



City Manager's Office
201 S. Cortez
Prescott, AZ 86303

**Request for Proposals
Antelope Hills Golf Course and Centennial Center
Food and Beverage Operations and Facility Lease**

The City of Prescott is soliciting proposals from qualified individuals to operate all food and beverage services at Antelope Hills Golf Courses, including alcohol sales. Sealed proposals (one (1) original and four (4) copies) shall be received before 2:00 pm on Thursday, February 14, 2013 at the place indicated in Section 5 B. Proposals must be in accordance with the provisions, specifications and instructions set forth herein.

Please read the entire solicitation package and submit the offer in accordance with the instructions. This document (less this invitation and the instructions) and any required response documents, attachments, and submissions will constitute the offer.

TABLE OF CONTENTS

1. DESCRIPTION OF THE PROJECT	2
2. SCOPE OF WORK	2
3. PROPOSAL FORMAT	6
4. EVALUATION FACTORS FOR AWARD.....	9
5. SOLICITATION PROCESS REQUIREMENTS/ TENTATIVE TIMELINE.....	11
6. STANDARD PROPOSAL INFORMATION.....	14
APPENDIX A	
PROPOSER INFORMATION FORM	16
FINANCIAL COMPENSATION INFORMATION FORM	17
ANTICIPATED P&L INFORMATION FORM	18
RFP CHECKLIST.....	19
APPENDIX B	
GENERAL CONTRACT TERMS AND CONDITIONS	22
DRAFT MANAGEMENT AGREEMENT	26
APPENDIX C	
12 MONTH FINANCIAL HISTORY	36

1. DESCRIPTION OF THE PROJECT

The City of Prescott (City) is seeking qualified proposals to provide food and beverage service at the Antelope Hills Golf Course (Golf Course) and Centennial Center (Banquet/Event Facility). The Golf Course Clubhouse is located at 1 Perkins Drive, Prescott, Arizona. Services shall include daily food and beverage service and daily beverage cart service for both 18-hole golf courses, in addition to food and beverage services for tournaments and other group or special events. The facility includes a dining room, banquet/event facility, bar/lounge area, and on-course beverage cart service. The facilities currently host year-round activities including civic group meetings, catering, weddings, receptions, golf tournaments, charity tournaments, Men's and Women's Golf Associations. The City will entertain food and beverage service proposals following the current configuration, but will also consider other types of setups. Evaluation may include presentation by selected proposers. The initial term will ideally begin no later than May 1, 2013 and continue for three years, after which it will be at the sole option of the City whether to renew for up to two additional terms. Additional management requirements not listed in this Request for Proposal may be included in the final negotiated contract.

Pre-Proposal Meeting - A mandatory pre-proposal meeting will be held at the Manzanita Grille located at the Antelope Hills Clubhouse, 1 Perkins Drive, Prescott, AZ 86301, starting at 3:00 p.m. on January 21, 2013. At this time, a tour will be provided of the facilities, specifications and other proposal documents will be explained, and questions will be answered or compiled for distribution as an addendum. **Attendance is mandatory and will be considered in the proposal evaluation. A tour of the facilities (restaurant, kitchens, bar, beverage carts and banquet/event facilities, etc.) is included in this meeting.**

2. SCOPE OF WORK

The Proposer will be responsible for the maintenance, operation, marketing and management of the facilities. The facility includes existing furniture, fixtures and equipment necessary to maintain the restaurant, bar, banquet/event facility and beverage carts. All furniture, fixtures and equipment will be in good working order upon acceptance by the Proposer. Upon surrender from the Proposer back to the City, all furniture, fixtures and equipment will undergo inspection to ensure it is accepted in good working order or financial assurance funds may be used for same prior to the release of these funds. The Proposer shall address, in its proposal, the firm's ability to provide the following specific services, which may include information in addition to that provided in the questionnaire:

- A. **The Proposer will have the privilege to purchase and sell alcoholic beverages under the City's liquor license.** Proposer shall be named "Manager" under the license and have at all times a manager on file with the State in compliance with State Law. The Proposer's use of the City's liquor license is limited to the Restaurant and Banquet/Event Facility and golf course and the Proposer shall not waive liquor license privileges without the City's prior consent. The Proposer's rights to use the City's liquor license shall terminate simultaneously with the expiration or termination of the Agreement. If required by local or state regulation, the Proposer shall obtain a privilege license permit at its own expense. The privilege to sell alcoholic beverages shall be subject to the provisions of the Alcoholic Beverage Law of the State of Arizona, Yavapai County and the City of Prescott. All Proposer employees who are responsible for selling or dispensing alcoholic beverages shall be of the minimum age required by Arizona law and shall be fully qualified under all applicable State regulations. All such employees must successfully complete and be able to demonstrate understanding of an alcohol beverage-training program that teaches employees to

recognize alcohol impairment and handle patrons who should be denied alcoholic beverages. The Proposer shall at all times exercise totally independent, prudent, reasonable, experienced and legal judgment in serving of alcoholic beverages. The Proposer shall at all times use only qualified and supervised personnel with training and experience in the sale of alcoholic beverages. The decision to refuse service of alcoholic beverage to any individual shall be the sole responsibility of the Proposer.

- B. Successful proposer must be qualified to do business in the State of Arizona at the time of execution of the contract.
- C. Successful Proposer will be responsible for the daily operations of the food and beverage services, including beverage cart and bar services, for operation and marketing of the Centennial Center banquet/event facility, and the cleaning of all restrooms and food and beverage related areas including the restrooms in the banquet/event facility and those nearest the Pro Shop in the Clubhouse. Maintain an appropriate level of supplies for the facility and its customers, including but not limited to paper goods and cleaning supplies for restrooms, food and beverage, small wares, etc., at sole expense of proposer.
- D. The City retains the rights to negotiate alternative percentages of all food and beverage or to provide its own for all city-sponsored events and to allow outside food and water into the facility (i.e.; ADA requirements, bottled water, dietary supplements) under negotiated conditions. The Proposer shall not interfere with the free distribution of food, beverages or any other items of any nature whatsoever, where the City has authorized such distribution and is required to provide specialized or modified food and beverage operations for any event, as authorized by the City when deemed necessary or appropriate. The contractor's activities shall in no way interfere with the orderly operation of any event at the facility.
- E. The City will provide all existing furniture, fixtures and equipment necessary to maintain the restaurant, banquet/event facility, bars, and beverage carts. These items will require replacement due to normal wear and tear under a replacement schedule determined by the City.
- F. The City will provide, and proposer shall pay a monthly fee to city for, care & maintenance of the building envelope to include all interior and exterior finishes and all mechanical and utility delivery systems and the roof. The City will also provide pest control (April-October), window washing (2 x/year), carpet shampoo (2 x/year), grease trap pumping as needed, hood cleaning, hood fire-suppression and individual fire extinguisher certification, plumbing, electrical, HVAC, & hot water heater maintenance repair, and filter changing. Facilities maintenance **does not** include repair & maintenance of walk-ins, refrigerators, dish machines, coolers, furniture, fixtures, and/or equipment.
- G. Proposer shall retain title to all such non-fixed equipment furnished by it during the term of the agreement with the City, which was not originally conveyed with and part of the lease.
- H. The Proposer agrees to maintain at its sole expense its equipment and equipment provided by the City through the lease, and to clean and maintain inside the leased and operated areas in accordance with generally accepted standards in the industry, including maintenance or repair necessitated by ordinary wear and tear. Annual inventory list of all furniture, fixtures, and equipment will be a requirement for the inventoried assets that come with the food and beverage facilities and its ancillary businesses. A replacement schedule for each term of the agreement will be required with the execution of the agreement.
- I. Random inspection of the facilities and grounds will be performed by the City with 48 hours notice provided to the Proposer.
- J. The City's golf professional will train the beverage cart staff to assure proper maintenance of greens, operation of beverage carts, and understanding of general rules of golf etiquette.
- K. Proposer agrees to prepare and submit financial reports as requested by City and to make timely payment of agreed upon rental, utility and facility charges.
- L. Proposer is responsible for meeting financial assurance requirements as negotiated, prior to final contract.
- M. The Proposer is responsible for the predefined proportionate share of electric, natural gas, water,

