Promptly pay all food and beverage costs to all vendors.
- 18.5 Promptly pay all laundry service costs to all vendors.
- 18.6 Comply with all applicable ordinances, laws, rules, and regulations of the County, City, State, and federal government; and of any political subdivision or agency, authority or commission thereof, which may have jurisdiction to pass laws ordinances, or make and enforce rules or regulations with respect to the operations of the food service program, including but without limiting the generality of the foregoing, such rules and regulations of the City as are consistent with the rights herein granted to Contractor.
- 18.1 Maintain sanitary conditions in compliance with Washoe County District Health Department standards. Premises shall be maintained by contractor at an "A" rating of the Washoe County district health department. Failure to maintain this rating will result in the city of sparks hiring a company of their choice to restore facility to an "A" rating and charging the successful proposer for all related costs
- 18.2 Contractor shall also clean areas around the loading docks, dumpsters, grease traps, vent hoods, decks, and outdoor BBQ areas.
- 18.3 Upon termination of this agreement, contractor shall surrender City's property in as good condition as when received, ordinary wear and tear excepted.
- 18.4 Operate all food service facilities on Contractor's own credit and shall hold harmless the city from any and all claims, demands or liability on account thereof. The city shall not be responsible for any debts incurred by contractor in the performance of any resulting agreement.
- 18.5 Outside maintenance and repair of all building structures and equipment damaged due to negligence on the part of the Contractor.
- 18.6 Contractor shall be responsible for snow removal from entrances and outdoor upper-level patio areas.
- 18.7 Operate both the Restaurant and Walk-Up Concession Stand during allowable hours of operation (10AM – 12AM (midnight)), and operate the Walk-Up Concession Stand during its required hours of operation (5PM – 11:30PM for League Games and 8AM – 11PM for Tournaments), and the Restaurant during its required hours of operation (8AM – 11PM for Tournaments).

19. **CONTRACTOR'S USE AND POSSESSION OF PREMISES:** The premises (as shown in Exhibit A) shall be used by Contractor as a Walk-Up Concession Stand, Restaurant and bar. Further, Contractor shall have the exclusive right to offer food, alcoholic beverages, limited electronic gaming within the Restaurant, and catering business throughout the Park. It is understood and agreed that the premises shall be used by Contractor during the term of this Agreement only for the above purpose, for directly ancillary uses, with the prior written approval of the City, and for no other purposes or uses whatsoever.

- 19.1 Contractor will not make or permit any use of the premises which, directly or indirectly, is forbidden by public law, ordinance or government regulation which may be dangerous to life, limb or property. Contractor may not commit waste on the premises, use the premises for any illegal purpose, or permit a nuisance on the premises.
- 19.2 In the event that contractor uses the premises for any purposes not expressly permitted herein, the city may terminate this agreement, subject to the curative periods set forth herein, and with prior written notice to contractor, and restrain such improper use by injunction or other legal action.

20. **IMPROVEMENTS BY CONTRACTOR:** Contractor has inspected the premises and hereby accepts the premises in its present "as is" condition.

- 20.1 Contractor improvements to said real property will be at its own expense after the written approval of the city, satisfying all code requirements of applicable governmental entities.
- 20.2 All improvements of contractor shall be solely at contractor's cost and expense and shall be performed in a good workmanlike manner in accordance with sound construction practices. Contractor shall keep the premises and said improvements free and clear of liens for labor and materials and shall hold the city harmless from any responsibility in respect thereto.

21. **OWNERSHIP OF IMPROVEMENTS:** All improvements, furnishings, and equipment constructed or installed on the premises by the Contractor, shall be personal property and Contractor shall have legal title thereto during the term of this Agreement. Upon the expiration or termination of this Agreement, title to all permanent improvements constructed or installed on the premises shall vest in the City.

21.1. Title to all supplies, furnishings, inventories, and removable equipment not originally provided by the City, shall remain the contractor's, and contractor shall have the right to remove such items, including licenses, from the premises without damaging the premises unless the contractor is in default hereunder.

21.1.1 Contractor shall consider an offer to buy the above items from the City, at Contractor's sole discretion, upon expiration or termination of this Agreement.

