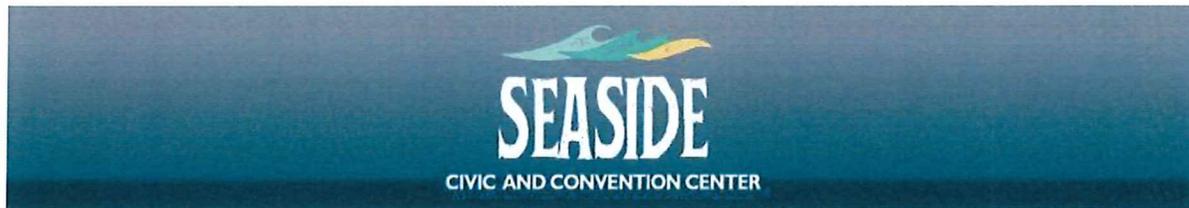


# City of Seaside

REQUEST FOR PROPOSALS  
FOR THE



***SEASIDE CIVIC AND CONVENTION CENTER***

***Exclusive Food and Beverage Services***

***Request for Proposal # 2021-02***

Proposals Due:  
Friday, April 30, 2021 @ 4:00PM



**REQUEST FOR PROPOSALS**  
**Exclusive Food and Beverage Services**  
**Project #2021- 02**

**Date Due: Friday, April 30, 2021**

**Time Due: 4:00 PM (PST)**

Sealed proposals for exclusive rights to serve food and beverage at the Seaside Civic and Convention Center must be received by the City of Seaside Civic and Convention Center must be received by the City of Seaside, Oregon at Seaside City Hall, 989 Broadway, Seaside, Oregon, 97138, by 4:00 pm on April 30, 2021.

RFP documents may be examined and or obtained at the following website:

Seaside Civic and Convention Center – [www.seasideconvention.com](http://www.seasideconvention.com)

City of Seaside – [www.cityofseaside.us](http://www.cityofseaside.us)

Refer all questions to: Russ Vandenberg, General Manager -  
Seaside Civic and Convention Center  
415 First Avenue  
Seaside, Oregon 97138  
(503) 738-8585  
Email: [rvandenberg@seasideconvention.com](mailto:rvandenberg@seasideconvention.com)

The City may reject any proposal not in compliance with all prescribed public procedures and requirements.

**CITY OF SEASIDE, OREGON**

**REQUEST FOR PROPOSALS  
RFP Number 2021-02**

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**PROJECT TITLE:** Exclusive Food and Beverage Services

**PROPOSAL DUE DATE:** April 30, 2021 at 4:00 p.m.  
Pacific Daylight Time (PDT)

**EXPECTED TIME PERIOD FOR CONTRACT:** November 21, 2021 to November 20, 2024  
This agreement may be extended for two (2) additional three (3) year Terms under certain conditions

**PROPOSER ELIGIBILITY:** This procurement is open to those Proposers that satisfy the minimum qualifications stated herein and that are available for work in Oregon State.

**CONTENTS OF THE REQUEST FOR PROPOSALS:**

1. Introduction
2. General Information for Proposers
3. Proposal contents
4. Evaluation and Award
5. Exhibits:
  - Exhibit A. Certifications and Assurances
  - Exhibit B. Draft Contract
  - Exhibit C. Specific Terms and Conditions
  - Exhibit D. Standard Terms & Conditions
6. Attachments

## TABLE OF CONTENTS

1. Introduction
  - 1.1 Purpose and Background
  - 1.2 Objective
  - 1.3 Period of Performance
  - 1.4 Definitions
  - 1.5 ADA
  
2. General Information for Consultants
  - 2.1 RFP Coordinator
  - 2.2 Estimated Schedule of Procurement Activities
  - 2.3 Pre-Proposal Conference
  - 2.4 Submission of Proposals
  - 2.5 Proprietary Information/Public Disclosure
  - 2.6 Revisions to the RFP
  - 2.7 Minority & Women-Owned Business Participation
  - 2.8 Acceptance Period
  - 2.9 Responsiveness
  - 2.10 Most Favorable Terms
  - 2.11 Contract and General Terms & Conditions
  - 2.12 Costs to Propose
  - 2.13 No Obligation to Contract
  - 2.14 Rejection of Proposals
  - 2.15 Commitment of Funds
  - 2.16 Insurance Coverage
  
3. Proposal Contents
  - 3.1 Letter of Submittal
  - 3.2 Technical Proposal
  - 3.3 Management Proposal
  - 3.4 Financial Proposal
  
4. Evaluation and Contract Award
  - 4.1 Evaluation Procedure
  - 4.2 Clarification of Proposal
  - 4.3 Evaluation Weighting and Scoring
  - 4.4 Oral Presentations May Be Required
  - 4.5 Notification to Proposers
  - 4.6 Debriefing of Unsuccessful Proposers
  - 4.7 Protest Procedure
  
5. RFP Exhibits
  - Exhibit A: Certifications and Assurances
  - Exhibit B: Draft Contract
  - Exhibit C: Specific Terms and Conditions
  - Exhibit D: Standard Terms and Conditions
  
6. RFP Attachments
  - 6.1 Floor plans for Seaside Civic and Convention Center
  - 6.2 Food Service Equipment Inventory List for Existing Facility

## 1. INTRODUCTION

### 1.1 PURPOSE AND BACKGROUND

The City of Seaside hereafter called "City," is initiating this Request for Proposals (RFP) to solicit proposals from firms interested in providing food and beverage services at the Seaside Civic and Convention Center pursuant to an exclusive contract.

The City of Seaside (City) built the Seaside Civic and Convention Center in 1972 and the Center has been expanded and improved over the years including the most recent \$15M Expansion/Renovation completed April 2020. The Center currently includes:

1. The Pacific Room of 10,500 sq. ft. which seats 950 occupants and can provide banquet seating for 530 people.
2. The Necanicum Room of 6,030 sq. ft. which seats 450 occupants and can provide banquet seating for 350 people
3. 13 breakout rooms totaling 8,038 sq. ft.
4. A lobby and foyer area of 5,935 sq. ft.
5. A parking area for 308 cars
6. Kitchen/catering area of 2,000 sq. ft with 900 sq. ft of storage room.

The building and land are owned and operated by the City of Seaside. The City desires to contract with the Contractor to provide food and beverage services and concessions, including the sale of alcoholic beverages at the Center in the most efficient manner possible while providing top quality service and food product to the clients and guests of the Center. The City also desires to produce as much income as possible from the Food and Beverage Contractor's activities.

The City intends to contract its food and beverage services through a concessions contract that will provide the Contractor with exclusive Food & Beverage rights within the Seaside Civic and Convention Center to a qualified and capable contractor, in exchange for a stated percentage of all food and beverage gross revenues as further described within this Request for Proposal document.

The selected firm shall achieve all the objectives in a professional manner, consistent with established standards, best industry practices and all applicable laws and ordinances. The selected firm shall achieve the greatest possible revenue for the City, consistent with industry standards and based on competitive pricing and quality. The selected firm shall provide all operations, management services, food preparation, beverage service and procurement of labor and supervision. The Contractor shall be responsible for all direct operating costs, labor costs and food and beverage costs as well as business overhead expenses, small wares, and normal business expenses.

### 1.2 OBJECTIVE

The Work consists of professional services to provide quality food and beverage concessions/catering services for the Seaside Civic and Convention Center events and visitors, using the kitchen, concessions, pantries, and portable equipment provided by the City of Seaside. The successful Contractor will be responsible for providing all small wares necessary to perform the scope of work as set out in this Request for Proposal.

The work shall include the purchase, preparation, sales, marketing and service of food, alcoholic and non-alcoholic beverages, and other related food items for Seaside Civic and Convention Center events. The scope of work will include operations of concessions stands, portable food service outlets as well as catering for meetings and other banquet or catered events. The CONTRACTOR may also utilize the facilities and equipment provided by the CITY pursuant to this Contract for purposes of the preparation or distribution of food or beverage items to be consumed in locations other than the SCCC or its grounds and parking lots. When the CONTRACTOR uses the SCCC facilities for such off-site

catering or distribution the CONTRACTOR shall pay the CITY the commission specified in the CONTRACTOR's proposal. While utilizing the SCCC for the purpose of engaging in outside catering, the CONTRACTOR hereby agrees to release, waive and hold harmless the CITY of Seaside, Oregon, its elected and appointed officials, agents and employees from any and all liability, claims, cost and expenses whatsoever arising out of or related to any loss, damage, or injury, that may be sustained in the execution of such preparation or distribution of food or beverage distributed in locations other than the SCCC grounds and parking lots.

**1.3 PERIOD OF PERFORMANCE**

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin on or about November 21, 2021 and to end on November 20, 2024. This Request for Proposal includes two additional three-year renewal options. Renewal amendments extending the period of performance shall be at the sole discretion of the City.

**1.4 DEFINITIONS**

Definitions for the purposes of this RFP include:

**Accounting Period** - The Contractor's twelve (12), four -week accounting cycles in a one-year period.

**Catered and Banquet Services** - Pre-arranged food and beverage related functions provided to licensees and their invitees pursuant to the terms and conditions and agreement(s) between the licensee and the Seaside Civic and Convention Center and/or the food service Contractor.

**Concession Services/Public Food Services** - Over the counter cash or credit card sales conducted at fixed and mobile food and beverage areas throughout the Seaside Civic and Convention Center.

**Contractor** - Individual or company whose proposal has been accepted by the City as the most responsive, responsible proposal, and is awarded the contract, and executes a written contract with the City of Seaside.

**Contract** - The contract entered into between the City of Seaside and the successful Proposer for the performance of the work that is described in this RFP.

**Proposer** - Individual or company submitting a proposal in order to obtain a contract with the City of Seaside.

**Proposal** - A formal offer submitted in response to this solicitation.

**Request for Proposals (RFP)** - Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit qualified firms to suggest various approaches to meet the need at a given price.

**City** – The City of Seaside, Oregon

**1.5 ADA**

The City of Seaside, Oregon, complies with the Americans with Disabilities Act (ADA). Proposers may contact the RFP Coordinator to receive special assistance.

**2. GENERAL INFORMATION FOR PROPOSERS**

**2.1 RFP COORDINATOR**

The RFP Coordinator is the sole point of contact for this procurement. All communication between the Proposer and the City upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name	Russell Vandenberg
Address	415 First Avenue
City, State, Zip Code	Seaside, Oregon 97138
Phone Number	(503) 738-8585
E-Mail Address	rvandenberg@seasideconvention.com

Any other communications will be considered unofficial and non-binding on the City. Proposers are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Proposer.

**2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES**

Issue of Request for Proposals	January 5, 2021
Question and answer period	January 5-15, 2021
Pre-proposal conference	January 19, 2021
Last date for questions regarding RFP	January 29, 2021
Issue addendum to RFP (if applicable)	February 8, 2021
Proposals due- Opening of Sealed Proposals	April 30, 2021
Evaluate Proposals	May 3-14, 2021
Conduct oral interviews with finalists, if required	May 24 and 25, 2021
Announce "Apparent Successful Contractor" and send notification via fax or e-mail to unsuccessful Proposers	June 1, 2021
Hold debriefing conferences (if requested)	June 2 and 3, 2021
Make Recommendation to Seaside City Council	June 28, 2021
Negotiate contract	July 5-9, 2021
Begin contract work	November 21, 2021

The City reserves the right to revise the above schedule.

**2.3 PRE-PROPOSAL CONFERENCE**

A pre-proposal conference is scheduled to be held on January 19, 2021 at 2:00 p.m., local time, in Seaside, Oregon at 415 1<sup>st</sup> Avenue. A tour of the facility and all food service areas of the facility will be provided. Written questions may be submitted in advance to the RFP Coordinator. The City shall be bound only to written answers to questions. Any oral responses given at the pre-proposal conference shall be considered unofficial.

Questions arising at the Pre-proposal Conference or in subsequent communication with the RFP Coordinator will be documented and answered in written form. A copy of the questions and answers in the form of an Addendum to the RFP will be sent to each prospective Proposer, who received the RFP and attended the mandatory pre-proposal meeting.

**2.4 SUBMISSION OF PROPOSALS**

Proposers are required to submit six (6) sets of their sealed proposal. Two sets must have original signatures and four copies can have photocopied signatures. The proposal, whether mailed or hand delivered, must arrive at the Offices of the City of Seaside City Hall, 989 Broadway, Seaside, Oregon 97138 no later than 4:00 p.m., Pacific Daylight Time (P.D.T) April 30, 2021.

The proposal is to be sent to the RFP Coordinator at the address noted above. The proposals should be delivered and clearly marked "SCCC FOOD AND BEVERAGE SERVICES". In a sealed package or envelope and should be addressed on the outside of the package in the following manner:

Mr. Russell Vandenberg City of Seaside City Hall 989 Broadway Seaside, Oregon 97138 <b>RFP NO. 2021-02</b>
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Proposers submitting proposals by mail or delivery service should allow sufficient delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Proposers assume the risk for the method of delivery chosen. The City of Seaside assumes no responsibility for delays caused by mail or any delivery service. Proposals may not be transmitted using electronic media such as facsimile transmission, or electronic mail.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of the City of Seaside and will not be returned.

**2.5 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

Materials submitted in response to this competitive procurement shall become the property of the City of Seaside.

All proposals shall be deemed public records as defined by Oregon State Statutes related to "Public Records".

Any information in the proposal that the Proposer desires to claim as exempt from disclosure under the provisions of the Oregon Public Records laws, must be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right-hand corner of the page, and the particular exception from disclosure upon which the Proposer is making the claim must be stated on the page.

