



Financial Services
Purchasing Division
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Fort Collins, CO 80522
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**REQUEST FOR PROPOSAL
8064 EVENT BEVERAGE CONCESSION SERVICES - FORT COLLINS MUSEUM OF
DISCOVERY AND NORTHSIDE AZTLAN COMMUNITY CENTER**

The City of Fort Collins is requesting proposals from qualified individuals or companies to operate an alcoholic and non-alcoholic event beverage concession at the Fort Collins Museum of Discovery and the Northside Aztlan Community Center, using a Tavern License or a Hotel and Restaurant License, which is to be secured by the Concessionaire, in the Concessionaire's name.

Proposals submission via email is preferred. Proposals shall be submitted in Microsoft Word or PDF format and e-mailed to: purchasing@fcgov.com. If electing to submit hard copy proposals instead, five (5) copies will be received at the City of Fort Collins' Purchasing Division, 215 North Mason St., 2nd floor, Fort Collins, Colorado 80524. **Proposals will be received before 3:00 p.m. (our clock), March 2, 2015 and referenced as Proposal No. 8064.** If delivered, they are to be sent to 215 North Mason Street, 2nd Floor, Fort Collins, Colorado 80524. If mailed, the address is P.O. Box 580, Fort Collins, 80522-0580.

The City encourages all disadvantaged business enterprises to submit proposals in response to all requests for proposals and will not be discriminated against on the grounds of race, color or national origin.

Questions concerning the scope of the project should be directed to the Museum Director, Cheryl Donaldson, 970-416-2709, email: cdonaldson@fcmo.org and Recreation Manager, Steve Budner, 970-221-6861, email: sbudner@fcgov.com.

Questions regarding proposals submittal or process should be directed to Jill Wilson, Buyer, 970-221-6216, email: jwilson@fcgov.com.

The deadline for submitting questions is on February 20, 2015 no later than 5:00 PM (our clock). Please submit your questions via email to Museum Director, Cheryl Donaldson and Recreation Manager, Steve Budner, with a copy to Jill Wilson. Responses to all questions submitted will be addressed in an addendum and posted on the Rocky Mountain E-Purchasing System webpage.

A copy of the RFP may be obtained at www.rockymountainbidsystem.com.

The City of Fort Collins is subject to public information laws, which permit access to most records and documents. Proprietary information in your response must be clearly identified and will be protected to the extent legally permissible. Proposals may not be marked 'Proprietary' in their entirety. All provisions of any contract resulting from this request for proposal will be public information.

New Vendors:

The City requires new vendors receiving awards from the City to fill out and submit an IRS form W-9 and to register for Direct Deposit (Electronic) payment. If needed, the W-9 form and the Vendor Direct Deposit Authorization Form can be found on the City's Purchasing website at www.fcgov.com/purchasing under Vendor Reference Documents.

Sales Prohibited/Conflict of Interest: No officer, employee, or member of City Council, shall have a financial interest in the sale to the City of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the City. Soliciting or accepting any gift, gratuity favor, entertainment, kickback or any items of monetary value from any person who has or is seeking to do business with the City of Fort Collins is prohibited.

Collusive or sham proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature of this proposal assures that such proposal is genuine and is not a collusive or sham proposal.

The City of Fort Collins reserves the right to reject any and all proposals and to waive any irregularities or informalities.

Utilization of Award by Other Agencies: The City of Fort Collins reserves the right to allow other state and local governmental agencies, political subdivisions, and/or school districts to utilize the resulting award under all terms and conditions specified and upon agreement by all parties. Usage by any other entity shall not have a negative impact on the City of Fort Collins in the current term or in any future terms.

Sustainability: Consulting firms/teams participating in the proposal are to provide an overview of the organization's philosophy and approach to Sustainability. In no more than two (2) pages please describe how your organization strives to be sustainable in the use of materials, equipment, vehicles, fuel, recycling, office practices, etc. The City of Fort Collins incorporates the Triple Bottom Line into our decision process by including economic (or financial), environmental, and social factors in our evaluation.

The selected Service Provider shall be expected to sign the City's Agreement **without revision** prior to commencing Services (see sample attached to this Proposal).

Sincerely,

Gerry S. Paul
Director of Purchasing & Risk Management

REQUEST FOR PROPOSAL
8064 EVENT BEVERAGE CONCESSION SERVICES - FORT COLLINS MUSEUM OF
DISCOVERY AND NORTHSIDE AZTLAN COMMUNITY CENTER

I. Introduction

The City of Fort Collins (City) is soliciting proposals from qualified individuals or companies to operate an alcoholic and non-alcoholic event beverage concession at the Fort Collins Museum of Discovery (FCMoD), located at 408 Mason Ct, Fort Collins, CO 80524, and the Northside Aztlan Community Center (NACC), located at 112 E. Willow Street, Fort Collins, Colorado 80524, using a Tavern License or a Hotel and Restaurant License, which is to be secured by the Concessionaire, in the Concessionaire's name.

FCMoD is a public/private partnership between the City of Fort Collins and the Fort Collins Museum of Discovery, a Private Partner. FCMoD is a museum facility providing diverse experiences for people of all ages. The Museum has been open for two (2) years. The Museum sees approximately 100,000 annual visitors. The Museum is 47,000 square feet; 15,000 square feet are dedicated to exhibitions in our long-term gallery and 5,000 square feet are dedicated to our Woodward Special Exhibition Gallery. In addition, FCMoD has two (2) classrooms, a piano café, a rooftop deck and the Big Back Yard. The building is LEED Platinum certified.