22. **MAINTENANCE AND REPAIRS:** During the term hereof: Contractor, at Contractor's expense, shall keep and maintain the premises and all improvements thereon in good and sanitary order, condition, and repair, consistent with the operation of a quality restaurant in the Washoe County area.

22.1 Upon expiration or termination hereof: contractor shall surrender and deliver to the city the premises and all permanent improvements thereon in good and usable condition, ordinary wear and tear excepted. Permanent improvements shall be defined to include: all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or around the premises. Generally, fixtures may not be removed that would cause material damage to the facility.

23. **SIGNS:** In accordance with and subject to applicable zoning regulations, the Contractor may cause the placement or display of signs, plaques, lettering or advertising material on the premises subject to the consent of the City, which may not be unreasonably withheld or denied. Contractor agrees that all signs, plaques, lettering or advertising material placed or displayed by it on the premises shall be of an appearance complimentary to the facility and Golden Eagle Regional Park and shall be subject to the written consent of the City.

24. **LIENS:** Contractor will not permit any mechanics, laborers or material man's liens to stand against the premises or improvements for any labor or materials to the Contractor or claimed to have been furnished to Contractor's agents or subcontractors, in connection with work of any character performed or claimed to have been performed on the premises, or improvements by or at the direction or sufferance of the Contractor; provided, however, Contractor shall have the right to contest the validity or amount of any such lien or claimed lien.

In the event of such contest, Contractor shall give the City reasonable security as may be demanded by the City to ensure payment thereof and prevent sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment.

Such security shall be posted by the Contractor within fifteen (15) days of written notice from the City, or Contractor may "bond off" the lien according to statutory procedures.

24.1 CONTRACTOR WILL IMMEDIATELY PAY ANY JUDGMENT RENDERED WITH ALL PROPER COSTS AND CHARGES AND SHALL HAVE SUCH LIEN RELEASED OR JUDGMENT SATISFIED AT CONTRACTOR'S OWN EXPENSE.

25. **RIGHT OF CANCELLATION:** The City shall reserve the right to cancel this Agreement for any of the following reasons:

- 25.1 If either party breaches a material provision hereof ('cause'), the non-breaching party shall give the other party notice of such cause. If the cause is not remedied within ten (10) days (in the case of failure to make payment when due) or in thirty (30) days after receipt of written notice for all other types of breach the party giving notice shall have the right to terminate the agreement upon expiration of such remedy period.
- 25.2 In addition to all other rights herein, either party may terminate this agreement without prior written notice should the other party become insolvent, voluntarily file for bankruptcy or receivership, or make any assignment for the benefit of creditors, or should the other party have commenced against it any proceeding, suit or action in bankruptcy or receivership provided such proceeding, suit or action is not dismissed within thirty (30) days.
- 25.3 Failure to maintain sanitary conditions acceptable to the Washoe County District Health Department constitutes material breach that results in immediate termination of this Agreement upon the City's receipt of notice of such failure.

26. **DEFAULT:** Termination for default shall result in proceedings against the Contractor, which may result in their being debarred from providing future services to City for a period not less than two (2) years after the expiration date of the defaulted Agreement.

27. **THIRD PARTY RIGHTS:** This Agreement is not intended to create, nor shall it be construed to create, any third party beneficiary rights in any person not a party hereto.

28. **EXCLUSIVE:** This Agreement has been entered into as a result of a competitive bidding process through which Contractor was selected to provide the services stated herein to City on an exclusive basis during the term of this Agreement.

29. **NOTICES:** Except as otherwise specified, all notices under this Agreement shall be in writing.

Notice to Contractor shall be addressed to:

Notice to City shall be addressed to:

City of Sparks Parks and Recreation
Department
98 Richards Way
Sparks, NV 89431

30. **NOTICE TO PROCEED:** Execution by both parties to this Agreement shall constitute Notice to Proceed. Contractor shall not perform on any portion this Agreement without providing satisfactory insurance certificates.

31. **SEVERABILITY:** If any provision of this Agreement shall be held or declared to be void or illegal for any reason, all other provisions of this Agreement which can given effect without such illegal provision shall nevertheless remain in full force and effect.