wastewater and solid waste utilities provided for the restaurant (80%) and banquet/event center (100%).

- N. Proposer will actively maintain established relationships with the various associations/clubs as well as the golf operations staff at Antelope Hills. The various associations will be allowed to use the facility for business meetings free of charge at a time approved by the food and beverage Proposer.
- O. Proposer will develop a pricing policy to include menus where appropriate.
- P. Proposer will hire, train and supervise the personnel necessary to manage and operate the facilities. The Proposer will be responsible for all federal, state and local taxes as well as employment law associated with the Proposer's personnel.
- Q. Proposer will establish, maintain, update, and operate a website for the restaurant and banquet/event facility. The contents of such website shall be subject to the approval rights of the City, not to be unreasonably withheld.
- R. Proposer shall give prompt notice to the City in case of fire or accidents in the premises or in the building or of defects therein or related to the equipment and fixtures. Proposer hereby acknowledges that the City shall not be liable for any interruption to Proposer's business for any cause whatsoever, and that Proposer shall obtain Business Interruption Insurance coverage should Proposer desire to provide coverage for such risk.
- S. All employees of successful Proposer shall be neatly attired in uniforms that clearly and properly identify successful Proposer. The design of such uniforms shall be subject to the prior approval of the Antelope Hills Golf Course Manager. All employees are required to wear a name identification tag at all times while on duty. A food and beverage manager must be designated and on site or available by phone during all hours of operation.
- T. Proposer assures that all operations shall be open to the public seven (7) days per week, fifty-two (52) weeks per year, **EXCEPT** Christmas Day and any other day as deemed necessary by the City. The daily hours of operation shall be one (1) hour prior to the first tee time of the golf operation, and close no earlier than dusk, or as advised of activities scheduled. Hours of operation outside of golf course operations are at the discretion of the Proposer. During the hours of operation, Proposer will make every reasonable effort to accommodate the needs of the golfing customers of Antelope Hills. The restaurant facility can be made available by the Proposer for catered events when the golf course is not open. The Proposer may charge a fee for the use of these facilities, provided however, that this fee may be reduced or discounted as determined by the golf course manager for golf related or charity groups. Reservations for non-golf groups will be allowed while the Pro Shop is open so long as appropriate and adequate facilities and staff are offered to the golfing customer. In the event that there is a conflict in scheduling between golf related and non-golf related groups, golf related groups will be given precedence. Hours of operation may be negotiated and may be adjusted, with prior written approval from the City designee, based on public demands and seasonality. Non-compliance to operating hours, including but not limited to closure due to health or liquor violation may result in fines for loss of service to the City.
- U. Proposer is responsible for the storage and maintenance, including the cost for all operations and approvals permitting and licensing, oil, gas, and proper insurance of beverage carts.
- V. The successful Proposer shall make no major alterations or repairs to any building or location herein reserved for its use, or erect any new structure or sign on the land of the City without first submitting a construction, alteration, repair plan and specifications with the estimated cost. Any construction, alteration or repair must be approved by the City.
- W. Proposer will be responsible for maintaining or negotiating new leases for existing "leased" pieces of equipment (coffee machine, soda machine, bar dish machine) where only the bar dish machine has a payment of \$71/month, as long as Pro-Clean products are used. The coffee, soda machines and soda refrigerators are free (due to current agreements with Douwe Egberts coffee and Pepsi-Cola). Agreements are currently terminable, except for the Pepsi-Cola agreement which may not be terminated prior to June 30, 2013.
- X. Proposer shall provide and maintain an automated point of sale or inventory control system.

- Y. Proposer is responsible for maintaining all necessary food and beverage permits, licenses and requirements including, but not limited to health permits from Yavapai County Health Department. Copies of all inspections shall be provided to the City's Golf Manager. Provide environmental, safety, and health regulatory compliance documents (written safety programs, training and records, permits, etc.) applicable to services requested.
- Z. Proposer is responsible for all applicable tax licenses including federal income, state income, and state and city privilege (sales) tax. The restaurant, banquet/event and all other food and beverage activities as well as commercial rental are subject to Arizona and City of Prescott privilege tax.
- AA. Obtain required insurance (with the City named as an additional insured), utility service (for utilities not provided by the City), fuel service and banking/credit card services needed to operate the facilities.
- BB. The Term will commence for three years upon execution of the agreement. At the end of the initial term of this contract, the City may initiate renewal(s) as provided. The decision to renew a contract rests solely with the City. The City will give written notice of its intention to renew the contract no later than thirty (30) days prior to the expiration. Two (2) Three-Year renewals possible at the City's option, per proposal documents.

3. PROPOSAL FORMAT

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. One (1) original and four (4) copies of the proposal shall be submitted for purposes of evaluation.

Proposers are required to attend the pre-proposal meeting and familiarize themselves with any conditions which may affect the proposal. Submission of a proposal will be prima facie evidence that the proposer did, in fact, make a site inspection and is aware of all conditions affecting performance and proposal prices.

A. General Format for Proposals -To facilitate comparison and evaluation, Proposers must follow the format outlined in this section. Failure of any Proposer to follow the required format may, at the sole discretion of the City, result in the rejection of the submittal. Proposals shall contain concise written material and illustrations that enable a clear understanding and evaluation of the capabilities of the Proposer. Legibility, clarity, and completeness are essential. The City, at its sole discretion, may reject any proposal which is unclear in any way.

