



NOTICE INVITING PROPOSALS

Sealed proposals will be received at the office of the Purchasing Manager, City of Prescott, 201 South Cortez St., Prescott, Arizona, 86303, until 2:00 P.M. on Thursday, February 17, 2011, for the provision of FOOD AND BEVERAGE CONCESSION SERVICES FOR PIONEER PARK FOURPLEX, KEN LINDLEY STADIUM, HERITAGE PARK AND KUEBLER FIELD as specified. City staff will provide a tour of the four concession areas on Monday, February 7, 2011 at 9:00am beginning at Pioneer Park Fourplex scorebooth /concession building, 1200 Commerce Dr., Prescott, then to Kuebler Field score booth (within Pioneer Park/west of Commerce Drive), Heritage Park ball field complex (east of Willow Creek Road) and Ken Lindley Stadium on Washington Street north of Gurley Street. For more information or directions, please call (928) 777-1590.

Any proposal received after 2:00 P.M. on the above stated date and time will be returned unopened. The City of Prescott reserves the right to accept or reject any and all proposals, or any part thereof, and waive any informalities deemed in the best interest of the City.

For documents, contact Purchasing Services, 216 S. Marina St., Ste. 202, Prescott, AZ 86303-3929, or visit www.cityofprescott.net/business/bids

The outside of the proposal envelope shall indicate the name and address of the proposer, shall be addressed to the Purchasing Manager, City of Prescott, 201 S. Cortez, Prescott, AZ 86303, and shall be marked: "Proposal: FOOD AND BEVERAGE CONCESSION SERVICES."

City of Prescott Request for Proposals

The Successful Proposer will contract with the City to provide services that include exclusive rights for food and beverage at PIONEER PARK FOURPLEX, KEN LINDLEY STADIUM, HERITAGE PARK AND KUEBLER FIELD. Proposals must include all locations as indicated.

Minimum Requirements

Concessionaire must sell food and non-alcoholic beverages at designated games and practices as specified by the Parks, Recreation, & Library Dept. at Pioneer Park Fourplex, Ken Lindley Stadium, Heritage Park, and Kuebler Field. These events include tournaments, league sports, and some special events.

Prospective concessionaire shall:

1. operate concession stands at each location a minimum of 30 minutes prior to the first scheduled game of the day, and one hour after the start of the last game scheduled.
2. comply with all Yavapai County Health Department regulations, inspections, and compliance at each location.
3. provide affordable menu items, with menu items and prices subject to approval each spring.
4. provide a monthly rent to the City of Prescott for the use of the four concessions.
5. will provide the City with an annual record of sales per site.
6. provide bottled water to teams participating in tournaments at cost of 50 cents per bottle (i.e., subject to market adjustments) during each teams' scheduled game time only.
7. describe in detail how you propose to provide ballfield concession services at each location.
8. define the capability of the organization to provide the desired services and list the names of contact persons with phone numbers and mailing addresses. Include previous food service and concession experience, and a brief history of each person's experience.
9. describe a marketing strategy particular to the operation including anticipated growth, and a plan to ensure a successful and profitable enterprise.

The City of Prescott reserves the right to contract other and additional concession services at designated special events to be determined by the Recreation Services Director.

The contract will be for a period of three years with option of renewing for three additional one-year periods. This contract agreement will be administered by the City of Prescott Parks, Recreation and Library Director or designee. All questions regarding the contract shall be referred to Parks, Recreation and Library Director. The request for renewal must be submitted within thirty (30) days before the termination of the

contract, in writing, by the Concessionaire, and will become effective only upon the written consent of the Parks, Recreation and Library Director.

Criteria for evaluation of the responses shall include technical capabilities, previous concession operations experience, marketing experience, and comparative feasibilities of the approach or other elements where price is not the determining factor.

Negotiations following the opening of the proposals is not required if one or more of the initial proposals is fully satisfactory to those evaluating the proposals on behalf of and in the best interest of the City.

Award may be made by City Council based upon the content of the proposal as first submitted, without discussion with the proposer or changes of the content. The submittal by any or all proposers may be canceled or rejected in whole or in part, by the sole opinion of the City. The City's decision will be final.