The City of Seaside will consider Proposer's request for exemption from disclosure; however, the City of Seaside will make a final decision as to whether such material may be exempted from disclosure predicated upon Oregon State Statutes. Marking the entire proposal exempt from disclosure will not be honored. The Proposer must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

**2.6 REVISIONS TO THE RFP**

All questions and requests for clarification addressed at the mandatory Pre-proposal Conference will be formally answered in the form of a written addendum and will be provided to all prospective Proposers who attended the mandatory Pre-proposal Conference. All questions and requests for clarification made after the Pre-proposal Conference must be put in writing and submitted by January 29, 2021. All questions and requests for clarification are to be sent to the RFP Coordinator. All interpretations requested will be answered in the form of written addenda and will be sent to all prospective bidders who attended the Pre-proposal conference. Such addenda will become part of the RFP. All revisions to this RFP will be in the form of such written addenda, and no oral revision should be relied on by any Proposer for any purpose.

The City of Seaside also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a Contract.

**2.7 MINORITY & WOMEN -OWNED BUSINESS PARTICIPATION**

The City of Seaside encourages participation in all of its contracts by Women and Minority owned firms or companies. Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and proposals will not be rejected or considered non-responsive on that basis.

**2.8 ACCEPTANCE PERIOD**

Proposals must provide 60 days for acceptance by the City of Seaside from the due date for receipt of proposals.

**2.9 RESPONSIVENESS**

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. Proposers are specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive. The City of Seaside also reserves the right, however, in its sole discretion to waive minor administrative irregularities.

**2.10 MOST FAVORABLE TERMS**

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms that the Proposer can propose. There will be no best and final offer procedure. The City does reserve the right to contact a Proposer for clarification of its proposal during the evaluation process. In addition, if the Proposer is selected as the apparent successful contractor, the City reserves the right to enter into contract negotiations with the apparent successful contractor, which may include discussion regarding the terms of the proposal. Contract negotiations may result in incorporation of some or all of the Proposer's proposal submission. The Proposer should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. It is also understood that the proposal will become part of the official procurement file.

**2.11 CONTRACT AND GENERAL TERMS & CONDITIONS**

The apparent successful contractor will be expected to enter into a contract that is substantially the same as the sample contract and its general terms and conditions attached as Exhibit B. In no event is a Proposer to submit its own standard contract terms and conditions in response to this solicitation. The Proposer may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The City will review requested exceptions and accept or reject the same at its sole discretion.

**2.12 COSTS TO PROPOSE**

The City will not be liable for any costs incurred by the Proposer in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

**2.13 NO OBLIGATION TO CONTRACT**

This RFP does not obligate the City to contract for services specified herein.

**2.14 REJECTION OF PROPOSALS**

The City reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

**2.15 COMMITMENT OF FUNDS**

The Mayor or the Mayor's delegate is the only individual who may legally commit the City to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

**2.16 INSURANCE COVERAGE**

The Contractor is to furnish the City with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage that shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the City within fifteen (15) days of the contract effective date.

**Liability Insurance**

- 1) Commercial General Liability Insurance: Contractor shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract) and contain separation of insured's (cross liability) condition.

In addition to other general liability coverage the Contractor shall provide \$3,000,000 in liquor liability insurance and shall name the City of Seaside as an additional insured on such coverage.

**Employers Liability ("Stop Gap") Insurance**

In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

**Additional Provisions**

Above insurance policy shall include the following provisions:

1. **Additional Insured.** The City of Seaside, Oregon, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with the contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the City.
2. **Cancellation.** The City of Seaside, Oregon shall be provided written notice before cancellation or non-renewal of any insurance referred to herein, in accordance with the following specifications: (1) The insurer shall give the City 45 days advance notice of cancellation or non-renewal. (2) If cancellation is due to non-payment of premium, the City shall be given 10 days advance notice of cancellation.
3. **Identification.** Policy must reference the City's contract number and the City's name.
4. **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the state of Oregon and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by City of Seaside before the contract is accepted or any work begins.
5. **Excess Coverage.** By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Contractor and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the City in this contract.

**Worker's Compensation Coverage**

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The City will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

**3. PROPOSAL CONTENTS**

Proposals must be submitted on eight and one-half by eleven (8 1/2 x 11) inch paper with tabs separating the major sections of the proposal. The four major sections of the proposal are to be submitted in the order noted below:

1. Signed or Certified Letter of Submittal, including signed Certifications and Assurances (Exhibit A to this RFP).
2. Technical Proposal
3. Management Proposal.
4. Commission Proposal

Proposals must provide information in the same order as presented in this document with the same headings.

Items in this section marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive; however, these items may not be scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

**3.1 LETTER OF SUBMITTAL (MANDATORY)**

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFP) must be signed and dated by a person authorized to legally bind the Proposer to a contractual relationship, e.g., the President or Executive Director in a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include, by attachment, the following information about the Consultant and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.).
3. Legal status of the Proposer (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer. Tax Identification number or Social Security number and the Oregon Business Identification number issued by the state of Oregon.
5. Identify any City employee or former City employee employed or on the firm's governing board as of the date of the proposal. Include their position and responsibilities within the Proposer's organization. If following a review of this information, it is determined by the City that a conflict of interest exists, the Proposer may be disqualified from further consideration for the award of a contract.

**3.2 TECHNICAL PROPOSAL (MANDATORY SCORED)**

Proposal must contain a comprehensive work plan, complete with time schedule to demonstrate the Proposers ability to be prepared to open and operate the food and beverage facilities of the Seaside Civic and Convention Center by the date of transition of operations from the present contractor if applicable. The plan must be in sufficient detail to convey to members of the Evaluation Committee the Proposer's knowledge of the subjects and skills necessary to accomplish the scope of work and to produce the deliverables of that scope of work on an ongoing and successful basis. The Technical Proposal must contain specific areas in the work plan and a comprehensive description of services including the following elements:

- A. Opening Plan** - Include an "Opening" plan to demonstrate a smooth and timely preparation for transition of the food service operations. The detail for this plan should be presented in both a narrative form and detailed on a timeline. The plan should include, but not necessarily be limited to, the steps the Proposer would take to:
1. Accomplish recruitment of qualified staff
  2. Coordination of ordering, delivery and installation of all required Food Service Equipment not supplied by the Center.
  3. Coordination Training and familiarization of staff to the facilities, equipment, and services of the Seaside Civic and Convention Center.
  4. Selection and relocation of Management personnel to the Center.
  5. Development of a Sales and Marketing Plan, including the Proposer's approach to working with the Seaside Civic and Convention Center sales personnel to maximize revenue and facilitate event activity.
  6. Development of menus and pricing for concessions and catering.
  7. Facilitation of Vendor relationships.
  8. Conformance with all regulatory and licensing requirements necessary to provide food and beverage services including the sale of beer, wine, and liquor.
  9. Inventory of Food and Beverage Facilities, fixed equipment and small wares.
  10. Any and all "startup" procedures your company would implement.
  11. Any on- going procedures and policies to be used by the Proposer.
- B. Description of your Company** - A succinct description of why your company is the best qualified choice to manage the food service operations at this facility.
- C. Operating Plan** - A proposed and service methods plan for this facility, and include as a minimum in this Operating Plan the following items:
1. Organization chart detailing all proposed management, hourly and on-call positions. The Seaside Civic and Convention Center requires that all Proposers include a full -time (on-site) Food Service Manager and a part-time (on-site) Banquet Manager/Sales Manager as a component of the proposal. Include proposed management and non-management salaries and benefits.
  2. Anticipated staffing requirements and minimum staffing guidelines if applicable, for the following types of events:
    - a.) A sit-down banquet of 300 persons and 600 persons.
    - b.) A buffet for 300 attendees and 600 attendees.
    - c.) A Meeting with refreshment breaks with an attendance of 400 persons.
    - d.) A Consumer Show with an attendance of 1500.
    - e.) A banquet for 400 and 900 with cocktail reception showing the number of bars and attendant staff
  3. Proposed server to guest ratio for seated catered events.
  4. Proposed ratio of buffet serving lines to attendance.
  5. Proposed ratio of bars to attendance.
  6. Service methodology you would employ in delivering first quality food and beverage service. Specific methods and processes and procedures you would use to address the service of quality food and beverage.
  7. Accounting Policy and Procedures, showing detailed forms and any proposed software that will be used in the control of the Food and Beverage service for both concessions and catering. Provide information on any point-of-sale software systems suggested by the Proposer.
  8. Training Programs: include a sample outline of any Quality Service Programs that are currently used by your company and ongoing training offered to staff to assure programs are implemented consistently by staff and management.
  9. Purchasing Procedures: include the name of your major suppliers (Company, Address, Telephone Number and Contract.)

10. Measurable Quality Control Programs.
  11. Provide information on the use of fresh product in your menu preparation.
  12. Indicate any sustainable practices that are employed by your organization, related to green initiatives, employee practices or employee development or other best practices.
- D. **MENUS** - Proposed sample menus for concessions, beverage service, and catered food at the Seaside Civic and Convention Center. Include pricing, portion size where applicable and a listing of the minimum purchase standards your company adheres to for all major food and beverage provision.
  - E. **PHILOSOPHY** - Include an overview of your company's operating concept and philosophy of service.
  - F. **PROGRAM** - Include a program of any suggested modifications to physical layout or equipment that would differ from the currently anticipated plans. Also provide suggested modifications to the current approach to food and beverage presentation.
  - G. **SALES PROGRAM** - A program directed to both the Concessions and Catering Sales and the increase in the number of events (with an emphasis on Food Service) to the Seaside Civic and Convention Center. Proposers should submit proposed marketing materials and detail any sales campaigns being proposed by the submitter for the Seaside Civic and Convention Center.
  - H. **CREATIVITY** - Proposers may present any creative approaches that might be appropriate. The Proposer may also provide supporting documentation that would be pertinent to this RFP.
  - I. **TURNOVER PLAN** - A program for turning the food and beverage services over to a successor upon the termination of the existing contract.

### 3.3 **MANAGEMENT PROPOSAL (Scored Mandatory)**

Provide all information requested below in response to the management requirements of this RFP. The Management Proposal must contain the Proposer's information regarding their staff's qualifications, related experience, and references.

#### **A. PROJECT MANAGEMENT**

1. Provide a description of the proposed project staffing/organization to be used during this Contract, including any subcontractors. Explain the Proposer's proposed methodology for performance of this Contract.
2. Specify who will be your full-time, on-site general manager and provide a name, resume, and profit/loss results for the specified manager for the last three years, and why you recommend him/her as your choice. Tell us what are the unique talents that this person brings to the Seaside Civic and Convention Center. Please note, that if you are selected for an interview, we will ask you to have your proposed on-site general manager join us for the interview.
3. Specify who will be your full-time, on-site banquet/ sales manager and provide a name, resume for the specified manager for the last three years, and why you recommend him/her as your choice. Tell us what are the unique talents that this person brings to the Seaside Civic and Convention Center.
4. Specify who you would propose to be the chef and any other key management staff, provide resumes, salary requirements of each and the unique talents they bring to the Center.
5. Identify other management staff that will have authority over this contract, indicating the responsibilities and qualifications of such personnel.

6. The Proposer must commit that the staff identified in its proposal will be assigned to this location. Any substitution must have the approval of the General Manager of the Center.
7. An organizational chart of your firm is required indicating lines of authority of personnel involved in performance of this potential Contract and the relationships of this staff to other programs or functions of the firm. This chart must show lines of authority to the next senior level of management. Provide a resume of that manager and detail the number of accounts the manager is responsible for. As a requirement of this RFP the next senior level of management, i.e. regional manager, is required to visit the site a minimum of once every month (twelve times a year). Please note if you are selected for an interview, we will ask you to have your next senior level of management join us for the interview.
8. Each Proposer shall disclose who, within the firm, will have prime responsibility and have final authority for the operations at the Center.
9. Each Proposer shall disclose how they will staff their operations for the delivery of quality service that meets best industry practices. Proposers should also provide specific staffing and supervisory ratios for Banquet and Buffet events. The Seaside Civic and Convention Center has established a preferred ratio of one server per sixteen and one banquet captain for every ten servers for a sit-down banquet event.
10. Proposers should also propose any other service delivery or food preparation standards that they normally use in their operations and that could be expected by the Seaside Civic and Convention Center if the Proposers were awarded this contract.

**B. EXPERIENCE OF THE PROPOSER (Scored Mandatory)**

1. Indicate the experience the Proposer has had in providing the type of professional food services and catering described in this RFP. Also describe specific experience the Proposer has had working at similar sized Convention Centers.
2. List contracts the Proposer may have had in the last five years that relate to the Proposer's ability to perform the services called for under this RFP. List contract reference numbers, contract period of performance, contact persons, and telephone numbers, and fax numbers / e-mail addresses.
3. Indicate any other experience that indicates the qualifications of the Proposer for the performance of the potential Contract.

**C. SUBCONTRACTORS**

In the event the Proposer intends to subcontract or joint venture any of the proposed work stated in its technical proposal, the Proposer shall submit the information required in Paragraphs A and B, of Section 3.3 "Management Proposal" for each proposal subcontractor or joint ventures.

**D. REFERENCES (Scored Mandatory)**

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three business references for which work has been accomplished and briefly describe the type of service provided. The Proposer and staff proposed to provide the services must grant permission to the City to contact references, and others for who services have been provided. References will be contacted and scored for the top-ranking proposal(s) only.

**E. RELATED INFORMATION (Mandatory)**

1. If the Proposer staff or subcontractor's staff was an employee of the City during the past 24 months, or is currently a City employee, identify the individual by name, job title or position held and separation date.

2. If the Proposer has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
3. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Proposer's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Proposer in the past five years, so indicate.