B. Organization of Materials - Proposals must be organized in the following manner:

1. Cover Letter
2. Title Page
3. Table of Contents
4. Completed Forms from Appendix A (p. 17-20)
5. Qualifications and Experience
 - A. Professional Resumes
 - B. References
 - C. Proof of Financial Capability
6. Approach and Management Plan
 - A. Method of Operation
 - B. Hours of Operation
 - C. Staffing Plan, General Pay/Benefits and Organizational Chart
 - D. Sample HR procedures (hiring, training, food service operations manual)
 - E. Equipment to be provided
 - F. Sample menu, including pricing
 - G. Transition or Mobilization Plan
7. Marketing Plan
8. Exceptions to RFP

C. Contents of Proposal

The Proposer must provide the required information both as to itself and any other person, including without limitation, any corporation, partnership, contractor, joint venture, consortium, or individual which the Proposer intends to assign to a key management role in the advertising agreement with the City or to which the Proposer intends to assign material responsibilities under any such agreement.

1. Cover Letter

The cover letter shall constitute a firm offer to the City and be utilized to introduce the Proposer. Cover letters should contain the following information:

- (1) Designation of the business entity that will contract with the City;

- (2) Identification of the principal contact person for the Proposer and an alternate contact person together with addresses, telephone and facsimile numbers, and e-mail address;
- (3) A clear statement indicating that the attached proposal constitutes a firm and binding offer by the Proposer to the City; and
- (4) A clear statement indicating that all information in support of the proposal is accurate, truthful, and factual.

2. Title Page

The cover letter should be followed by a title page on letterhead of the Proposer. It should contain the title of this RFP, and identify the name and signature, title, company, mailing address, phone number (voice and facsimile) and e-mail address of all persons authorized to commit the Proposer to contractual arrangements with the City. This person(s) will be considered by the City as the Proposer's contact point for all communication regarding this procurement.

3. Table of Contents

Proposals should contain a detailed table of contents (similar to paragraph B, above) listing major sections and subsections which correspond to the requirements of the RFP. The table of contents should also list any tables, exhibits, figures, etc.

4. RFP Informational Forms

The submittal forms are included. The forms and any related documentation must be completed and incorporated into the submitted proposal. Failure to do so may result in disqualification.

5. Qualifications and Experience

- A. Professional Resumes of each key staff member, organized as follows:
 - (1) Professional background
 - (2) Current and past relevant restaurant food and beverage experience
 - (3) Education
 - (4) Certifications
 - (5) A listing of directly relevant projects of similar nature which includes the project name, project description, and role of staff member in project.
 - (6) Describe the reason for early termination of any contracts by voluntary or involuntary reasons or judgments. If none, please indicate so.
- B. Recent and pertinent references from at least three (2) different professional references, (1) bank reference, and (2) client references including contact name, telephone number and address must be furnished with proposal. Also include any landlords or owners of facilities where you have operated a similar restaurant or concession within the past five (5) years.
- C. Information regarding the financial capability of the Proposer to conduct this type of business. The Proposer must provide a summary of the Proposer's financial and business commitment to ensure the sound fiscal operation of this restaurant food and beverage concession. The Proposer must include a minimum of one (1) reference from a financial institution attesting to the Proposer's business and financial status and capabilities.
- D. Discussion and analysis of your organization's financial condition for the last two years indicating any changes in your financial position since the certified statements were

prepared, and any recent Management Letters. Please clearly mark any proprietary and confidential information as such.

- E. Litigations/Claims/Judgments; provide complete information on all litigations, judgments, claims or government investigations (resolved or pending) involving all principals, participants, financial backers or legal business entities associated with this proposal.

6. Approach and Management Plan

Proposer must submit a specific plan describing how the Proposer proposes to operate the restaurant, banquet/event facility and beverage service in conformity with the RFP, including, but not limited to:

- A. A general description of how the restaurant, banquet/event, bar, and beverage cart services will be operated to provide service to the general public and golf course patrons;
- B. Hours of operation; in relation to the Golf Course hours of operation;
- C. Staffing plan, general pay and benefits, and an organizational chart;
- D. Sample HR procedures (hiring, training, food service operations manual)
- E. Description of equipment to be provided;
- F. Sample menu, including pricing;
- G. A Transition or Mobilization Plan that describes how the start-up of the restaurant and beverage concession will be conducted including the proposed commencement date and level of service to be offered. If the level of service to be offered at commencement is less than full service, the Proposer shall submit a plan and schedule for providing full service. If any structural or aesthetic changes are necessary, include the cost, plan and timeframe.
- H. A detailed listing of any exceptions to the requirements or performance standards specified in the sample lease agreement that the Proposer cannot or will not be able to meet, as well as any specific modifications of the sample lease agreement that the Proposer will require. Please include discussion of any requests for City service on beverage carts, handling of restroom products, lease agreements for equipment with vendors.

7. Marketing Plan

- A. A description of the specific restaurant theme or atmosphere to be developed.
 - B. A marketing plan that indicates how the restaurant and beverage concession will be marketed and promoted that includes a description of any advertising, signage, or other promotional activities that are anticipated and financial commitment to such activities. Include discussion of any cross-promotional opportunities.
 - C. A specific description of plans for naming/renaming and branding for either the banquet/event facility or restaurant and bar and any capital investment necessary. The cost of any capital, marketing or promotional investment to rebrand the facility (signage, etc) will be borne by the Proposer.
8. Proposers shall indicate any and all exceptions taken to the provisions or specifications in this solicitation document. Exceptions are aspects of your proposal that differ from the defined scope of work, contractual requirements, payment expectations or other aspects of the City's RFP document.

Note: By submitting a proposal Proposer acknowledges and accepts that the City reserves the right to determine, in its sole and absolute discretion, whether any aspect of a Proposal satisfactorily meets the criteria established in this RFP.

4. EVALUATION FACTORS FOR AWARD

Proposal submittals that are delivered after the due date and time or electronically transmitted submittals will be disqualified from further consideration. Incomplete or non-responsive proposal submittals may be disqualified from further consideration.

Each proposal received will be fully evaluated. Proposals for consideration for this project must contain evidence of the Proposer's experience and abilities in the specified area and other disciplines directly related to the proposed services. Other information required by the City to be submitted in response to this RFP is included elsewhere in this solicitation. Determining considerations in the award of the contract by the City will include such matters as: (1) financial strength of the Proposer (2) demonstrated experience or past performance with management of restaurants and banquet/event facilities of similar size and operation and particularly any experience coordinating with tournaments or other similar events; (3) demonstrated management style and abilities, including strength of submitted personnel policies, organizational structure and staffing; and (4) business plan including a five year pro-forma revenue/ expense forecast on the food and beverage service and marketing plans; (5) proposed monthly rental fees for the contract period.

The City reserves the right to accept or reject any or all proposals and, to the extent permitted by law, to waive formalities. All proposals are to be prepared and submitted in accordance with the provisions of the Request for Proposals, and the City reserves the right to consider any proposals, therefore, subject to rejection as being non-responsive to the proposal request. The City may, in its sole discretion, determine that any defect in a proposal is harmless if such defect related to an element, which is not mandatory or essential to the responsiveness of the proposal, and the City may accept the proposal in spite of the existence of a harmless defect. Any proposal received after the time and date specified shall not be considered.

The City will select the proposal, which in its sole judgment is deemed most advantageous to the public and the City. Points and other such evaluation methods are tools the City uses to aid in the evaluation process, but are not always definitive.