Inquiries or Interpretation

All inquiries concerning the RFP are to be directed in writing to:

Dawn Foster,
Dawn.foster@prescott-az.gov or
Via fax 928-777-1241

If a Proposer is in any doubt as to the meaning of this Request for Proposals, a written request for interpretation may be submitted no later than ten (10) days prior to the opening date of the sealed proposal. The City will not be responsible for any explanation or interpretation other than those submitted in writing.

The Proposer is advised to read this RFP in its entirety. Failure to read and/or understand any portion of the RFP shall not be cause for waiver of any or all of the RFP.

Submittal of Response

Three (3) signed copies of the Proposal shall be submitted to the Purchasing Manager, City of Prescott, 201 S. Cortez (P.O. Box 2059), Prescott, AZ 86301. Proposals shall be handled by the City in a manner as to prevent disclosure of the contents thereof to competing Proposers during the process of evaluation.

The Proposer will be responsible for all costs incurred in preparing a proposal or responding to this RFP. All materials and documents submitted in response to this RFP become the property of the City of Prescott and will not be returned.

Proposal Content

The response to this RFP should be specific and complete in detail, address each item by the order given in the RFP and be prepared in a straight forward manner.

1. Provide a cover letter that expresses your intent to respond to the RFP. Describe in detail how you propose to provide requested concession services at each location.
2. Define the capability and experience of the organization to provide the desired services and list the names of contact persons with phone numbers and mailing addresses. Include a brief history of each person's experience.
3. Provide details of your plan to provide food and beverage services at the locations requested.
4. Provide a schedule of compensation to be paid to the City by Concessionaire for the privilege of providing exclusive concession services.
5. Provide any other information that may show your intent, desire, and experience to operate a business that would be profitable for your organization as well as meet the needs of the City of Prescott.

Certification of Proposal

The proposal shall be certified with the signing of the cover letter by a representative of the organization authorized to bind the proposal and be identified by name, title, address and phone number.

Withdrawal

Proposals may be withdrawn, altered, and/or resubmitted at any time prior to opening of the proposals as advertised. Proposals shall be valid, firm, in effect and not subject to withdrawal for a period of sixty (60) days after the stipulated date of receipt.

The City reserves the right to waive informalities and minor irregularities in proposals received and to accept the most responsible offer. The City reserves the right to accept or reject any or all of the proposals.

Indemnification and Hold Harmless Clause

The Concessionaire hereby agrees to defend, indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of the Concessionaire's participation pursuant to this Agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the undersigned or his/her agents. The Concessionaire further releases and discharges the City, its departments and divisions, its agents and employees, and any and all persons legally responsible for the acts or omissions of the City, from any and all claims which the Concessionaire has or may have against the City, its agents or employees, arising out of or in any way connected with the Concessionaire's activities as set forth below, other than those acts which occur due to the negligence of the City, its employees or agents

Insurance Requirements
Boat Rental and/or Bicycle Rental Concessionaire

The Concessionaire shall obtain and maintain in effect during the term of this Agreement a policy or policies of liability insurance with limits not less than those stated. The insurance requirements herein are minimum requirements for this contract, and in no way limit the indemnity covenants contained in this contract.

Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

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

- a. The policy shall be endorsed to include the following additional insured language: **"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor "**.

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor"**.

3. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- a. Policy shall contain a **waiver of subrogation** against the City of Prescott.

DRAFT CONTRACT

CONTRACT

THIS AGREEMENT, made and entered into this _____ day of _____, 2004, by and between Copper Aerial Surveys Co. of _____, hereinafter known as the VENDOR, and the CITY OF PRESCOTT, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter known as the CITY.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

ARTICLE I - SCOPE OF WORK

The VENDOR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities as identified in Exhibit "B", attached hereto and made a part hereof, and to completely and totally provide the same to the CITY, in a good and workmanlike and substantial manner and to the satisfaction of the CITY through its agents and under the direction and supervision of the City's Finance Director or his properly authorized agents, subject to those limitations and modifications as contained in Exhibit "A", attached hereto and made a part hereof.