### **3.4 FINANCIAL PROPOSAL**

The agreement between City and the Contractor will be a Concession Contract. The following is the structure of the financial arrangement for all food service operations subject to the Contract:

#### **A. COMMISSION STRUCTURE**

- a. The CONTRACTOR agrees to pay the CITY rent based on gross revenues of all food/beverages sold within the convention center and outside catering as set forth below. All rental payments shall be paid in quarterly installments by the 10<sup>th</sup> of the month following the end of each quarter.
- b. CONTRACTOR will pay the CITY \_\_\_% of gross revenues from Concession (Public Foods) operations.
- c. CONTRACTOR will pay the CITY \_\_\_% of gross revenue, exclusive of Gratuity and Service charge, from Catering operations.
- d. CONTRACTOR will pay the CITY \_\_\_% of all gross revenues from the sale of Liquor.
- e. CONTRACTOR will pay the CITY \_\_\_% of all gross revenues from Outside Catering when the SCCC Kitchen is used for such Catering

The Contractor shall include in its billing a maximum of 18% Gratuity and Service Charge on all internal catered food events and the Contractor shall pay the service staff and non-management kitchen staff 60% of the Gratuity and Service Charge with the remaining 40% to be divided as follows: (1) Five percent (5%) to the Contractor for use as administrative fees and (2) the remaining 35% to the Seaside Civic and Convention Center that may be used as a Food Service Reserve. At the discretion of the CENTER any portion of the food service reserve may be converted to revenue for the center. The payout and distribution of the 60% portion of the Gratuity and Service Charge shall be at the discretion of the contractor.

#### **B. FINANCIAL INFORMATION TO BE PROVIDED BY PROPOSER**

Proposer is requested to submit:

1. A projection of revenues for a full three-year period, outlining the revenues from Concessions, Catering, liquor sales and outside catering.
2. The principal firm, partnership, or corporation is required to submit a balance sheet and a profit/loss statement for the most recent fiscal year. These statements are to be reviewed by a certified public accountant and should be consistent with generally accepted accounting principles.

**C. PROPOSER COLLECTION**

The Seaside Civic and Convention Center will act as a collector for the Contractor for accounts payable associated with the food and beverage functions taking place within the Convention Center. The Convention Center shall not collect or take responsibility for any account's receivables associated with outside catering. Users of food and beverage from the Contractor will be billed directly by the Center. The Contractor will furnish the Center within forty-eight (48) hours following the end of the catered event the number of meals prepared or items used, for billing purposes by the Center. All monies received by the Center for food and beverage are deposited with the City. The City shall assume all risk of non-payment on catered functions, except outside catering, and the Contractor shall be entitled to its share of the gross revenue from the City, even if the City is not paid for any event.

In the event Contractor provides a cash bar or concession stand service, the full amount collected by Contractor is to be given to the Center General Manager or his/her representative at the end of the event along with appropriate receipts as defined by building policy. City will pay Contractor any monies due Contractor from the previous month by the 10<sup>th</sup> day of the next month All payments for food and beverage less Gratuity and Service Charge and credit card charges shall constitute "Gross Sales. The Seaside Civic and Convention Center shall pay the Contractor from collected amounts after deduction of its commission payments and Gratuity and Service Charge percentage as established by the contract.

**4. EVALUATION AND CONTRACT AWARD**

*ALL MANDATORY REQUIREMENTS MUST BE MET IN ORDER TO BE EVALUATED.*

**4.1 EVALUATION PROCEDURE**

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team, to be designated by the City, which will determine the ranking of the proposals.

**4.2 CLARIFICATION OF PROPOSAL**

The RFP Coordinator may contact the Proposer for clarification of any portion of the Proposer's proposal submission.

**4.3 EVALUATION WEIGHTING AND SCORING**

The following weighting and points will be assigned to the proposal for evaluation purposes:

Technical Proposal	40 percent
Management Proposal	30 percent
Financial Proposal	30 percent

The proposals will be evaluated strictly in accordance with the requirements set forth in this RFP.

**4.4 ORAL PRESENTATIONS MAY BE REQUIRED**

Should oral presentations become necessary, the City will contact the top-scoring firm(s) to schedule a date, time and location. Commitments made by the Proposer at the oral interview, if any, will be considered binding. The score from the oral presentation will determine the apparent successful Proposer.

**4.5 NOTIFICATION TO PROPOSERS**

Firms whose proposals have not been selected for further participation or award will be notified via FAX or by e-mail.

**4.6 DEBRIEFING OF UNSUCCESSFUL PROPOSERS**

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days

after the Notification of Unsuccessful Proposer letter is faxed/e-mailed to the Proposer. The debriefing must be held within three (3) business days of the request.

Discussion will be limited to a critique of the requesting Proposer's proposal submission. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

#### 4.7 **PROTEST PROCEDURE**

This procedure is available to Proposers who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Proposer is allowed three (3) business days to file a protest of the selection decision with the RFP Coordinator. Protests must be submitted in writing.

Proposers protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Proposers under this procurement.

All protests must be in writing and signed by the protesting party. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination, or conflict of interest on the part of the evaluator.
- Errors in computing the score.
- Non-compliance with procedures described in the procurement document or City policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) City's assessment of its own needs or requirements.

Upon receipt of a protest, a protest review will be held by the City. The City's Chief Administrative Officer or an employee delegated by the Chief Administrative Officer who was not involved in the procurement will consider the record and all available facts and issue a decision within five business days of receipt of the protest. If additional time is required; the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Proposer that submitted a proposal, such Proposer will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the City's action; or
- Find only technical or harmless errors in the City's acquisition process and determine the City to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the City options which may include:
  - Correct the errors and re-evaluate all proposals, and/or
  - Reissue the solicitation document and begin a new process, or
  - Make other findings and determine other courses of action as appropriate.

If the City determines that the protest is without merit, the City will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

**5. RFP EXHIBITS**

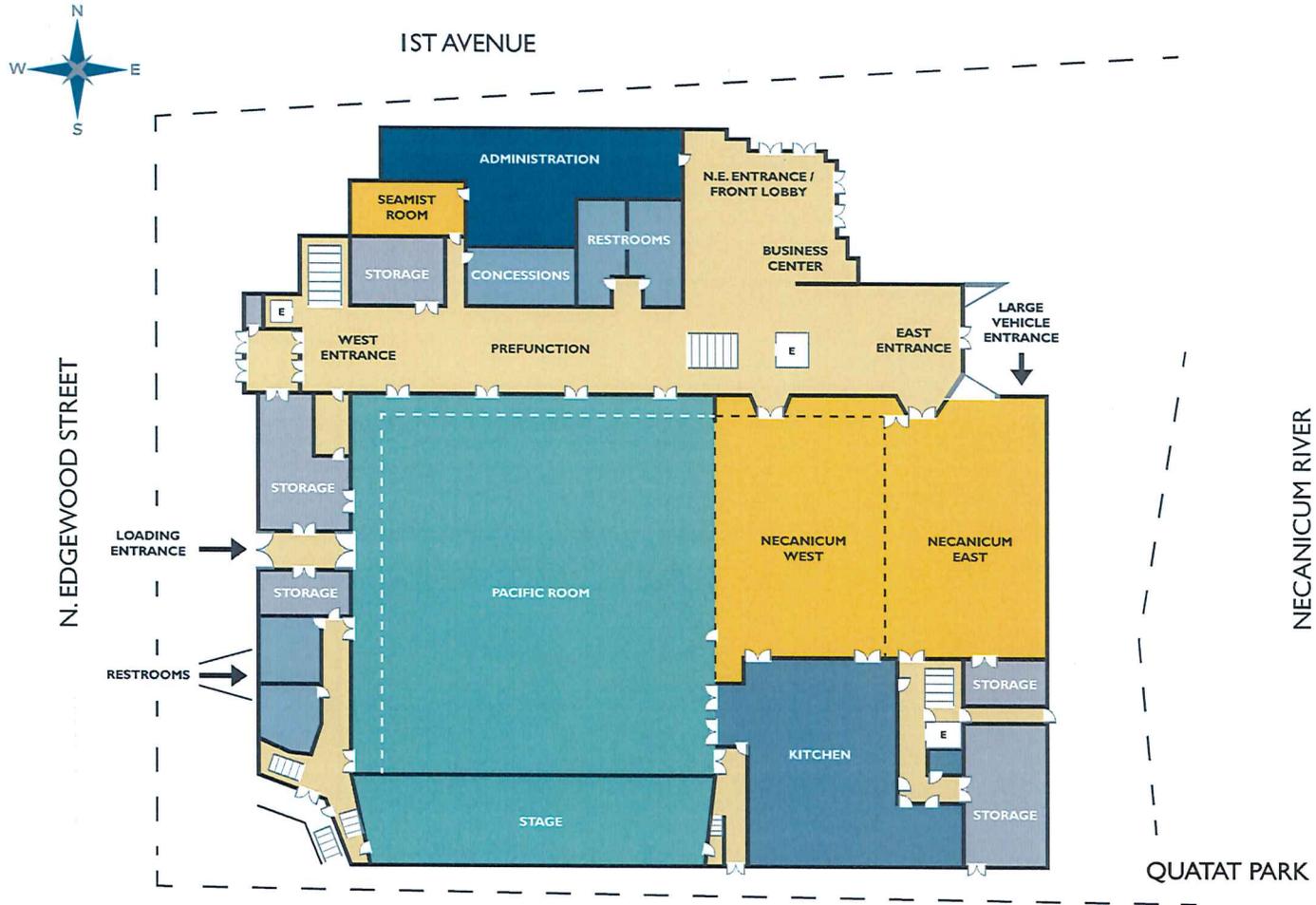
- Exhibit A Certifications and Assurances
- Exhibit B Draft Contract
- Exhibit C Specific Terms and Conditions
- Exhibit D Standard Terms and conditions

**6. RFP ATTACHMENTS**

- 6.1 Floor plans for Seaside Civic and Convention Center
- 6.2 Food Service Equipment Inventory List for Existing Facility and Expansion Spaces