- A. Qualifications will be evaluated based upon the evaluation criteria listed and the firm's ability to satisfy the proposal requirements.
- B. Only one contract is anticipated for award as the result of this solicitation.
- C. A committee may be selected to evaluate the proposals. The objective of an evaluation committee will be to select the most qualified proposal.
- D. It will be the intent of the grading system and evaluation criteria to view each statement in terms of content, not appearance. The Proposer will be selected on the basis of demonstrated competence and qualifications to perform the services and not through competitive bidding procedures. Any selection made under this solicitation shall be made to the Proposer who provides the best offer for the City based on the evaluation criteria found in this Request for Proposals. Should any evaluating factor change prior to selection, the Proposer shall promptly notify the City of such change
- E. The City may investigate additional elements of the Proposer's capacity, as it deems necessary, to determine the responsibility of the Proposer and its ability to perform all work required for satisfactory completion of this agreement. The Proposer shall furnish to the City all such information and data as requested for this purpose. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy the City that such Proposer is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.

- F. The City reserves the right to request an oral presentation (or presentations), if deemed necessary by the City.
- G. Proposals will be evaluated in accordance with the following factors and ranked according to the total number of points the individual proposal earned, based on the stated maximum point allowance per factor.

Evaluation of the responses will be based on the following criteria:

Responsiveness (10 points) - The extent to which the response meets the requirements of the solicitation and the extent to which the respondent is likely to achieve the desired results, including:

- 1. The methods proposed;
- 2. Qualifications and experience of assigned staff members;
- 3. Understanding of the project and the City's objectives;
- 4. The degrees of response to the specific requirements of the solicitation.

Responsibility (25 Points) - The capabilities, integrity and reliability of the Proposer, including:

- 1. Experience and history of the Proposer in establishing and operating similar restaurant, bar, and related food and beverage services;
- 2. The management procedures and philosophy of the Proposer in operating food and beverage services of this type;
- 3. Financial capability of the Proposer to conduct this type of business, including proposed financial assurance. Proposer to include at least one (1) reference from a financial institution attesting to the Proposer's business and financial status and capabilities;

Approach and Management Plan (45 Points) - A description of the restaurant and beverage concession to be operated, including, but not limited to:

- 1. General description of how the restaurant food and beverage service will be operated.
- 2. Hours of operation in alignment with golf operation;
- 3. Staffing plan and organizational chart/human resources and training policies
- 4. Sample menu with pricing;
- 5. A transition or mobilization plan for start-up;
- 6. Performance and responses during interview process.

Marketing Plan (10 Points) – A description of the marketing initiatives to be employed and theme /atmosphere to be developed by the Proposer in order to attract and retain customers.

Fee Proposal (10 Points) – Monthly rent, exclusive of established utility and facility maintenance payments, offered to the City as compensation based on monthly payments to the City.

100 POINTS TOTAL

Proposals may be evaluated by an evaluation committee. The City reserves the right to negotiate with qualified Proposers and/or request best and final offers. The recommended Proposer may be required to participate in negotiations concerning the nature and extent of services to be provided. The result of such negotiations shall be incorporated into the final agreement between the City of Prescott and the selected Proposer.

5. SOLICITATION PROCESS REQUIREMENTS/TENTATIVE TIMELINE

A. Communications with the City

All communications regarding this solicitation must be directed to the City's Buyer. The City's buyer for this solicitation is:

Alison Zelms, Deputy City Manager
City of Prescott
City Manager's Office
Phone: 928-777-1220
Fax: 928-777-1255
E-mail: alison.zelms@prescott-az.gov

Unless authorized by the City's Buyer, no other City official or employee is empowered to speak for the City with respect to this solicitation. **Proposers are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Proposers are cautioned against contacting any City official or employee other than the City's Buyer.** Failure to observe this requirement may be grounds for rejection of Proposer's proposal.

B. Schedule

Solicitation Advertisement	January 11, 2013
Mandatory Pre-Proposal Meeting	January 21, 2013
	Time: 3:00 p.m.
	Location: Antelope Hills Clubhouse, 1 Perkins Dr.
Deadline for Questions	January 30, 2013
Deadline for Addenda	February 4, 2013
Proposals Due:	February 14, 2013
	Time: Thursday, February 14 at 2:00 pm
	Location: Office of the City Clerk
	201 S. Cortez St.
	Prescott, AZ 86302
Council Approval of Agreement	April 9, 2013
Beginning of Initial Term (Desired)	May 1, 2013

C. Questions and Requests for Addenda

- Proposers who have questions about or suggestions for changes to this solicitation may direct them to the City's Buyer. Questions that go beyond the scope of clarification should be made in writing and may be requested in writing by the Buyer.
- Questions and requests for addenda must be received by the City's Buyer no later than the date and time listed in Section 5 B. Questions received after this time will not be considered or answered.
- Failure by a Proposer to request clarification of any inadequacy, omission or conflict shall not relieve the Proposer of the responsibility of being in compliance with the solicitation.

D. City Answers and Addenda

- Changes to this solicitation will be made only by formal written addenda issued by the City's Buyer. Any such addenda and City answers to questions will be issued no later than the date and time listed in Section 5 B. Addenda and City answers will be posted on the City's website at www.cityofprescott.net/business/bids. It is the Proposer's responsibility to check the city's website for any and all addenda for this solicitation.
- Changes to this solicitation may be made by the City if, in the sole judgment of the City, the changes will not compromise the City's objectives in this acquisition.
- All addenda issued by the City shall become a part of the specifications of this solicitation, and will be made part of the resulting agreement.

E. Proprietary Material

- A Proposer shall clearly mark any proprietary information contained in its proposal with the words "proprietary information." Proposer shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a proposal as proprietary may result in rejection of the proposal.
- Proposers should be aware that the City is required by law to make its records available for public inspection. The Proposer, by submission of materials marked proprietary, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Proposer in the event that the City must legally disclose these materials.

F. Delivery of Proposals

- Sealed proposals (one (1) original and four (4) copies) must be received at the Office of the City Clerk no later than the date and time listed in section 5 B.

Proposals should be addressed to:

Lynn Mullhall, City Clerk
 City of Prescott
 201 S. Cortez
 Prescott, AZ 86303

- Proposer shall enclose proposal (one (1) original and four (4) copies) in a sealed envelope. The envelope shall identify the proposer's name, mailing address, proposal title, and the time and date due.
- The City shall not consider late proposals, telegraphic (fax) or telephone proposals.
- Proposer is solely responsible for ensuring that proposal(s) are delivered on time. **Delays caused by any delivery service, including the U.S. Postal Service, will not be grounds for an extension of the deadline for receipt of proposals. Proposals received after the deadline will be returned unopened.**

G. Cost of Proposals

- The City shall not be liable for any costs incurred by Proposer in the preparation and submittal of a proposal(s) in response to the solicitation or in the participation of any part of the acquisition process.

H. Errors in Proposals

- Proposer is responsible for all errors or omission in their proposals, and any such errors or omission will not serve to diminish their obligations to the City.