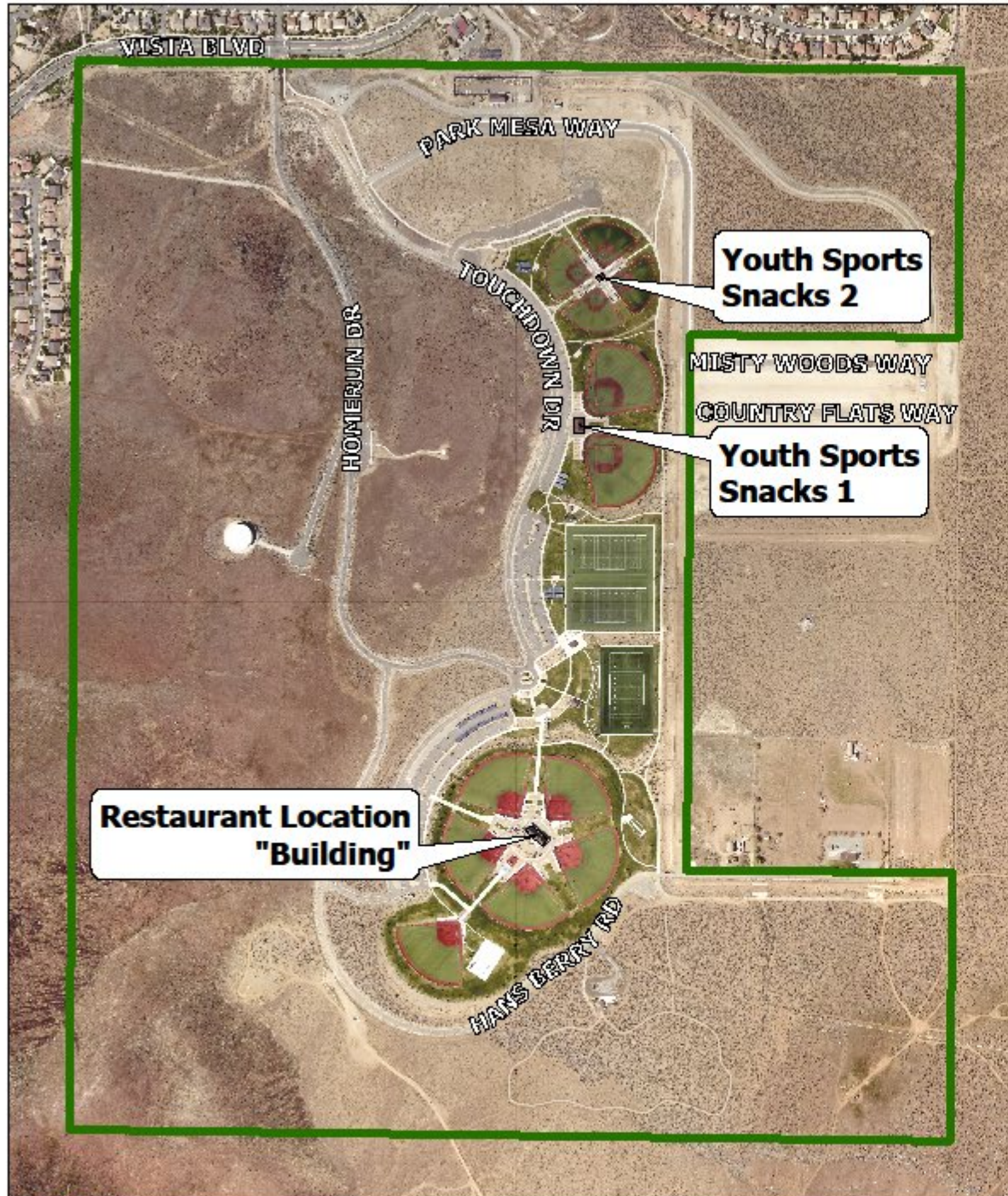
32. **HEADINGS:** The section headings of this Agreement are intended solely for convenience; they are not part of this Agreement and shall not affect its construction.

33. **ASSIGNMENT:** Assignment of this Agreement by the Contractor is prohibited without the prior written approval of the City.

Forms

(to be used following award of bid)

1) Contract Form



Elevation Photo (NE Facing)



Elevation Photo (North Facing)



**Golden Eagle Regional Park
Food Vendor Restaurant Location**