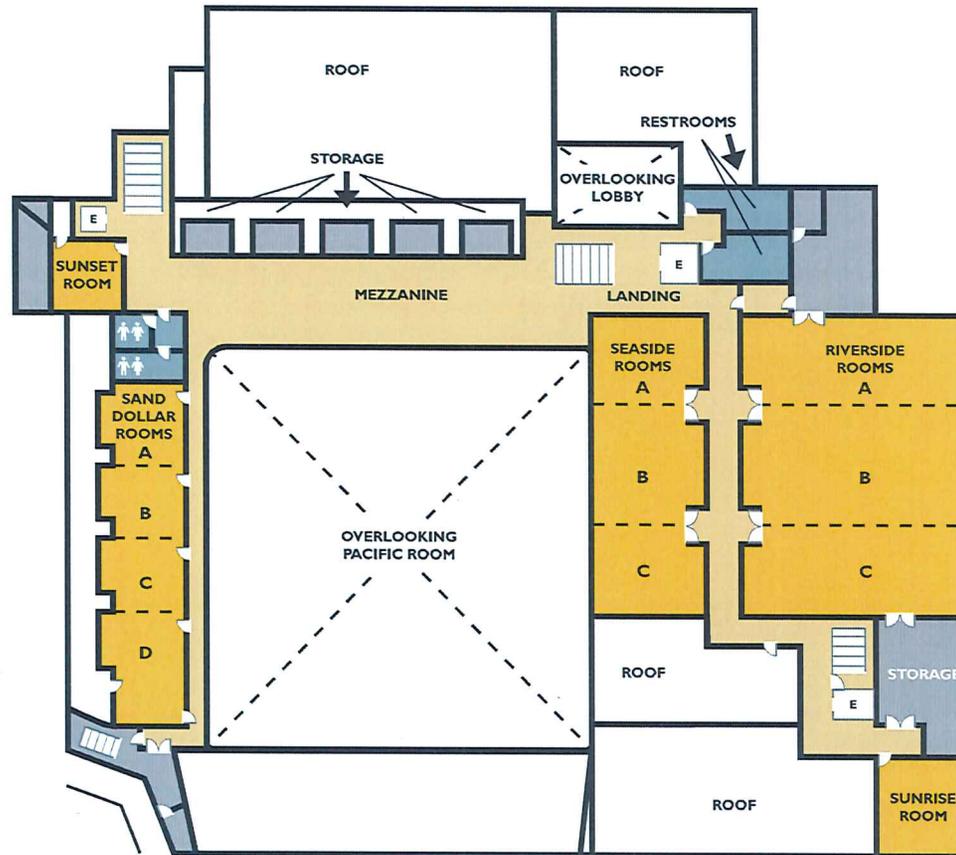
# SEASIDE CIVIC AND CONVENTION CENTER

## MAIN LEVEL FLOOR PLAN

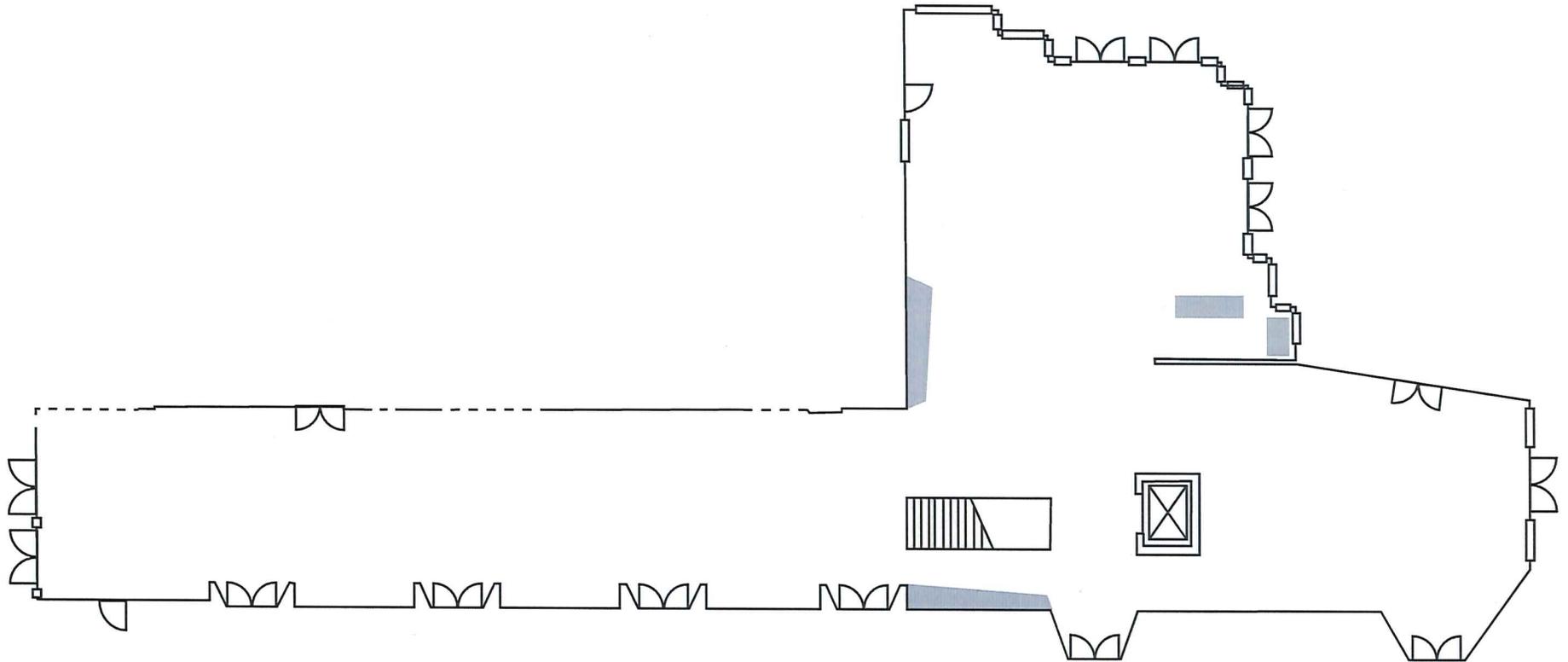


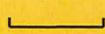
# SEASIDE CIVIC AND CONVENTION CENTER

## UPPER LEVEL FLOOR PLAN



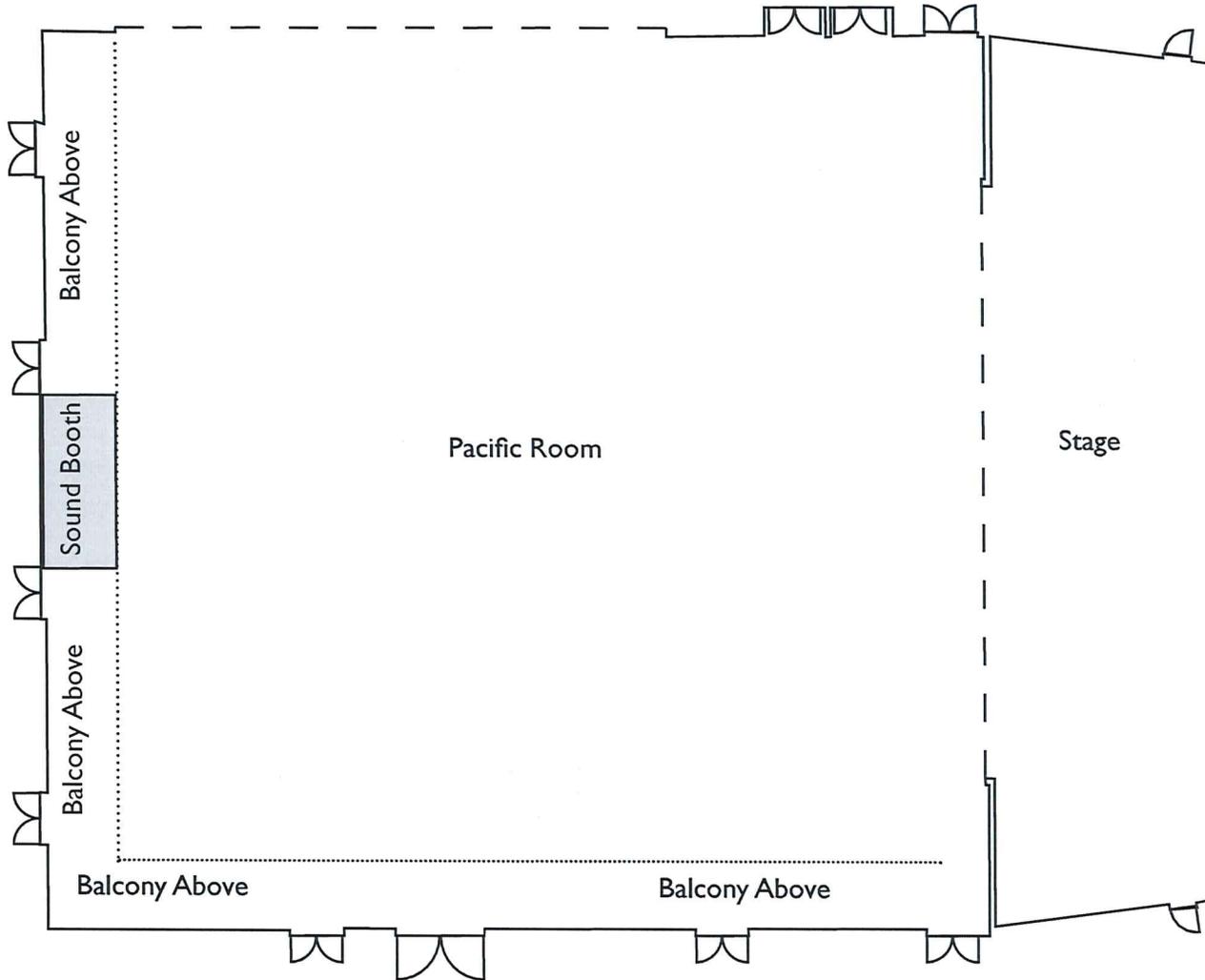
# FRONT LOBBY + PREFUNCTION



 = 10 FT

ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITOR BOOTHS (8X10)
Front Lobby	1,591 sq/ft	43' x 37'	15'	--	--	110	--	72
Prefunction	1,300 sq/ft	20' x 65'	12'	--	--	--	--	--

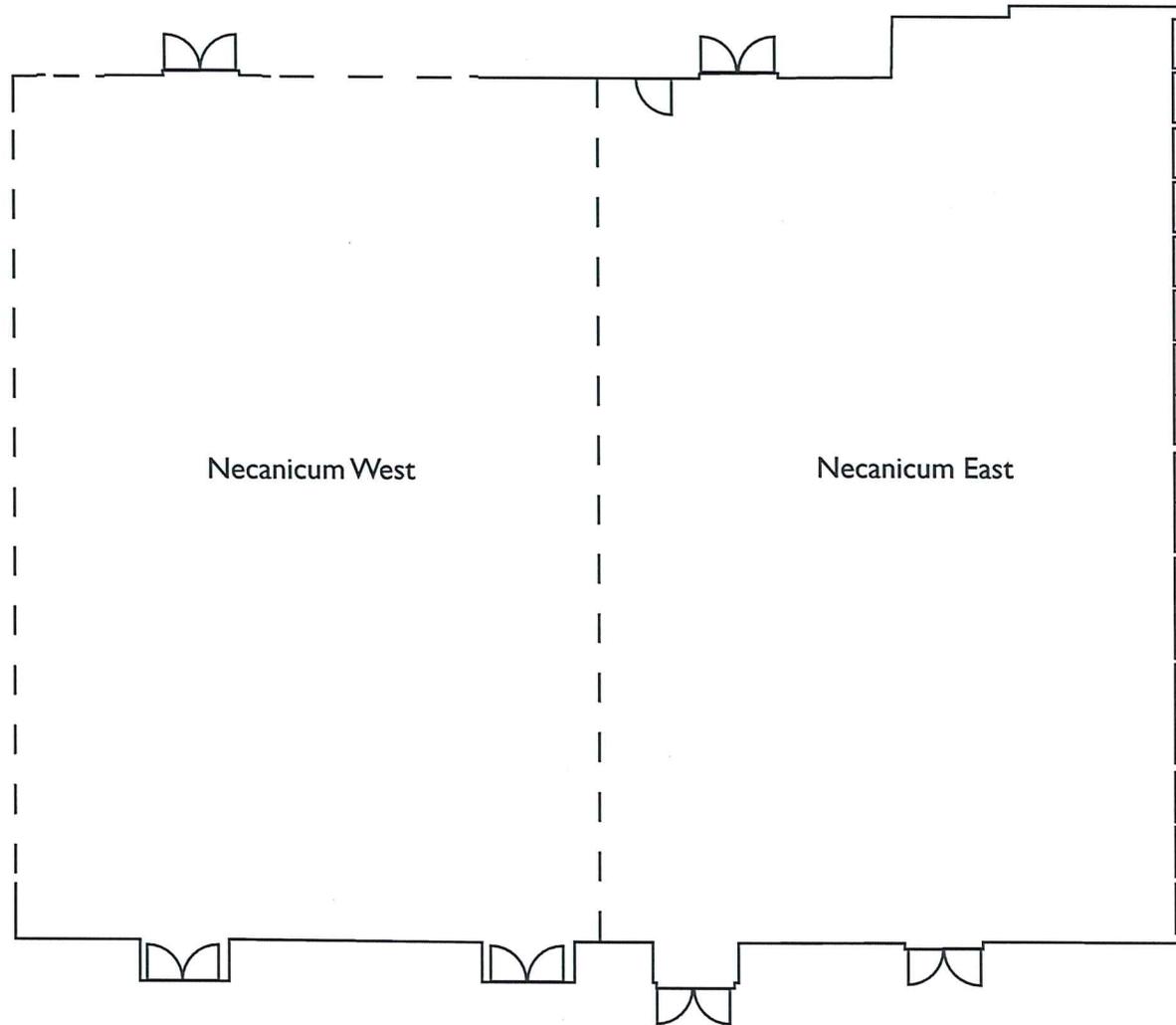
# PACIFIC ROOM + STAGE



\_\_\_\_\_ = 20 FT

ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITOR BOOTHS (8X10)
Pacific Room	10,500 sq/ft	105' x 100'	18'	950	400	750	530	72
Stage	1,300 sq/ft	20' x 65'	12'	--	--	--	--	--

# NECANICUM ROOMS

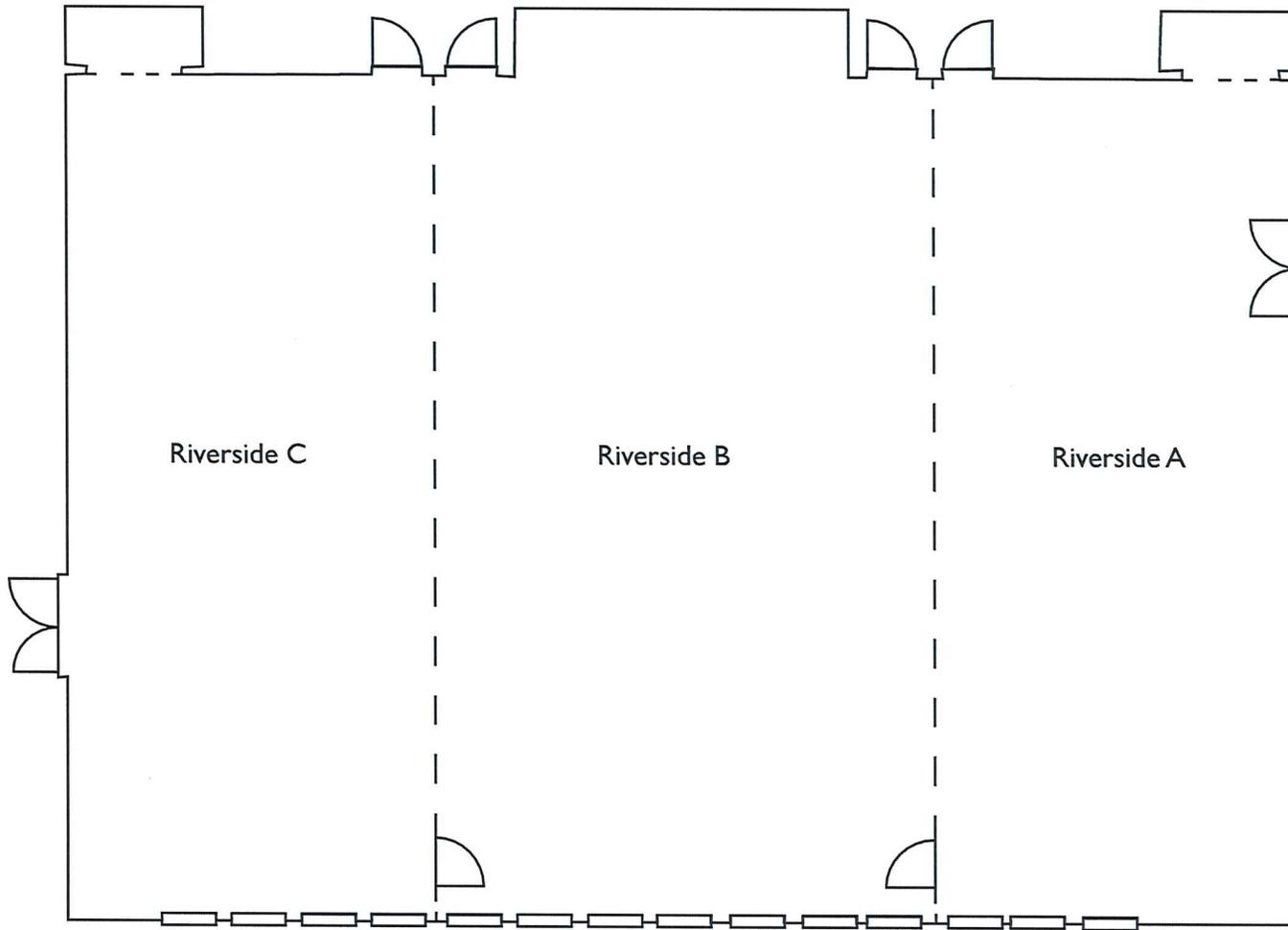


┌───┐ = 5 FT

ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITOR BOOTHS (8X10)
Necanicum East/ West	6,030 sq/ft	105' x 100'	12'	450	336	450	350	46
Necanicum W	2,948 sq/ft	67' x 44'	12'	225	172	230	150	22
Necanicum E	3,082 sq/ft	67' x 46'	12'	225	180	245	160	23