I. Withdrawal of Proposals

- A proposal may be withdrawn by written request of the Proposer prior to the proposal due date and time listed in section 5.B. No proposal may be withdrawn for a period of 90 calendar days after the proposal due date and time.

J. Changes in Proposals

- Prior to the proposal due date and time listed in section 5 B, a Proposer may make changes to its proposal provided the change is initialed and dated by the Proposer. Corrections and/or modifications received after the closing time specified will not be accepted.

K. Rejection of Proposals

- The City reserves the right to reject any and all proposals and to waive any immaterial defects and irregularities in proposals.

L. Disposition of Proposals

- All materials submitted in response to the solicitation, including samples, shall become the property of the City upon delivery to the City.

M. Incorporation of Solicitation and Response in Agreement

- This solicitation, including all attachments and addenda, and all promises, warranties, commitments and representations in the successful proposal shall be binding and shall become obligations of the agreement.

N. Protests

- Any protest of the solicitation process must be filed by 5:00 p.m. on the third business day after solicitations are opened. All such protests shall be in writing, contain a complete statement of the grounds for protest, and be filed with the City Clerk, 201 S. Cortez, Prescott, AZ, 86303.
- Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the Apparent Successful Proposer(s). The City will not consider any protest based on items that could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other proposer.

6. STANDARD PROPOSAL INFORMATION

A. Default by Proposer

In case of default by the Proposer, the City of Prescott may procure the service from other sources and may deduct from any monies due or that may thereafter become due to the Proposer the difference between the prices named in the contract or purchase order and the actual cost thereof to the City of Prescott. Prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent.

B. Litigation

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. Neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract or another other state or federal statute.

APPENDIX 'A'

Proposer Information - Antelope Hills Golf Course and Centennial Center Food and Beverage Operations and Facility Lease (Must Be Returned with Proposal)

Company Legal/Corporate Name: _____

Doing Business As (if different than above): _____

Address: _____

City: _____ State: _____ Zip: _____ - _____

Phone: _____ Fax: _____

E-Mail Address: _____ Website: _____

Taxpayer Identification Number: _____

Remit to Address (if different than above):

Address: _____

City: _____ State: _____ Zip: _____ - _____

Contact for Questions about this proposal:

Name: _____ Fax: _____

Phone: _____ E-Mail Address: _____

Day-to-Day Project Contact (if awarded):

Name: _____ Fax: _____

Phone: _____ E-Mail Address: _____

Sales/Use Tax Information (check one):

____ Proposer is located outside Arizona and does NOT collect Arizona State Sales/Use Tax (The City will pay use tax directly to the AZ Dept of Revenue)

____ Proposer is located outside Arizona is authorized to collect Arizona State Sales/Use Tax for submission to the AZ Dept of Revenue
State Sales Tax Number: _____

____ Proposer is located in Arizona (The Bidder should invoice the applicable sales tax and remit to the appropriate taxing authorities)
State Sales Tax Number: _____
City Sales Tax Number: _____ City of: _____, AZ
Sales Tax Rate: _____

____ Certified Small Business Certifying Agency: _____

____ Certified Minority, Woman or Disadvantaged Business Enterprise Certifying Agency: _____

Financial Compensation Information - Antelope Hills Golf Course and Centennial Center Food and Beverage Operations and Facility Lease (Must Be Returned with Proposal)

Pursuant to all the contract specifications enumerated and described in this solicitation, we agree to furnish **Concession Services, Food & Beverage Operations for Antelope Hills Golf Course** to the City of Prescott at the price(s) stated below.

Proposer shall pay as rent to the City an amount equal to: _____ per month.
(insert proposed rent)

Proposer agrees to pay monthly portion of City-provided utilities (associated gas, capital maintenance (not including janitorial) electric, water, wastewater, and trash service fees) and services totaling approximately \$3,600 monthly, which will be billed monthly based on actual billing, agreed upon proportionate share applied, and evaluated and updated on an annual basis for the duration of rental term. Utility fees are in addition to agreed upon monthly rental and facility maintenance fees.

Proposer agrees to pay monthly portion of City-provided facilities maintenance fees for services described in the RFP, totaling \$1,635 monthly for the duration of rental term. Facility maintenance fees are in addition to agreed upon monthly rental and utility fees.

Telephone, internet, cable/satellite, and janitorial services are the responsibility of the Proposer and will be established and maintained by the Proposer separate from rent paid to the City.

A \$50,000 financial assurance will be required when the contract is executed. The assurance must be in a form acceptable to the City. The assurance will be used in case of default or other significant breach of contract, or will be refunded at the successful conclusion of the contract term. Propose the type of financial assurance to be provided (bond, cash, promissory note, monthly accrual). Assurance will be finalized as part of successful final negotiation.

Describe:

The City of Prescott is open to considering all reasonable options. If the Proposer desires to:

- 1) Propose a signing bonus;
- 2) Propose a different financial assurance amount or format;
- 3) Propose an increase to rental fees if certain revenue levels are achieved;
- 4) Propose providing or receiving additional services;
- 5) Operate existing services in a unique manner; or
- 6) Explain the rationale for the rent listed above and/or any exceptions to the RFP, please do so by using a separate page

NOTE: City, County and State Sales and Use Tax will be due in addition to the rental, utility and facility maintenance fees. The City will add any applicable sales tax or use tax. Sales/Uses taxes should not be included in the offer prices.

Proposer Name _____

Date _____

Anticipated P&L Information - Antelope Hills Golf Course and Centennial Center Food and Beverage Operations and Facility Lease (Must Be Returned with Proposal)
 Provide your projected annual operating statement in the following format:

TOTAL GROSS ANNUAL SALES \$\$ _____

FOOD SALES-----Lunch	\$ _____
Dinner	\$ _____
<u>TOTAL DINING ROOM FOOD SALES</u>	\$ _____
Catering Food Sales	\$ _____
<u>TOTAL FOOD SALES</u>	\$ _____

BEVERAGE SALES Bar	\$ _____
Catering	\$ _____
<u>TOTAL BEVERAGE SALES</u>	\$ _____

GOLF CART F&B SALES \$ _____

TOTAL GROSS FOOD AND BEV SALES \$ _____

Sales Deductions

Comp Meals	\$ _____
Tournament credits	\$ _____
<u>TOTAL SALES DEDUCTIONS</u>	\$ _____

TOTAL NET SALES \$ _____

EXPENSES

FOOD COST	\$ _____	% _____
BAR COST	\$ _____	% _____

LABOR COST

MANAGEMENT	\$ _____	% _____
HOURLY	\$ _____	% _____
Total Wages	\$ _____	% _____
TAX/BENEFITS	\$ _____	% _____
<u>TOTAL LABOR COST</u>	\$ _____	% _____

DIRECT EXPENSES

Advertising/Promotion	\$ _____	% _____
Employee Relations	\$ _____	% _____
Cash Over/Short	\$ _____	% _____
Laundry/Uniforms	\$ _____	% _____
Cleaning/paper Supplies	\$ _____	% _____
Office Supplies	\$ _____	% _____
Repairs/Maintenance	\$ _____	% _____
Equipment Rental	\$ _____	% _____
Dishes/kitchenware	\$ _____	% _____
Professional Services	\$ _____	% _____
Legal Fees	\$ _____	% _____
Telephone	\$ _____	% _____
Other Exp.	\$ _____	% _____
<u>TOTAL DIRECT EXPENSES</u>	\$ _____	% _____

Semi Direct Expenses

Rubbish Removal	\$ _____	% _____
Water	\$ _____	% _____
Electric	\$ _____	% _____
Maintenance Contracts	\$ _____	% _____
<u>TOTAL Semi Direct Expenses</u>	\$ _____	% _____

PROFIT BEFORE RENT/ FIXED COST \$ _____ % _____

Proposer Name _____

Date _____

**RFP CHECKLIST - Antelope Hills Golf Course and Centennial Center Food and Beverage
Operations and Facility Lease**

Name of Proposer: _____

This checklist is provided to assist Proposers in the preparation of their proposal response.