ARTICLE II - CONTRACT DOCUMENTS

The Vendor's Proposal for this project, attached hereto as Exhibits "A", "B" and "C", are by this reference made a part of this Contract to the same extent as if set forth herein in full.

ARTICLE III - TIME OF COMPLETION

A. The VENDOR hereby agrees to fully complete the services provided for herein no later than July 30, 2004.

B. Any request for extension of time shall be made in writing to the City's Finance Director, or his designee, stating the reason for said request, and such request shall be received by the CITY immediately following the end of the delay-causing condition. The extension of time allowed shall be as determined by the Finance Director, or his authorized agents and approved by the CITY. An extension of time may be granted by the CITY after the expiration of the time originally fixed in the Contract or as previously extended, and the extension so granted shall be deemed to commence and be effective from the date of such expiration.

ARTICLE IV - COMPENSATION

A. For and in consideration of the faithful performance of the work herein embraced as set forth in the Contract Documents, which are a part hereof and in accordance with directions of the CITY, through its agents, and to its satisfaction, the CITY agrees to pay the said VENDOR

the total sum of \$9,998.00; said payment shall be made within thirty (30) days after the final inspection and acceptance of work by CITY.

B. The intent of the Contract is that maximum payment shall not exceed the agreed total price set forth in Article IV(A) without duly authorized written Change Orders.

ARTICLE V - CONFLICT OF INTEREST

Pursuant to A.R.S. Section 38-511, the CITY may cancel this contract without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the Contract on behalf of the CITY is, at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter of the Contract. In the foregoing event, the CITY further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiation, securing, drafting or creating the Contract on behalf of the CITY from any other party to the Contract, arising as a result of the Contract.

ARTICLE VI - INDEPENDENT CONTRACTOR STATUS

It is expressly agreed and understood by and between the parties that the VENDOR is being retained by the CITY as an independent contractor, and as such the VENDOR shall not become a CITY employee, and is not entitled to payment or compensation from the CITY or to any fringe benefits to which other CITY employees are entitled other than that compensation as set forth in the Compensation Section of the Contract. As an independent contractor, the VENDOR further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Contract. As an independent contractor, the VENDOR further agrees that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the CITY, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

ARTICLE VII - NONDISCRIMINATION

The VENDOR, with regard to the work performed by it after award and during its performance of the Contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of contractors, subcontractors, including procurement of materials and leases of equipment. The VENDOR will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 99-4.

ARTICLE VIII - INDEMNIFICATION AND HOLD HARMLESS

The VENDOR hereby agrees to indemnify and hold harmless the CITY, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits

as a result of the VENDOR'S participation specific to Contract, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the VENDOR or his/her agents or employees , VENDOR'S subcontractors, their agents or employees.

ARTICLE IX - AMBIGUITY

This Contract is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Contract is not to be construed against either party.

ARTICLE X – MISCELLANEOUS

A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

B. That notwithstanding Exhibit "A", "B" and "C", the City may be entitled to use the aerial imagery which is the subject of this Agreement by placing it on the City's intranet for a period of one year; thereafter the City may place said imagery on its website, accessible by the public, at no additional cost to the City and at no further charge to the City.

C. In the event of a discrepancy between this Agreement and Exhibits "A", "B" and "C", this Agreement shall control over Exhibits "A", "B" and "C"; in the event of a discrepancy between Exhibits "A", "B" and "C", Exhibit "C" shall control over Exhibits "A" and "B"; and in the event of a discrepancy between Exhibits "A" and "B", Exhibit "B" shall control over Exhibit "A".

D. CONTRACTOR IMMIGRATION WARRANTY

The Contractor understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees."

Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Contractor or Subcontractor's employee who works on this Contract to ensure that the Contractor or Subcontractor is

complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of its Subcontractors to ensure compliance with the Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verifications performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214 Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

VENDOR:

By _____

Name:

Title:

CITY OF PRESCOTT, a municipal Corporation

Department Director

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE
City Clerk

DAWN M. FOSTER
Purchasing Manager