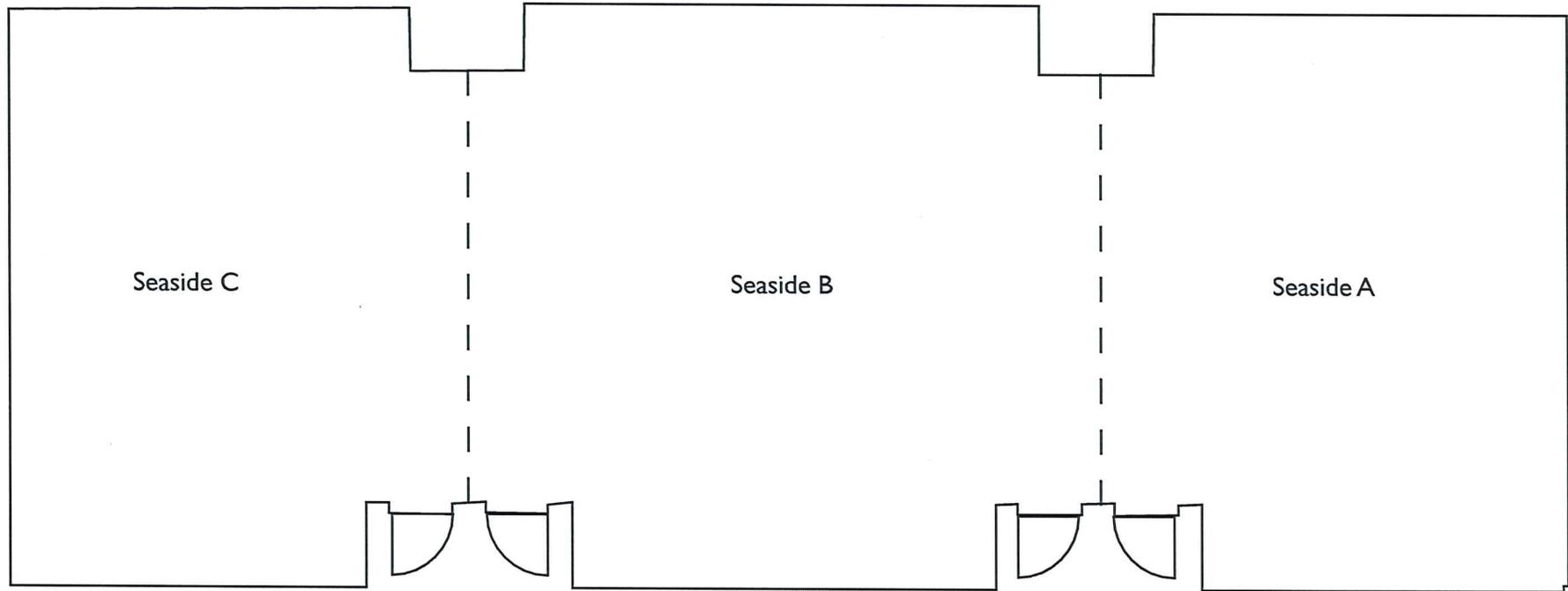
# RIVERSIDE ROOMS



ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITS
Riverside ABC	3,700 sq/ft	74' x 50'	10'	300	192	250	210	23
Riverside A	1,100 sq/ft	22' x 50'	10'	72	36	75	50	--
Riverside B	1,500 sq/ft	30' x 50'	10'	114	64	100	80	--
Riverside C	1,100 sq/ft	22' x 50'	10'	72	36	75	50	--

— = 5 FT

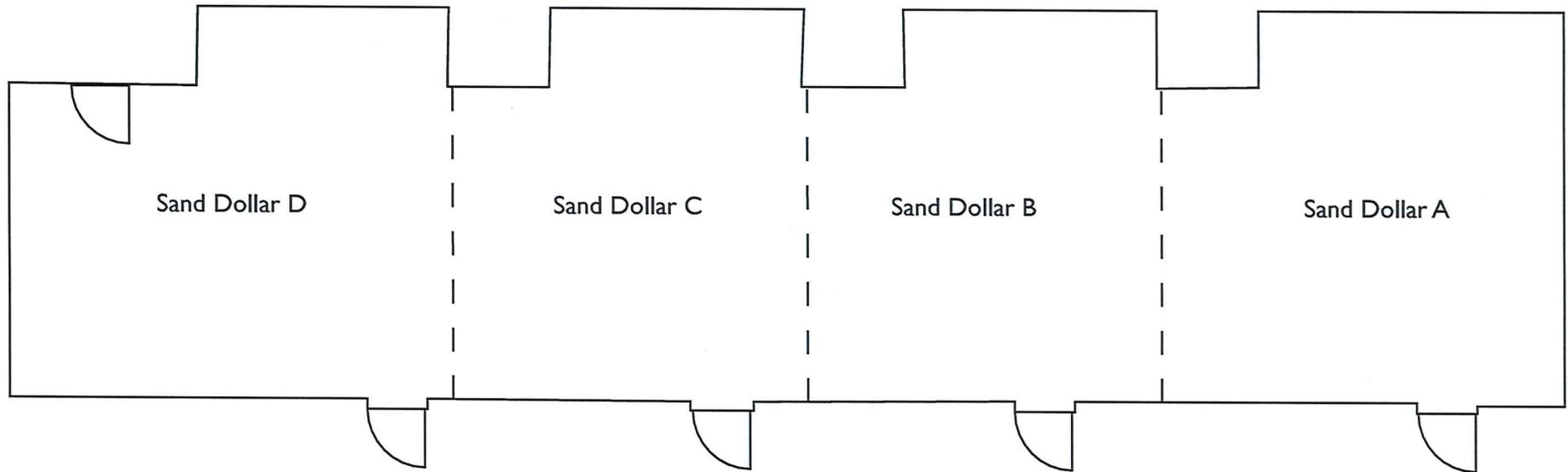
# SEASIDE ROOMS



ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITOR BOOTHS (8X10)
Seaside ABC	1,917 sq/ft	71' x 27'	10'	120	80	100	100	--
Seaside A	567 sq/ft	21' x 27'	10'	40	24	35	30	--
Seaside B	783 sq/ft	29' x 27'	10'	55	32	40	30	--
Seaside C	567 sq/ft	21' x 27'	10'	40	24	35	30	--

┌───┐ = 5 FT

# SAND DOLLAR ROOMS



ROOM NAME	SQ FT	DIMENSION	CEILING	THEATER	CLASSROOM	RECEPTION	BANQUET ROUNDS OF 10	EXHIBITOR BOOTHS (8X10)
Sand Dollar ABCD	1,173 sq/ft	69' x 17'	10'	80	64	100	80	7
Sand Dollar A	289 sq/ft	17' x 17'	10'	20	16	25	20	--
Sand Dollar B	272 sq/ft	16' x 17'	10'	20	16	25	20	--
Sand Dollar C	272 sq/ft	16' x 17'	10'	20	16	25	20	--
Sand Dollar D	340 sq/ft	20' x 17'	10'	20	16	25	20	--

┌───┐ = 5 FT











# SCCC Equipment Inventory

Main Kitchen / Décor

December 2020

Item Description

<b>Buffet</b>	***
Lg Boat	2
Metal Fish Sign	2
Seahorse	2
Lanterns	4
Lg Floral	12
Glass Blocks	
Ceramic Tiles	
Christmas Trees - 3 pcs. w/ Light	2
Black Metal Risers - 3 Sizes	60
Full Size Chaffing Dishes	20
1/2 Size Chaffing Dishes	4
Rnd Chaffing Dishes	
Dessert Risers	
Glass Bev Dispenser	
Pastry Display Boxes	
Misc. Shells / Sm Decore	2 Totes
<b>Table Top</b>	
Votive Sailboats	85
Starfish	70
Log Centers	
Lanterns	40
Metal Scrolls	50
Wooden Sea Life	65
Metal Seahorse	50
Glass Cylinder Vases - 3 Sizes	
Sailboats	60
Succulents	55
Glass Floats	55
Rnd Glass w/ Flowers	50
Wood Grain Chargers	50
Mirrors - 2 Sizes	125



# SCCC Equipment Inventory

**Misc. Equipment**

December 2020

**Item Description**

<b>Plastic Food Bins</b>	
12 Lg. 6 Medium 2 Small	
16 Qt.	
Storage Tubs	
Bus Boxes 6"x7 8"x 8	
<b>Cooking Pans / Trays</b>	
Full Sheet Pans	65
Half Sheet Pans	
24 Cup Muffin	
12 Cup Muffin	
2" Roaster	
5" Roaster	
4" Full Hotel	20
2" Full Hotel	21
4" Half Hotel	
2" Half Hotel	
4" Perforated Hotel	
2" Perforated Hotel	
40 Qt. Stock Pot	
16 Qt. Stock Pot	1
12 Qt. Stock Pot	1
8 Qt. Stock Pot	
4 Qt. Stock Pot	
2.5 Gal. Insert	
1.5 Gal. Insert	
8 Qt. Sauce Pot	1
4 Qt. Sauce Pot	
Saute Pans	
SS Ladles Multiple Sizes	
Whisks/Rubber Spats/Brushes	
6" Plastic Insert	
6" Plastic Insert - Black	
Salad Crocks - Lg / Sm	

# SCCC Equipment Inventory

Misc. Equipment - Cooks

December 2020

Item Description

<b>Blk Plastic Spoons Serving Spoons</b>	
12"	
9"	
6"	
<b>SS Spoons</b>	
Buffet / Lg	
Buffet Serving	
Cooks Reg / perforated	18
<b>Tongs</b>	
9" Blk Plastic Buffet	
6" Blk Plastic Buffet	
SS Cooks	
SS Spatulas	
Portion Scoops / Multiple Sizes	
<b>Knives</b>	
Slicing	
Chef	
Pairing	
Sandwich	
Buffet Spats	
Pastry Bags	
Egg Slicers	
Bus Carts	
<b>Dish Racks</b>	
Flat	3
Pegs	4
Glass	18
Silverware	
<b>Measuring Cups</b>	
Cup	
Gallon	
Half Gallon	
Spoons	
Cutting Boards	
Food Storage Containers - Varied Sizes	

**Exhibit A to RFP**

**CERTIFICATIONS AND ASSURANCES**

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or costs data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the City of Seaside, Oregon without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the City of Seaside whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
5. I/we understand that the City of Seaside will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the City of Seaside, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly, to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant the City of Seaside the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.

---

Signature of Proposer

---

Title

---

Date

**EXHIBIT B**

**SEASIDE CIVIC & CONVENTION CENTER**  
**DRAFT FOOD AND BEVERAGE AGREEMENT**

THIS CONTRACT is made and entered into by and between the City of Seaside, Oregon hereinafter referred to as the "CITY"; and (NOTE: Include contractor name), hereinafter referred to as the "CONTRACTOR", for the express purposes set forth in the following provisions of this contract.

WHEREAS the purpose of this Contract is for Food and Beverage Concession and Catering Services.

NOW THEREFORE, in consideration of the terms and conditions contained herein, or in the Contract documents specified herein and incorporated and made a part hereof, the CITY and CONTRACTOR mutually agree as follows:

**I. NATURE OF RELATIONSHIP AND WORK**

The CONTRACTOR will be responsible for providing all food and beverage catering services in the Seaside Civic and Convention Center, hereinafter referred to as (SCCC). The CONTRACTOR shall set the prices for the food and beverage concessions and catering services provided by CONTRACTOR subject to the approval of the SCCC General Manager. All contracts entered into by CONTRACTOR in connection with its work under this Contract will be entered into on behalf of the CONTRACTOR and not the CITY or the SCCC.

The work of providing the food and beverage catering services shall include the purchase, preparation and service of all concession and catering as well as beverage and alcoholic beverage services in the SCCC for SCCC events as well as the management of such work, and shall include operation of concession stands, portable food services and outside catering when the SCCC kitchen is used for such outside catering and for such other activities as further contained in the RFP Documents.

The CONTRACTOR will provide all personnel, equipment, materials, tools, suppliers and concession services for SCCC events and visitors, using the kitchen, concessions and portable equipment in the facility, all as provided by the CITY or as provided by the CONTRACTOR.

**II. CONTRACT DOCUMENTS**

The terms of the Contract are specified in the following Contract documents:

- A. This Contract (Exhibit "B")
- B. The Request for Proposals (RFP) Document
- C. Exhibit "A" which contains certain Certifications and Assurances
- D. Exhibit "C" which contains the Specific Terms and Conditions governing work to be performed under this Contract.
- E. Exhibit "D" which contains the Standard Terms and Conditions governing work to be performed under this Contract.

**III. PERIOD OF PERFORMANCE**

The period of performance under this Contract will begin on November 21, 2021 and will continue through a term of three (3) years, terminating November 20, 2024, with two (2), three-year extension options. The extension option will be exercised by the CITY with the approval of the CONTRACTOR by providing written notice to the CONTRACTOR One Hundred-Eighty (180) days prior to the expiration of the Contract. In addition, at the end of this Contract, the CONTRACTOR may be extended by the CITY for a period not to exceed two months, if necessary, in the sole judgment of the CITY to facilitate the process of securing competitive proposals on a replacement Contract. The CITY shall extend the Contract by providing the CONTRACTOR with written notice of the extension at least sixty days before the termination date.