Included in this checklist are important requirements that are the responsibility of each Proposer to submit with their response in order to make their proposal response fully compliant. This checklist is only a guideline -- it is the responsibility of each Proposer to read and comply with the Request for Proposal in its entirety.

_____ Mailing envelope has been addressed to:

City of Prescott
City Clerk's Office
201 S. Cortez
Prescott, AZ 86303

_____ Mailing envelope must be sealed and identified with:

- Proposers Name and Address
- Proposal Title – Antelope Hills Golf Course and Centennial Center Food and Beverage Operations and Facility Lease
- Proposal Due Date and Time of XXXXX, 2013 @ 2:00 p.m.

_____ Each Proposal Addendum (when issued) is acknowledged

_____ Informational Forms, Pages 16-19

_____ Reviewed the Draft Lease Agreement and accept all City Terms and Conditions

_____ Listed any Exceptions to Lease Agreement or RFP

_____ Reference information for all required references is included

_____ Information deemed proprietary and confidential by the proposer is clearly marked as "PROPRIETARY" in accordance with section 5 E of the proposal

_____ One (1) original and four (4) copies of required documents

THIS FORM MUST BE RETURNED WITH YOUR PROPOSAL

APPENDIX 'B'

GENERAL CONTRACT TERMS AND CONDITIONS

- A. **Entire Agreement:** This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Proposer. The City's RFQ/RFP, all addenda to the RFQ/RFP, and the Proposer's response to the RFQ/RFP are explicitly included in this contract. Where there is any conflict among or between any of these documents, the controlling document shall be the first listed in the following sequence: the most recently issued Contract amendment; the Contract; the most recently issued addendum to the City's RFQ/RFP; the City's RFQ/RFP; and the Proposer's response to the RFQ/RFP.
- B. **Term:** The term of this Contract shall commence on the date the final Contract is signed by all required parties and shall expire as stated within the Contract.
- C. **Payment:** The Proposer shall submit payments as determined by the selected payment method. Monthly rental, utility and facility payments shall be submitted to the City by the 1st of the month for which it applies and shall include agreed upon utility and facility maintenance fees. Any other payments of taxes or fees for use of software will be owed and paid separately. Failure to make timely payment will result and late fees and penalties.
- D. **Equal Employment Opportunity:** During the term of this Contract, the Proposer agrees as follows: The Proposer will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Proposer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- E. **Diversity:** The City encourages the Proposer to employ a workforce reflective of the region's diversity.
- F. **Discrimination in Contracting:** The Proposer shall not create barriers to open and fair opportunities for sub-proposers and suppliers in obtaining or competing for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with sub-proposers and suppliers, the Proposer shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.
- G. **Record-Keeping:** The Proposer shall maintain, for at least 12 months after expiration or earlier termination of the term of this Contract, relevant records and information necessary to document the Proposer's utilization of other businesses as sub-proposers and suppliers in this contract and in its overall public and private business activities. The Proposer shall also maintain all written quotes, proposals, estimates, or proposals submitted to the Proposer by all businesses seeking to participate as sub-proposers or suppliers in the contract. The City shall have the right to inspect and copy such records.

- H. **Publicity:** The Proposer shall not advertise or publish the fact that the City has contracted to purchase items from the Proposer without the City's prior written approval.
- I. **Proprietary and Confidential Information:** The Proposer acknowledges that the City is required by law to make its records available for public inspection, with certain exceptions. The Proposer, by submission of materials marked proprietary and confidential, nevertheless acknowledges and agrees that the City will have no obligation or any liability to the Proposer in the event that the City must disclose these materials by law.
- J. **Indemnification:** To the extent permitted by law, the Proposer shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, arising out of the work performed or goods provided under this Contract, or the Proposer's violation of any law, ordinance or regulation, except for damages resulting from the sole negligence of the City.
- K. **Insurance:** The Proposer shall secure and maintain, at all times during the term of this Contract, at its own expense, a policy or policies of insurance, at minimum, known as: **(1) Commercial General Liability** written on an insurance industry standard occurrence form (ISO form CG 00 01) or equivalent including premises/operations, products/completed operations, personal/advertising injury, contractual liability, and independent Proposer's liability; **(2)** if any vehicle is used in the performance of this Contract, a policy of **Business Automobile Liability** written on an insurance industry standard form (ISO form CA 00 01) or equivalent, including coverage for owned, non-owned, leased or hired vehicles; and **(3)** if any work under this Contract will be performed by a resident of the state of Arizona, **Worker's Compensation** ("Industrial Insurance") as required by the State of Arizona. The insurance as provided under items (1) and (2) above shall be endorsed to include The City of Prescott, its officers, elected officials, employees, agents and volunteers as an **Additional Insured** per ISO form CG2010 11/85 or CG2026 or equivalent, and to not permit reduction or cancellation by the insurer without forty-five (45) days prior written notice to the City. The Proposer's insurance shall be primary as respects the City, and any other insurance maintained by the City shall be excess and non-contributing with the Proposer's insurance. Detailed requirements will be set forth in the resulting contract.
- L. **Compliance with Law:** The Proposer, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Arizona; the Charter, Municipal Code, and ordinances of The City of Prescott; and rules, regulations, orders, and directives of their respective administrative agencies and officers.
- M. **Licenses and Similar Authorizations:** The Proposer, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements.
- N. **Taxes:** The Proposer shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Proposer's interest in this Contract.
- O. **Americans with Disabilities Act:** The Proposer shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Proposer is providing services, programs, or activities to City

employees or members of the public as part of this Contract, the Proposer shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

- P. **Amendments:** Except for adjustments authorized above, modifications or amendments to the Contract may only be made by a change order or by written document signed by or for both parties. Unless the Proposer is otherwise notified, the City's Purchasing Agent shall be the City's authorized agent.
- Q. **Assignment:** Neither party shall assign any right or interest nor delegate any obligation owed without the written consent of the other.
- R. **Binding Effect:** The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- S. **Waiver:** The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
- T. **Applicable Law:** This Contract shall be construed under the laws of the State of Arizona. The venue for any action relating to this Contract shall be in the Superior Court for Yavapai County, State of Arizona.
- U. **Remedies Cumulative:** Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- V. **Severability:** Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.
- W. **Gratuities:** The City may, by written notice to the Proposer, terminate Proposer's right to proceed under this Contract upon one (1) calendar day's notice, if the City finds that any gratuity in the form of entertainment, a gift, or otherwise was offered or given by the Proposer or any agent thereof to any City official, officer or employee.
- X. **Termination:**
 - a. **For Cause:** Either party may terminate this Contract in the event the other fails to perform its obligations as described herein, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other party.
 - b. **For Reasons Beyond Reasonable Control of a Party:** Either party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.
 - c. **For Public Convenience:** The City may terminate this Contract in whole or in part whenever the City determines that such termination is in its best interest (including but not limited to for lack of continuing appropriations). In such a case the Proposer shall be refunded the initial payment prorated monthly based on the initial term.

- d. **Notice:** Notice of termination shall be given by the party terminating this Agreement to the other not less than ten (10) working days prior to the effective date of termination.

Y. **Major Emergencies or Disasters:**

The following provision shall be in effect only during major emergencies or disasters. The City is committed to preparing thoroughly for any major emergency or disaster situation. As part of its commitment, the City is contracting with the Proposer under the following terms and conditions: Proposer shall provide to the City, upon the City's request, such goods and/or services at such time as the City determines. In the event the Proposer is unable to meet the delivery date commitment due to circumstances beyond the reasonable control of the Proposer, the Proposer shall make such delivery as soon as practicable. If the Proposer is prevented from making such delivery to the requested delivery location due to circumstances beyond its reasonable control, the Proposer shall immediately assist the City in whatever manner is reasonable to gain access to such goods and/or services. In the event that the Proposer is unable to provide such goods and/or services as requested by the City, the Proposer may offer to the City limited substitutions for its consideration and shall provide such substitutions to the City as required above, provided the Proposer has obtained prior approval from the City for such substitution. The Proposer shall pay the City the price determined in this Contract for rental and use of City facilities. In the event that the City's request results in the Proposer incurring unavoidable additional costs and causes the Proposer to increase prices in order to cover their costs, the Proposer shall provide the City with appropriate documentation of the additional costs. The Proposer acknowledges that the City is procuring such goods and/or services for the benefit of the public.

The Proposer, in support of public good purposes, shall consider the City as a customer of first priority and shall make its best effort to provide to the City the requested goods and/or services in a timely manner. For purposes of this Contract, a "major emergency" or "disaster" shall include, but is not limited to a storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above.

Draft Operations and Rental Agreement

WHEREAS the City of Prescott (hereinafter referred to as "City") is in need of certain services and wishes to engage in a rental agreement with an operator to provide restaurant, liquor bar, banquet/event, and food dispensing facilities in the Antelope Hills Golf Course; and

WHEREAS (PROPOSER NAME) (hereinafter referred to as "Operator") has expertise in providing (COMMODITY);

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, and for other 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:

1. That Operator shall provide those services to the City on an as-needed basis, as more particularly identified in the attached Exhibits "A" (solicitation) and "B" (proposer submittal), and as requested by the Golf Course Manager, hereinafter referred to as the Project Director or his designee.

2. In addition to those services identified in the attachments Exhibit "A" and "B", the Operator shall also perform all subordinate tasks not specifically referenced in Exhibits "A" and "B", but necessary to the full and effective performance of the tasks specifically referenced. In the event of a discrepancy between this Agreement and Exhibits "A" and "B", this Agreement shall control. In the event of a discrepancy between Exhibit "A" and "B", Exhibit "A" shall control.

3. Operator shall provide sufficient qualified personnel, upon reasonable notice to perform any and all services as required herein, including but not limited to preparation of reports, as reasonably requested by representatives of the City.

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

5. (A) The term of this agreement shall be from (START DATE) through (END DATE). All services identified in Paragraphs 1 and 2 above shall be completed to the satisfaction of the City no later than mutually agreed upon dates.

(B) The City may, at its sole discretion, extend this contract under the same terms and conditions as contained herein for up to an additional two terms.

(C) Notwithstanding the foregoing, this Agreement may be terminated by the City upon ten (10) days written notice, with or without cause. It may also be terminated by the City in the event that funding for the City's payments hereunder is dependent on grants or other commitments of funds from another governmental agency and those funds are terminated or substantially reduced for any reason. If this Agreement is terminated, the Operator shall pay rent and fees for services performed to the date of Operator's receipt of such termination notice.

6. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage and certified mail, at the following addresses:

City of Prescott
Golf Course Manager
201 S. Cortez
Prescott, AZ 86303

With copies to:

City of Prescott
Deputy City Manager
201 S. Cortez
Prescott, AZ 86303

Operator:

(COMPANY NAME)
(STREET ADDRESS)
(CITY, STATE ZIP)

7. It is expressly agreed and understood by and between the parties that Operator is an independent Operator, and as such Operator 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. As an independent Operator, Operator further acknowledges that it 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 Agreement. As an independent Operator, Operator further agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out nor claim to be an officer or employee of the City by reason thereof, and that it 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.

8. This Agreement is non-assignable by the Operator.

9. (A) The Operator shall pay to the City a monthly sum of \$X,XXX.XX for rental of the facilities, as indicated in Exhibit "B".

(B) The Operator shall pay to the City the monthly agreed upon share for utilities (approximately \$3,600 to be reviewed and updated annually) and \$1,635 for facilities maintenance, in addition to any rental payments.

(C) The Operator shall submit payment on the 1st of each month.

(D) Payment of the total amount provided for under Section 10(A) shall not relieve Operator of its obligation to complete the performance of all those services specified in Sections 1, 2 and 3. Should the City request in writing additional services beyond that specified in Sections 1, 2 and 3, then Operator and City shall negotiate a mutually agreed value.

(E) The Operator shall owe and pay any and all unpaid privilege, license and other taxes, fees and any and all other unpaid monies due the City from the Operator, and shall apply those monies to the appropriate account. Operator shall provide to the City any information necessary to determine the total amount(s) due.

10. This Agreement 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 Agreement is not to be construed against either party.

11. This agreement shall be construed under the laws of the State of Arizona.

12. This Agreement and Exhibits "A" and "B" represent the entire and integrated Agreement between the City and the Operator and supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Operator. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary. In the event of a discrepancy between this Agreement and Exhibits "A" and "B", this Agreement shall control over Exhibits "A" and "B" and in the event of a discrepancy between Exhibits "A" and "B", Exhibit "A" shall control over Exhibit "B." All of the General Terms and Conditions are incorporated into and made a part of the Operations and Rental Agreement.

13. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

14. The Operator shall, within ten (10) calendar days after the execution of the Agreement and before awarding any subcontract, furnish the City with a list of proposed sub-operators, and shall not employ any that the City may object to as incompetent or unfit.