**IV. RIGHTS AND OBLIGATIONS**

All rights and obligations of the parties to this Contract shall be subject to and governed by the provisions in the Contract documents.

**V. COMPENSATION AND PAYMENTS**

- A. The CONTRACTOR agrees to pay the CITY rent based on gross revenues set forth below. This rent will be paid in quarterly installments by the 10<sup>th</sup> of the month following the end of each quarter.
- B. CONTRACTOR will pay the CITY (%) from gross revenues, exclusive of Gratuity and Service charge, from Catering and Concession operations.
- C. CONTRACTOR will pay the CITY (%) of all gross revenues from the sale of Liquor.
- D. CONTRACTOR will pay the CITY (%) of all gross revenues from Outside Catering when the SCCC Kitchen is used for such Catering.
- E. The Contractor shall include in its billing a maximum of Eighteen percent (18%) Gratuity and Service Charge on all internal catered food events and the Contractor shall pay the service staff and non-salaried kitchen personnel Sixty percent (60%) of the Gratuity and Service Charge with the remaining Forty percent (40%) to be divided as follows: Five percent (5%) to the Contractor for use as administrative fees and the remaining Thirty-five percent (35%) to the SCCC that may be used at the discretion of the CITY as a Food Service Reserve or converted to revenue for the CENTER.

**VI. EXPANSION OF THE CENTER**

The CONTRACTOR agrees in the event that the Center is expanded at any time during the life of this agreement that the CONTRACTOR and the City will open this agreement for re-negotiation of all of the terms and conditions of the agreement. Should the CONTRACTOR and the City be unable to reach an agreement on new terms and conditions that are satisfactory to the City, that the City may, at their discretion, terminate this contract by a 60-day written notice to the CONTRACTOR of its intention to terminate.

**VII. CONTRACT REPRESENTATIVES**

- A. The SCCC General Manager shall be responsible for monitoring the performance of the CONTRACTOR, the approval of actions by the CONTRACTOR, approval for payment of billings from the CONTRACTOR, and the acceptance of any reports by the CONTRACTOR.
- B. The CONTRACTOR'S representative on this Contract shall be the (NOTE: Include contractor title/name), who will be the contact person for all communications regarding the conduct of work under this Contract. All communications given or received from the CONTRACTOR'S representative shall be binding on the CONTRACTOR. CONTRACTOR'S representative shall ensure supervision and coordination of CONTRACTOR'S work under this Contract and shall take corrective action as necessary to meet the requirement of this Contract. CONTRACTOR'S representative, or designee, shall always be available during normal working hours throughout the term of the Contract. Written notices of deficiency which result in termination of the Contract will be sent to the CONTRACTOR'S listed address.

**VIII. INTERPRETATION OF CONTRACT**

- A. Conflict. In the event of conflict between Contract documents and applicable laws, codes, ordinances, or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the CITY maximum benefits.
  
- B. Order of Precedence. In the event of an inconsistency in this Contract, unless paragraph A of this section is applicable, the inconsistency shall be resolved by giving precedence in the following order:
  - a. Applicable Federal and State of Oregon statutes and regulations.
  - b. This contract.
  - c. Exhibit (A) Certifications and Assurances.
  - d. Exhibit (B) Food and Beverage Agreement.
  - e. Exhibit (C) Specific Terms and Conditions.
  - f. Exhibit (D) Standard Terms and Conditions.
  - g. CONTRACTOR'S Proposal Responding to the RFP.
  - h. Any other provision term, attachment or material incorporated herein by reference or otherwise incorporated.
  - i. The Request for Proposals RFP #2021-02 Document and any Addenda to the RFP.
  
- C. Conformance. If any provision of this Contract violates any statutes or rule of law of the State of Oregon, it is considered modified to conform to that statute or rule of law.
  
- D. Approval. This Contract shall be subject to the written approval of the CITY's authorized representative and shall not be binding until so approved. This Contract may be altered, amended, or waived only by a written amendment by both parties.

**THIS CONTRACT**, consisting of twenty (20) pages and four (4) referenced exhibits, is executed by the persons signing who warrant that they have the authority to execute the Contract.

**Approved and Agreed to:**

**CONTRACTOR:**

**Signature:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**CITY:**

**Signature:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

## **EXHIBIT C**

### **SPECIFIC TERMS AND CONDITIONS**

#### **A. INVESTMENT IN KITCHEN EQUIPMENT**

CITY agrees to furnish, at its own cost and expense, all kitchen and food service equipment, not including small wares, which in CITY's opinion, is required for performance of this agreement. In the event that CONTRACTOR desires to change or modify the type, location or quantity of equipment to be furnished by the CITY. CITY will entertain suggestions for such changes or modification by CONTRACTOR and notify CONTRACTOR of its decision on such suggestion.

At the end of the term or upon termination, the CONTRACTOR shall return all equipment in good condition, except for normal wear and tear. The CONTRACTOR and the City shall jointly conduct a closing inventory, documenting any damaged and/or missing equipment. The CONTRACTOR shall be responsible for replacing any missing equipment and or repairing any damaged equipment at its own expense. The City shall be responsible for the repair or refurbishment or replacement of any equipment not damaged by the CONTRACTOR.

#### **B. QUALITY OF GOODS**

CONTRACTOR recognizes that the quality of items sold and services performed at SCCC is a matter of highest concern and is the essence of the Contract. CONTRACTOR represents and warrants that all items CONTRACTOR sells will be of the highest and acceptable quality to the CITY. The CONTRACTOR will meet or exceed each product specified in the minimum acceptable product specifications detailed in the CONTRACTOR's proposal. Special attention will be given by CONTRACTOR to the promptness and delivery of services to SCCC clients.

CONTRACTOR shall provide products of high quality and at prices at least consistent with similar products presently being offered in other similar facilities located in the North Western United States. The CITY reserves the right to determine whether a particular product complies with the above standard.

The CITY reserves the sole right to reject products and the sources of such products that do not meet the standard set out in this section. The CITY also reserves the right to establish standards of service and demand that those levels of service be met to assure a quality food service experience for its clients and guests.

#### **C. APPROVAL OF SALES**

While CONTRACTOR is encouraged to pursue sales for certain food functions all such sales must have approval of CITY, which approval shall not be unreasonably withheld so long as such sales are commercially profitable for the CITY and CONTRACTOR and are not in conflict with other events or clients.

#### **D. OUTSIDE CATERING / CONCESSION SERVICES**

The exclusive rights granted under the Contract hereunder shall not be construed so as to prevent or prohibit either the CITY, or a licensee of the CITY, with the CITY's approval, from engaging or contracting for an outside catering or concession service to meet specific religious or special event needs as approved by the CITY. However, the CITY will recommend the CONTRACTOR as first choice for

all catered events, provided the CONTRACTOR demonstrates the required ability to meet the specific needs. Use of the SCCC by an outside catering service shall not include the use of any of CONTRACTOR's occupied areas or equipment other than the service corridors unless otherwise agreed by CONTRACTOR and the CITY.

**E. OFF-SITE DISTRIBUTION**

The CONTRACTOR may, with the written approval of the CITY, utilize the facilities and equipment provided by the CITY pursuant to this Contract for purposes of the preparation or distribution of food or beverage items to be consumed in locations other than the SCCC or its grounds and parking lots. When the CONTRACTOR does use the CITY's facilities for such off-site catering or distribution the CONTRACTOR shall pay the CITY the commission specified in the CONTRACTOR's proposal.

CONTRACTOR hereby agrees to release, waive, and hold harmless the CITY of Seaside, Oregon, its elected and appointed officials, agents and employees from any and all liability, claims, cost and expenses whatsoever arising out of or related to any loss, damage, or injury, that may be sustained in the execution of such preparation or distribution of food or beverage distributed in locations other than the SCCC grounds and parking lots.

**F. DAYS AND HOURS OF OPERATIONS**

The days and hours of operation for the food and beverage services shall be subject to the prior approval of the CITY.

**G. EMPLOYEE ATTIRE**

All employees of CONTRACTOR, except key managers and office personnel, shall be neatly attired in uniforms which properly identify CONTRACTOR and or Seaside Civic and Convention Center and whose design has been approved by the CITY. All employees of CONTRACTOR shall be required to possess a valid food handler's permit. All employees must be provided and wear a name badge.

**H. PERSONAL BEHAVIOR OF EMPLOYEES**

The CITY will provide direction to CONTRACTOR's management personnel in the quality service standards of the SCCC. CONTRACTOR shall provide training and direction to its employees to ensure that the standards detailed by the CITY are followed, insuring competent interaction with clients, Center staff, and internally within CONTRACTOR's staff.

All of CONTRACTOR's staff associated with the Center shall approach their assigned responsibilities with an attitude of service to the client, above and beyond common courtesy.

All employees of the CONTRACTOR shall enter and leave the SCCC via the entrance(s) so designated by the CITY or its representative. Only those employees actually working shall be permitted in the SCCC without charge, and the CITY or its representative may remove any such employees observed in the Center at events at which they are not working. At no time will the CONTRACTOR permit the free entrance of any person not an employee for such event or events and no surplus of employees shall be permitted for any event.

**I. APPROVAL OF EMPLOYEES**

The CITY reserves the right to approve all employees of the CONTRACTOR. Employees not so approved by the CITY shall be replaced by the CONTRACTOR. The CONTRACTOR recognizes that the delivery of quality service is the primary intent of this agreement. It is the CITY's desire that the CONTRACTOR use personnel that have experience and have been provided adequate training in quality service and protocols of food service delivery. To this end the CONTRACTOR may not use volunteer organizations to supply food service labor without the express permission of the CITY. Employees of the CONTRACTOR who, in the CITY's sole judgment, are not providing the level of service required by the CITY shall be removed and replaced by the CONTRACTOR. The City shall provide the CONTRACTOR proper notice so as to avoid an interruption in service to any event serviced by the CONTRACTOR.

**J. CLEAN AND SANITARY CONDITIONS**

The CONTRACTOR shall maintain all food service facilities in a clean and sanitary condition in accordance and consistent with all applicable rules, demands and requirements of law, pertinent health and sanitary codes, and requirements of duly authorized health authorities of the City of Seaside and Clatsop County and any other health department having jurisdiction. The City reserves the right to make periodic inspections of all food service areas and direct the CONTRACTOR to make such changes or modifications of condition as may be required. The CITY shall determine acceptable performance levels relative to maintenance and sanitary conditions. A copy of all health inspections will be provided to the CITY within the 24 hours of the said inspection.

**K. RULES AND REGULATIONS**

The CITY shall issue reasonable rules and regulations for the operation of the food and beverage services and the CONTRACTOR shall operate the food and beverage services, in accordance with such rules and regulations, which may be amended from time to time. The decision to refuse service of alcoholic beverage to any individual shall be the sole responsibility of the CONTRACTOR.

**L. MAINTENANCE CONTRACTS**

CONTRACTOR shall provide the CITY and its representative with copies of all maintenance contracts, and the CONTRACTOR's cleaning and maintenance schedules on at least an annual basis.

**M. PEST CONTROL**

CONTRACTOR shall Contract with an extermination service to control vermin and pests as is necessary, performing such services at least monthly. The extermination services shall be supplied in all areas where food is prepared, dispensed or stored. Documentation of such services is required.

**N. CONDITION OF PREMISES**

All refuse and waste material created by the CONTRACTOR's operations in all public areas shall be promptly disposed of during and after each event by the CONTRACTOR. The Contractor shall be responsible for maintaining the kitchen, kitchen storage areas, liquor bars, liquor storage areas, concession stand and concession service areas in a clean and sanitary condition at all times. Damage done to floors, walls, windows or other property in the radius by CONTRACTOR'S negligence (reasonable wear and tear excepted), shall be repaired immediately at CONTRACTOR's sole expense. The Contractor shall be responsible for the washing of all small ware and dinner service equipment. Further, the Contractor shall maintain the premises in accordance with all City regulations, public health and sanitation

standards, applicable fire code and safety standards, and any and all other applicable ordinances, laws, codes or regulations. The City shall have the right at all reasonable times, to inspect the premise to insure compliance with this paragraph. Every effort shall be taken to incorporate a program for recycling and waste reduction.

**O. UTILITIES**

Utilities used by CONTRACTOR in the operation of the food service are not separately metered and will be provided by the CITY. CONTRACTOR shall develop an effective and continuous Energy Management and Conservation Program for its operations throughout the term of the Contract.

**P. CONCESSION STANDS**

CONTRACTOR shall have sole discretion on the number of concession stands and/or portable concession outlets open for each event unless these services are requested in advance by client who agrees to the terms and conditions set forth by CONTRACTOR.

**Q. WORKING CAPITAL**

CONTRACTOR shall be required to provide sufficient levels of working capital (till funds, petty cash), at no cost to the CITY, to adequately serve the patrons of the SCCC at all times.

**R. LINENS AND DÉCOR**

CONTRACTOR shall supply at its expense, all linens and décor items necessary for food service functions. CONTRACTOR will provide as part of their submission the charge for all non-standard linen.

**S. FREE SAMPLES**

The CONTRACTOR shall not interfere with the free distribution of food or drinks or any other items of any nature whatsoever where such distribution has been authorized by the CITY or its representative. Free samples of a normal sample size as approved by the CITY or its representative may be given away by licensees. The CONTRACTOR shall have no liability over any item served in the Center that is not prepared or served by the CONTRACTOR. CONTRACTOR will be required to provide or modify operations upon request of a licensee when it has been approved by the CITY's representative or is necessary to comply with the terms of the Agreement between the CITY and Licensee. Trade shows relating to food and beverage wholesale dealers and their products, such as Food Services of America, Rykoff-Sexton and other similar type wholesale food and beverage vending shows, will be permitted to market, sell and provide samples of their products during their marketing trade shows which are closed to the general public.

**T. MENU PRICING**

The CONTRACTOR shall post and display all menu items and prices for all permanent and portable stands. All signs shall be consistent with the graphics of the Center and shall be approved by the CITY'S representative. Handwritten signs shall not be permitted.

**U. VENDING MACHINES**

All vending machines on the premises shall be of acceptable modular front design. Placement of these machines shall be approved by the SCCC General Manager, as shall contents of all vending machines. It is understood and agreed that no gum, gum type candy, or tobacco products will be sold on the premises.

**V. DELIVERIES**

Delivery of all supplies, goods, wares, merchandise, and equipment shall be made at the service entrance of the building Monday through Friday, 9:00am-4:00pm, except as otherwise authorized by the Center General Manager.

**W. PREMISES SECURITY**

The parties understand and agree that CONTRACTOR or his vendors sometimes have need to be on premises at times when the Center staff is not present in the building. It is understood and agreed that CONTRACTOR, during all such times, shall be responsible for securing the premises against vandalism, theft and/or intrusion upon the premises by persons trespassing thereupon, which responsibility shall include, but not be limited to, locking of all outside doors, and all other steps as may be necessary and reasonable to protect the building when it is being used by the CONTRACTOR or with the CONTRACTOR's authority or permission outside of normal business hours.

**X. ACCOUNTING RECORDS AND REPORTS**

The CITY will pay CONTRACTOR any monies due CONTRACTOR from the previous month by the (10<sup>th</sup>) day of the next month.

For accounting purposes, pursuant to this agreement, CONTRACTOR hereby agrees to use a fiscal year basis (July 1–June 30). CONTRACTOR further agrees to prepare and submit to the CITY and its representative a quarterly profit and loss statement within thirty (30) days following the end of each quarter. The CITY will treat CONTRACTOR'S profit and loss statements as confidential and will exempt such material from disclosure predicated upon Oregon State Statutes to the fullest extent possible. The CONTRACTOR shall maintain such accounting records as may be approved or required by the CITY, and CONTRACTOR shall use generally accepted accounting practices. Said records and procedures shall be sufficient to clearly reflect all revenues any nature received in the performance of this Contract.

CONTRACTOR will furnish the CITY within seventy-two (72) hours following the conclusion of any events where food is served or offered for sale, the actual sales, and the number of meals prepared, or the amount of product sold for the billing purposes of the SCCC.

CONTRACTOR shall bear no responsibility for bad debts. The CITY will collect all revenues from food services and beverage services and food service gratuities and service charges. All monies received shall be deposited with the CITY.

In the event Contractor provides a cash bar or concession stand service, the full amount collected by Contractor is to be given to the Center General Manager or his/her representative at the end of the event or next business day along with appropriate receipts as defined by building policy.

CONTRACTOR shall retain all records relating to this Contract for a period of six years following the date of final payment or completion of any required audit, whichever is earlier. The CITY, the CITY's Auditor, and authorized federal officials shall have the right upon reasonable notice to inspect, review and audit all books, correspondence, memoranda, or other records of the CONTRACTOR, relating to this

agreement, during the period of the contract, and such time thereafter as may be necessary to accomplish such verification.

#### **AA. DEFINITIONS AND ACCOUNTING**

As used in this agreement the term “gross revenue” means the total of all revenue received by the CONTRACTOR, from whatever source, for services rendered under this agreement, less any future sales tax, food service gratuity and service charge and credit card charges required for the CITY to receive payment by use of credit cards. The CITY will reduce the total sales by the amount for gratuity and service charge, sales tax, if any, and credit card charges prior to calculating “gross revenue” for purposes of determining payment to the CONTRACTOR.

CITY shall pay the CONTRACTOR its due amount plus sixty percent (60%) plus five percent (5%) for administrative fee of the food service gratuity and service charge. CONTRACTOR is obligated to pay the gratuity and service charge percentage to its service personnel and non-salaried kitchen personnel. In no event may the CONTRACTOR pay any portion of the gratuity and service charge to management personnel nor shall the CONTRACTOR retain any part of the food service gratuity and service charge as income. CONTRACTOR shall be obligated to provide the CITY with records documenting payment of the gratuity and service charge to the aforementioned service and non-salaried kitchen personnel.

#### **BB. MANAGEMENT**

The parties agree that the management by CONTRACTOR of the operation of the food and beverage services is of paramount importance, and that this agreement would not be entered into by the CITY except for its confidence in the character, abilities, and financial standing of CONTRACTOR. CONTRACTOR, therefore, agrees that it will not subcontract, assign, sublet, sell, hypothecate, or in any manner encumber the rights, concessions and privileges granted hereby, nor allow such subcontracting, assignment, subletting, sale, hypothecation or encumbrance to occur by operation of law or otherwise, nor will it in any way deal with its property upon the premises in such a manner as to impair its ability to perform hereunder.

The CONTRACTOR confirms that it will use its best efforts to cooperate and comply with the instructions of the CITY’S representative, which shall be the General Manager of the Seaside Civic and Convention Center or his designee, with respect to the daily operations of the Food and Beverage activities of the Center. In the event of a disagreement or dispute between the CONTRACTOR and the CITY’S representative the matter will be presented to the City Manager for resolution. The CITY’s conclusions related to such disagreements or disputes shall be final.

#### **CC. SERVICE PROVIDED**

All food and beverage services and concession sales performed under this agreement shall be conducted under the general supervision of the SCCC General Manager, or his/her authorized representative, and shall be performed in such a way as to not interfere with the orderly operation of events booked into the Center. Concessions sales and bar service shall be conducted at locations designated by the Center General Manager. No vendors or hawkers will be permitted to circulate about the facility or its parking lots promoting the sale of any type of merchandise except when specifically authorized by the SCCC General Manager, and the vendors or hawkers shall be required to have a valid City business license. Portable concession stands and bars may be provided by the CONTRACTOR in locations and of designs approved by the SCCC General Manager. The CONTRACTOR agrees that a part of its responsibilities under this contract is to provide food service during all times that the Center is open to the general public

when reasonable sales are anticipated, as determined by the SCCC General Manager, and particularly during events booked into the Center, as specifically required by the CITY, or the Center Manager.

The Center is responsible for set-up and tear-down of all banquet tables and chairs used for events using food and beverage services, including janitorial services for floors, lobbies and restrooms. CONTRACTOR is responsible for set-up and tear-down and clean-up of buffet lines, serving areas, and bar areas as more specifically described in paragraph P of this agreement. CONTRACTOR is also responsible for cleaning all banquet tables including linen or table covers.

#### **DD. EQUIPMENT ACCESS**

It is understood and agreed that the CONTRACTOR shall have the sole and exclusive right to use the kitchen, kitchen storage areas, liquor bars, liquor storage areas, concession stand and concession service areas with special exception being made, but not limited to the following civic and non-profit organizations: Kiwanis Pancake Feed, Seaside Kids Pancake Feed, Service Club Christmas Dinner and Miss Oregon Pageant during the term of this contract including reasonable right to necessary ingress and egress to these areas. Damage done to floors, walls, equipment, windows or other property in the radius by civic and or non-profit organizations negligence (reasonable wear and tear excepted), shall be repaired immediately at organizations sole expense. It is further agreed that from time to time the General Manager of the SCCC may require a small temporary storage space in the kitchen area.

CONTRACTOR agrees to provide sufficient place settings, to include china, glassware and flatware, to adequately provide service for all functions held annually under this contract, all subject to the approval of the CITY, at CONTRACTOR's expense. CONTRACTOR shall retain ownership of such china, glassware and flatware throughout the term of the agreement.

A list of CITY equipment and small wares on the premises at the commencement of this agreement is attached hereto marked as Attachment 6.2 and by this reference is incorporated herein. The CITY makes no warranty as to the condition of this equipment; it shall be the CONTRACTOR'S responsibility to inspect all equipment prior the signing of the contract. The CONTRACTOR shall be responsible for maintaining the equipment in good condition. CONTRACTOR agrees to replace china, glassware and flatware damaged or missing through its operation hereunder. Not later than July 20<sup>th</sup> of each year during the term of this agreement the SCCC General Manager or his or her designee and the CONTRACTOR shall inspect and inventory all equipment, small wares, glass wares and flatware as to number, condition and cleanliness. An inspection report will be prepared by the CONTRACTOR and signed by both parties. At the termination of this agreement the CONTRACTOR may remove its own equipment; but will be responsible for leaving the premises in the condition as it existed at the inception of the contract, reasonable wear and tear excepted, and will reimburse the CITY for damage to the premises and will replace, or reimburse the CITY at fair market value, any CITY owned equipment missing at the end of this agreement. Performance of this paragraph shall be conducted to the satisfaction of the CITY as a condition precedent to releasing the CONTRACTOR from this agreement.

The CONTRACTOR shall be responsible to maintain all CITY equipment located on the premises in good repair. In the event any repairs to the equipment exceed Five-Hundred Dollars (\$500) for any one occurrence with no maximum limit on occurrences, then the CITY will reimburse CONTRACTOR for the amount of the repair in excess of Five-Hundred Dollars (\$500). In the event that it is known in advance that the cost of the repair will exceed Five-Hundred Dollars (\$500), the CITY shall have the option of repair or replacement of the equipment at CITY'S discretion. The CONTRACTOR shall be responsible for the entire cost of repair, refurbishment or replacement of equipment caused by CONTRACTOR's actions or negligence at CONTRACTOR's expense. Notwithstanding the above, the CITY will be responsible for the repair, replacement or refurbishment of light equipment used in public areas and

visible to the public, such as coffee thermoses and urns, water urns, chafing dishes, buffet items and similar items and equipment. This shall be funded from the food service gratuity and service charge reserves or from such other sources the CITY may determine. The CITY shall retain ownership to any such equipment purchased.

**EE. MARKETING**

It is expected that the CONTRACTOR will participate in the preparation of the Center’s Marketing Plan as requested, and that Contractor will supply a separate “Gourmet Fine Dinning” menu for creating special menus and/or staff to provide special food and beverage functions as necessary.

**FF. EXCLUSIVE RIGHTS OF CONTRACTOR**

It is understood and agreed by the parties that the rights herein granted to the CONTRACTOR are exclusive and that no other person, firm or corporation, or entity shall have the right to provide to the Center or to the users of the Center, any food or beverage or other product covered by this agreement for sale to the public during the term of this agreement. The exclusive right to provide food, beverage and other services covered in this agreement shall rest only in the CONTRACTOR and no user of the Center may either employ another to provide such products and/or services itself, and no one shall be permitted by the CITY to allow any other entity other than the CONTRACTOR to provide any of the products or services covered by this agreement. The CITY agrees that it will make provision in any agreement for rental or other uses of the Center prohibiting any renter or user of any part of the Center from providing food, beverage or other products covered hereby and/or any services covered hereby, except by CONTRACTOR under the terms and provisions of this agreement, except that the CITY has allowed certain civic groups and non-profit organizations to use the Center facilities with or without services and assistance of the CONTRACTOR in the matter of certain food and beverage functions. Damage done to floors, walls, equipment, windows or other property in the radius by civic and or non-profit organizations negligence (reasonable wear and tear excepted), shall be repaired immediately at organizations sole expense. Such functions shall include, but are not limited to the following:

1. Kiwanis Pancake Feed
2. Seaside Kids Pancake Feed
3. Service Club Christmas Dinner

It is further understood and agreed that should the services of the CONTRACTOR be required for the following non-profit organizations; such services shall be provided by the CONTRACTOR at its “cost” (as defined above) and with no charge by the CONTRACTOR for profit.

1. Kiwanis Pancake Feed
2. Seaside Kids Pancake Feed
3. Service Club Christmas Dinner

CONTRACTOR will not be required (without its consent) to provide services at cost for any group except those listed above. Contractor shall have the right to be present when kitchen is being used (including clean-up) by any and all groups and shall be reimbursed for the cost of such supervision. CONTRACTOR shall have the right, unless it consents otherwise, to provide normal products and services to all groups and organizations that use the Center’s facilities.

## **GG. ABSOLUTE RIGHTS OF THE CITY**

The CITY shall have, and hereby reserves absolute rights, powers and privileges to include but not be limited to the following:

1. To ascertain and determine the kind and quality of food and beverages and other products and items to be sold by CONTRACTOR at the SCCC; and
2. To ascertain and determine the number of personnel to be used by CONTRACTOR in the operation of the food service in order to obtain the most economical use of labor; and
3. To ascertain and determine which products may be sold at particular events at the SCCC; and
4. To ascertain and determine the acceptability of services rendered; the manner of performance; and questions, which arise as to the acceptable fulfillment by CONTRACTOR of its obligations under this Contract.
5. It is not intended by the reservation of rights, powers and privileges in this paragraph to remove the State of Oregon from jurisdiction in the issuance of licenses and regulations of the sale of alcoholic beverages, nor to interfere with the enforcement of State rules and regulations in connection therewith.
6. CONTRACTOR expressly agrees to observe and comply fully with all directions of the CITY and its representative in the performance of CONTRACTOR's duties under this Contract, and any failure, refusal or neglect on the part of CONTRACTOR to keep, perform and observe fully any of said directions and/or changes therein from time to time shall, for all purposes, be deemed a breach of the provisions hereof.

## **HH. LIABILITY INSURANCE**

Commercial General Liability Insurance: CONTRACTOR shall maintain general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.

In addition to other general liability coverage the CONTRACTOR shall provide \$3,000,000 in liquor liability insurance and shall name the CITY its elected and appointed officials, agents and employees as an additional insured on such coverage.

## **II. WORKERS' COMPENSATION INSURANCE**

The CONTRACTOR shall insure and keep insured at all times during the term of this agreement, the personnel engaged by it in the operation of this food service, pursuant to the Industrial Insurance laws of the State of Oregon.