15. The Operator 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 Operator'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 Operator 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 Operator has or may have against the City, its agents or employees, arising out of or in any way connected with the Operator's activities as set forth below, other than those acts which occur due to the negligence of the City, its employees or agents. Operator accepts full responsibility for any legal action, fines, forfeitures or penalties incurred due to Operator's lack of compliance with any licensing requirement, including but not limited to liquor license and health permitting requirements. Loss of liquor license privileges constitutes a material breach of contract and may result in termination of same.

16. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

17. (A) The Operator shall obtain and maintain in effect during the term of, and until final acceptance of all work under, this Agreement a policy or policies of general liability, and liquor liability including dram shop coverage insurance with limits not less than \$3,000,000.00, naming the City as additional insured. The insurance requirements herein are minimum requirements for this Contract and

in no way limit the indemnity covenants contained in the Contract. Operator is free to purchase such additional insurance as may be determined necessary.

Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the City of Prescott is named as an additional insured, the City of Prescott shall be an additional insured to the full limits of liability purchased by the Operator even if those limits of liability are in excess of those required by this Contract.
2. The Operator's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the City of Prescott Risk Management Division.

Verification of Coverage: Contractor shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the contract. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Golf Course Manager, 201 S. Cortez, Prescott, Arizona, 86303. The City contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

Insurance Requirements - Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis.

Commercial General Liability – Occurrence Form:

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

- General Aggregate \$ 3,000,000
- Products – Completed Operations Aggregate \$ 3,000,000
- Personal and Advertising Injury \$ 1,000,000
- Each Occurrence \$ 1,000,000
- Fire Legal Liability (Damage to Rented Premises) \$ 500,000

Liquor Liability including Dram Shop Coverage \$ 3,000,000

The policy(ies) 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 Operator ".

Business Automobile Liability: Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

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

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 Operator ".

Worker's Compensation and Employer's Liability:

Workers' Compensation	Statutory
Employer's Liability	
Each Accident -	\$1,000,000
Disease – each employee -	\$1,000,000
Disease – policy limit -	\$1,000,000

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

(B) All insurance and bonds required pursuant to this Agreement must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

(C) Prior to commencing work under this Agreement, the Operator shall provide the City with evidence that he/she is either a "self-insured employer" or a "carrier insured employer" for Workers' Compensation as required by A.R.S. 23-901 et seq., or that he/she employs no persons subject to the requirement for such coverage.

18. Operator Improvements

(A) Operator shall make no improvements or modifications to the Property without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. Before commencing any improvements or modifications, Operator shall submit detailed construction plans and specifications of the work as completed. Prior to the start of any construction of improvements or modifications to the Property, Operator shall secure all applicable building permits and approvals from the City, which shall not be unreasonably withheld or delayed. Operator shall furnish any additional information concerning any proposed improvements or modifications which the City may reasonably deem necessary.

(B) All improvements to the Property shall be constructed pursuant to the plans and specifications which have been approved by the City, which approval shall not be unreasonably withheld or delayed. All improvements and modifications made by Operator shall be constructed in a good workmanlike manner.

(C) Prior to the commencement of any construction on the Property, Operator shall provide the City with payment and performance bonds in amounts equal to the full amount of the written construction contract pursuant to which such construction is to be done. The payment bond shall be solely for the protection of claimants supplying labor or materials for the required construction work and the performance bond shall be solely for the protection of the City, conditioned upon the faithful performance of the required construction work. Each bond shall include a provision allowing the prevailing party in a suit on such bond to recover as a part of its judgment such reasonable attorneys' fees as may be fixed by the court. Each bond shall be executed by a surety company duly authorized to do business in Arizona and acceptable to the City. Each bond shall be filed with the City Clerk immediately upon execution thereof. Payment bonds must comply with the requirements of A.R.S. §34-121.

(D) Operator shall keep the Property and all improvements thereon free of any mechanic's or material men's liens or liens of any kind or nature for any work done, labor performed or materials furnished on or to the Property. If any such lien is filed, Operator shall, at its own cost, either (1) initiate necessary action to remove such lien from the Property within thirty days of notice thereof, and diligently proceed with such action until the lien is removed; or (2) provide the City with security that such lien will not be foreclosed, which security must be acceptable to the City.

(E) Operator shall begin construction of any improvements and modifications to the Property within a reasonable period of time following the approval of the City and the issuance of building permits, if necessary, for the construction. Operator shall diligently pursue construction of the improvements or modifications and shall complete construction in accordance with the schedule for completion to be agreed upon by the City. All improvements and modifications made by Operator which become fixtures to the Property shall become the property of the City, at no cost to the City, upon the expiration or termination of this Agreement, free of any security interest or claims of any kind from or through Operator.

19. The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor 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, the Americans With Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4, 2009-09 as amended.

20. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Agreement, pursuant to A.R.S. Section 12-341.01(A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Professional further agrees that this provision shall be contained in all sub-contracts related to the project, which is the subject of this Agreement.

21. Pursuant to A.R.S. Sections 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section, the term "scrutinized business operations" shall have the meanings set forth in A.R.S. Section 35-391 and/or 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

DATED this _____ day of MONTH, 2013.

MARLIN D KUYKENDALL
Mayor

ATTEST:

APPROVED AS TO FORM:

LYNN MULHALL
City Clerk

JON PALADINI
City Attorney

OPERATOR

By: _____

Title: _____

EXHIBIT 'A' (of contract)
(Copy of Solicitation to go here)

Exhibit "B" (of Contract)
(copy of Proposer Response to go here)

APPENDIX 'B'

Antelope Hills Food Service
12 Months Historical Financial Activity*

	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	
	2011	2011	2012	2012	2012	2012	2012	2012	2012	2012	2012	2012	TOTAL
Restaurant Sales	\$25,280	\$20,535	\$25,195	\$23,860	\$24,347	\$32,477	\$33,437	\$40,805	\$41,274	\$41,907	\$33,764	\$34,696	\$377,577
Catering Sales	\$2,646	\$35,810	\$6,014	\$1,803	\$8,148	\$6,955	\$1,197	\$20,141	\$3,403	\$13,896	\$14,875	\$17,475	\$132,363
TOTAL FOOD SALES	\$27,926	\$56,345	\$31,209	\$25,663	\$32,495	\$39,432	\$34,634	\$60,946	\$44,677	\$55,803	\$48,639	\$52,171	\$509,940
Bar Sales	\$12,890	\$9,856	\$14,625	\$14,037	\$15,541	\$17,166	\$20,585	\$25,261	\$24,582	\$25,566	\$23,336	\$17,975	\$221,420
Golf Cart Sales	\$250	\$0	\$0	\$3	\$1,258	\$2,003	\$5,481	\$13,176	\$11,362	\$10,806	\$7,722	\$4,312	\$56,373
TOTAL FOOD AND BEV SALES	\$41,066	\$66,201	\$45,834	\$39,703	\$49,294	\$58,601	\$60,700	\$99,383	\$80,621	\$92,175	\$79,697	\$74,458	\$787,733

*This information is unaudited and is our best approximation of these categories and timeframes of sale