## **JJ. PERSONAL LIABILITY**

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the CITY be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement of representation made herein or in any connection with this agreement.

**KK. OPERATIONAL PROCEDURES**

The CONTRACTOR agrees to keep all office space, concession stands, storage rooms, alcoves, kitchens, and service areas used by it in a safe, clean and sanitary condition at all times to the satisfaction of the CITY, and the Clatsop County Health Dept.

**LL. SUPERVISION AND COORDINATION**

CONTRACTOR agrees to competently and efficiently supervise and direct the implementation and completion of all Contract requirements specified herein.

**MM. PERMITS, LICENSES, FOOD AND BEVERAGE LAWS**

The CONTRACTOR will comply with all valid requirements of state and local laws and regulations pertinent to or affecting the handling and disposal of food, beverages, and other goods, or merchandise served or sold, and the CONTRACTOR will procure and keep in force all permits and licenses required by such laws and regulations.

CONTRACTOR agrees to obtain and continue in force a liquor license issued pursuant to the laws of the State of Oregon for the Seaside Civic and Convention Center facility. It is understood by and between the parties that the cost of obtaining said liquor license is an expense borne by the CONTRACTOR. The parties recognize that in the event CONTRACTOR is succeeded by another after termination of this agreement, that CONTRACTOR may be required to transfer said license to such successor pursuant to the laws of the State of Oregon.

**NN. IDENTIFICATION**

All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers and other written documents affecting this Contract shall be identified as applicable to this CONTRACTOR.

**OO. LIENS, CLAIMS, AND ENCUMBRANCES**

The CONTRACTOR will take no action which will cause any property of the CITY, including real property, tangible and intangible personal property, and services to become subject to any lien, claim, or encumbrance of any kind and if the CITY requests, CONTRACTOR will deliver to the CITY a formal release of same. The CONTRACTOR shall indemnify, defend, and hold the City harmless from any claims or encumbrances of any type that may be filed in contravention of the requirements of this section.

**PP. ADVERTISING**

CONTRACTOR shall not advertise or publish information concerning this Contract in any form or media without prior written consent from the CITY.

**QQ. OSHA REQUIREMENTS**

CONTRACTOR agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as it may be amended. CONTRACTOR further agrees to indemnify, hold harmless and defend the CITY from all damages asserted or assessed against the CITY as a result of CONTRACTOR's failure to comply with the acts and standards there under and for the failure of any item furnished under this CONTRACTOR to so comply.

## **EXHIBIT D**

### **STANDARD TERMS AND CONDITIONS**

The terms and conditions in this section apply to this request for proposals.

#### **1. ENTIRE AGREEMENT**

The Contract documents comprise the entire agreement between the CITY and the CONTRACTOR and shall be governed by the laws of the State of Oregon incorporated herein by reference. The venue for legal action shall be the Circuit Court of the State of Oregon, County of Clatsop. The CITY reserves the right to reject bids that propose alternate or additional terms and conditions.

#### **2. SEVERABILITY**

Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

#### **3. RIGHTS AND REMEDIES**

In the event of any claim for default or breach of contract, no provision in the Contract documents or in the CONTRACTOR's offer shall be construed, expressly or by implication, as a waiver by the CITY of any existing or future right and/or remedy available by law. Failure of the CITY to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or the acceptance of (or payment for) materials, equipment or services, shall not release the CONTRACTOR from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the CITY to insist upon the strict performance of the Contract.

#### **4. INDEMNITY**

To the extent permitted by law, Contractor shall hold harmless, indemnify, and defend the City of Seaside, and its elected and appointed officials, employees, agents, and the SCCC Commission, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from, arising out of, or related to the acts or omissions of CONTRACTOR or its owners, shareholders, officers, employees, subcontractors, or agents in connection with this contract.

To the extent permitted by law, City shall hold harmless, indemnify, and defend Contractor, and its owners, shareholders, officers, employees and agents from and against all claims, suits, actions, losses, damages, and expenses of any nature resulting from, arising out of, or related to the acts or omissions of City, its officers, employees, or agents in connection with this contract.

#### **5. TAXES, FEES AND LICENSES**

Taxes: Where required by state statute or regulation, CONTRACTOR shall pay for and maintain in current status all permits and all taxes that are necessary for Contract performance. The CONTRACTOR agrees to collect and pay any state sales tax that may become payable during the term of this agreement and to pay state use taxes on all goods and services subject to such taxes.

**6. LIENS, CLAIMS AND ENCUMBRANCES**

All materials, equipment or services shall be free of all liens, claims, or encumbrances of any kind and if the CITY requests, a formal release of same shall be delivered to the CITY.

**7. PERFORMANCE**

Acceptance by the CITY of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damages for breach of, or to terminate, the Contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by CONTRACTOR hereunder. CONTRACTOR shall fully comply with all federal, state, and local laws and regulations applicable to any and all aspects of this contract and the work performed there under.

**8. DETERMINATION OF RESPONSIBILITY**

- A. During bid evaluation, the CITY reserves the right to make reasonable inquiry to determine the responsibility of any Proposer. Requests may include, but not be limited to, financial statements, credit ratings, references, record of past performance, on-site inspection of Proposer's facilities. Failure to respond to said request(s) will be sufficient reason to consider the proposal non-responsive.
- B. During the Contract term, should the CONTRACTOR be determined to be in violation of federal, state, or local laws or regulations, the CITY reserves the right to modify its initial determination of responsibility at the time of award and to take other action as determined appropriate, including but not limited to termination of the contract.

**9. ESTABLISHED BUSINESS**

To be considered responsive, CONTRACTOR must, prior to commencing performance, or prior to that time if required by law or regulation, be an established business firm with all required licenses, bonding, facilities, equipment and trained personnel necessary to perform the work as specified in the bid solicitation. All Proposers must have a Federal Tax Identifier Number as required by IRS regulations and a Business Identification Number required by the State of Oregon.

The CITY reserves the right to require proof of said requirements including business references within ten (10) calendar days from the date of request.

**10. CONFLICT OF INTEREST**

The CITY may, by written notice to the CONTRACTOR terminate this Contract if it is found after due notice and examination by the CITY that there is a Conflict of Interest on the part of the CONTRACTOR as it relates to their performance under this agreement.

In the event this Contract is terminated as provided above, the CITY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the Contract by the CONTRACTOR. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the CITY makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

**11. TREATMENT OF ASSETS**

- A. Title to all property furnished by the CITY shall remain with the CITY. Title to all property furnished by the CONTRACTOR, shall remain with the CONTRACTOR.
- B. Any property of the CITY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the CITY, be used only for the performance of this contract.
- C. The CONTRACTOR shall be responsible for any loss or damage to property of the CITY, which results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices. CONTRACTOR shall not be responsible for normal wear and tear.
- D. Upon loss or destruction of, or damage to, any CITY property, the CONTRACTOR shall notify the CITY thereof and shall take all reasonable steps to protect that property from further damage.
- E. The CONTRACTOR shall surrender to the CITY all property of the CITY prior to settlement upon completion, termination or cancellation of this contract.
- F. The CONTRACTOR shall provide the City an annual inventory of all City owned equipment that has been designated for use by the CONTRACTOR in the normal course of business. At no time is the CONTRACTOR permitted to use any City owned equipment outside of the Center (unless it relates to outside catering events as part of servicing groups at the Center).

**12. RECORDS, DOCUMENTS, AND REPORTS**

The CONTRACTOR shall maintain books, records, documents and other evidence of accounting procedures and practices, which sufficiently and properly reflect all transactions undertaken in the performance of this contract. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the CITY, the Office of the State Auditor, and Federal officials so authorized by law, rule, regulation, or contract. The CONTRACTOR will retain all books, records, documents, and other materials relevant to this Contract for six years after settlement, and make them available for inspection by persons authorized under this provision.

**13. RIGHT ON INSPECTION**

The CONTRACTOR shall provide right of access to its facilities to the CITY or to any authorized agent or official of the state of Oregon or the federal government at all reasonable times, in order to monitor and evaluate performance compliance, and/or quality assurance under this contract.

**14. SAFEGUARDING OF INFORMATION**

The use or disclosure by any party of any information concerning the CITY for any purpose not directly connected with the administration of the CITY's or the CONTRACTOR's responsibilities with respect to services provided under this Contract is prohibited by written consent of the CITY.

**15. CHANGES**

No alteration in any of the terms, conditions, or contractual requirements herein shall be effective without the written consent of the CITY as evidenced by issuance by the CITY of a Contract change notice.

## 16. BREACH, DEFAULT, TERMINATION

- A. Breach: A breach of a term or condition of the contract shall mean any one or more of the following events: (1) CONTRACTOR fails to perform the services by the date required or by a later date as may be agreed to in a written amendment to the Contract signed by the CITY; (2) CONTRACTOR breaches any warranty or fails to perform or comply with any term or agreement in the Contract; (3) CONTRACTOR makes any general assignment for the benefit of creditors; (4) in the CITY's sole opinion, CONTRACTOR becomes insolvent or in an unsound financial condition so as to endanger performance hereunder; (5) CONTRACTOR becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors; (6) any receiver, trustee, or similar official is appointed for CONTRACTOR or any of the CONTRACTOR's property; (7) CONTRACTOR is determined to be in violation of federal, state, or local laws or regulations and that such determination, in the CITY's sole opinion renders the CONTRACTOR unable to perform any aspect of the Contract.
- B. Default: A CONTRACTOR may be declared in default for failing to perform a requirement of this Contract or for a material breach of any term or condition hereof.
- C. Termination for Convenience: Either party may terminate this Contract, in whole or in part, at any time and for any reason by giving one-hundred eighty (180) calendar days written termination notice to other party. Termination charges shall not apply unless they are subsequently agreed upon by both parties. Where termination charges are applicable, both parties agree to negotiate in good faith and to limit the extent of negotiations to valid documented expenses incurred by CONTRACTOR prior to date of termination.
- D. Termination for Breach and/or Default: Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of the CONTRACTOR or of the CONTRACTOR's suppliers or sub-CONTRACTORS, the CITY shall be entitled, by written or oral notice, to cancel and/or terminate this Contract in its entirety or in part for breach and/or for default of any of the terms herein and to have all other rights against CONTRACTOR by reason of the CONTRACTOR's breach as provided by law.

## 17. OPPORTUNITY TO CURE DEFAULT

- A. Events: In the event that CONTRACTOR fails to perform a requirement of this Contract or materially breaches any term or condition hereof, the CITY may issue a written or oral notice of default and provide a period of time not to exceed 60 days, in which CONTRACTOR shall have the opportunity to cure. Time allowed for cure shall not diminish or eliminate CONTRACTOR's liability for liquidated or other damages. The CITY is not required to allow the CONTRACTOR to cure defects if the opportunity for cure is not feasible as determined solely by the CITY. The CITY may terminate the Contract for nonperformance, breach or default without allowing the opportunity to cure by the CONTRACTOR.
- B. Remedies: If the nonperformance, breach or default remains after CONTRACTOR has been provided the opportunity to cure, the CITY may do one or more of the following:
  - 1. Exercise any remedy provided by law.
  - 2. Terminate this Contract and any related contracts or portions thereof.

**18. TERMINATION PROCEDURE**

Upon termination of this Contract the CITY, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to the CITY any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The CITY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the CITY, and the amount agreed upon by the CONTRACTOR and the CITY for (i) partially completed work and services, (ii) other property or services which are accepted by the CITY, and (iii) the protection and preservation of property, unless the termination is for default, in which case the CITY shall determine the extent of the liability of the CITY. Failure to agree with such determination shall be a dispute within the meaning of the "Dispute" clause of this contract. The CITY may withhold from any amounts due the CONTRACTOR such sum as the CITY determines to be necessary to protect the CITY against potential loss or liability.

The rights and remedies of the CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination, and except as otherwise directed by the CITY, the CONTRACTOR shall:

- A. Stop work under the Contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
- C. Assign to the CITY, in the manner, at the times, and to the extent directed by the CITY, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the CITY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the CITY to the extent CITY may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Complete performance of such part of the work as shall not have been terminated by the CITY, and
- F. Take such action as may be necessary, or as the CITY may direct, for the protection and preservation of the property related to this Contract which is in the possession of the CONTRACTOR and in which the CITY has or may acquire an interest.

**19. GOVERNING LAW**

This contract shall be governed by the laws of the state of Oregon. In the event of a lawsuit involving this contract, venue shall be proper only in Clatsop County. The CONTRACTOR by execution of this contract acknowledges the jurisdiction of the courts of the state of Oregon in this matter.

**20. ATTORNEYS' FEES**

In any controversy, claim or dispute arising out of, or relating to, this Contract and/or the method and manner of performance thereof or the breach thereof, the prevailing party shall be entitled, in addition to any other relief, to a reasonable sum as litigation expenses. Venue of any action shall be Clatsop County, Oregon. Litigation expenses shall include reasonable attorneys' fees and the actual costs and expenses incurred.

**21. CAPTIONS**

Section or paragraph titles or other headings contained in this Contract are for the convenience only and shall not be part of this Contract, or considered in its interpretation.

**22. TIME OF ESSENCE**

Time is of the essence in each any every portion of this Contract.

**23. COUNTERPARTS**

This Contract may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

**24. CONTRACT DATE**

The date of the Contract shall be the date on which it is signed by the last necessary party.

**25. FORCE MAJEURE**

Definition: Except for payment of sums due, neither party shall be liable to the other or deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fires, floods, epidemics, or other similar occurrence.

Notification: If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Contract modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

Rights Reserved: The CITY reserves the right to cancel the Contract and/or to contract with another firm to provide food and beverage catering services at the CITY's facilities during the time of force majeure, and CONTRACTOR shall have no recourse against the CITY.