The City of Fort Collins Recreation Department operates and manages Northside Aztlan Community Center for recreational purposes. Spaces associated with this facility are available for rent to the general public when not in use for City programs/events. Spaces for rent include the Eagle Rooms and gyms, as well as other facility areas at the Northside Aztlan Community Center. Events associated with these spaces may include social dances, weddings and wedding receptions, Bar Mitzvah and Bat Mitzvah celebrations, anniversary parties, baby showers and Quinceañeras.

II. Scope of Services

A. Miscellaneous terms of concession services entail the following:

1. The Concessionaire will be responsible for providing all staff, alcoholic and non-alcoholic beverages, mixes, and any other supplies and equipment necessary for the concession operations for all contracted functions at FCMoD and NACC.
2. Concessionaire must be able to properly staff all rented areas and bar units simultaneously, as required by the Event Coordinator.
3. The City retains the right to serve, independent of the Concessionaire, non-alcoholic beverages (i.e. punch, coffee, cider & soft drinks) at some functions.
4. The Concessionaire will be required to work in cooperation with catering services and vending machine services.
5. The City encourages the use of disposable cups, plates, napkins and eating utensils that are either compostable or recyclable.

B. Concession Requirements include the following:

1. Sale of Alcoholic Beverages

The sale or dispensing of alcoholic beverages will be made only in connection with events scheduled at FCMoD and/or NACC to patrons of, or participants in, such events unless approved in writing by the FCMoD Executive Directors and/or the Recreation Manager at NACC. There shall be no service of alcoholic beverages to the general public at any time other than during a scheduled event. No alcohol shall be dispensed or consumed in the FCMoD exhibition galleries, the Digital Dome or back of house areas without permission of the Executive Directors. Alcohol shall be served only in connection with programs presented primarily for adult audiences. No alcohol shall be available for programs presented primarily for minor audiences. In connection with a Museum presentation or event, beverage service shall be available for at least one (1) hour before the event and during intermissions or at other times as requested by the Event Coordinator. At all scheduled conventions, meetings and conferences, the Concessionaire shall be limited to serving beverages during the times specifically designated by the sponsor of the event.

Donations of liquor for fund raising events are permitted only with written permission by the FCMoD Executive Directors and/or the NACC Recreation Manager. Subject to prior written approval by the Museum's Executive Directors, the Museum will allow local, non-profit presenters to provide donated liquor in the lobby in conjunction with their events. FCMoD will not allow any group renting a conference room space to use donated liquor for special events or receptions. The Concessionaire agrees to coordinate with the Event Coordinator, or designee, for all necessary legal obligations associated with the events hosted at FCMoD and/or NACC.

Concessionaire will dispense and serve donated alcoholic beverages at FCMoD to approximately 200 invited guests at a yearly donor event in November, with an option to host more donor events as mutually agreed upon by both parties in writing. Concessionaire shall propose either a flat rate or an hourly rate for servicing the donor event(s).

2. Equipment and Storage

The Concessionaire shall be responsible for providing all supplies, inventory and miscellaneous equipment required to operate the concession. In addition, glassware rental must be available from Concessionaire upon request of City Facility renters. The City will not provide storage areas for non- City inventory and equipment at FCMoD. The City will provide two (2) portable bars at Northside Aztlan Community Center. The City will also provide a storage closet and refrigerator for limited non-alcoholic inventory and equipment at the NACC only. Risk of loss for items stored at NACC shall be at Concessionaire's sole risk.

3. Dress Code

All staff shall be required to wear identical uniforms and display name tags at all times while on the premises, as approved by the Executive Directors at FCMoD and/or the Event Coordinator at NACC.

4. Prices

The Concessionaire shall submit a list of prices of all beverages to be served at events to the Executive Directors at FCMoD and/or the Recreation Manager at NACC for approval.

5. Sales Reporting and Payment

The Concessionaire will maintain daily sales records, itemized by type of beverage and payment, in an electronic format. The Concessionaire shall provide the Executive Directors at FCMoD and the Recreation Manager at NACC a written sales report every two (2) weeks. All such sums shall be payable annually to the City, with payment due forty-five (45) days after the close of the fiscal year. The Concessionaire shall provide the Executive Directors at FCMoD and the Recreation Manager at NACC an annual sales report, due January 31st of each year of the Agreement, detailing sales by private events. Failure to pay charges or provide monthly reports may result in termination of the Concession Agreement.

6. Invoicing

The FCMoD and NACC Event Coordinators will coordinate the service requests for private events between the customers and the Concessionaire. The Concessionaire will prepare the contracts based on information from the Event Coordinators. The Concessionaire is required to submit an itemized invoice no less than one (1) business day after each event to the respective Event Coordinator. The Concessionaire shall provide a rental check to the respective City Facility by the Fifteenth (15th) of the following month in the amount equal to the percentage of gross sales and/or fixed amount as defined in the Agreement.

7. Utilities, Maintenance and Janitorial Duties

7.1 Utilities. The City shall pay all charges for water, storm water, sewer, gas, trash collection, recycling, basic facility security system, natural gas and electric services for the Concession Space(s).

7.2 Maintenance and Repair. The City shall maintain and repair the Concession Space(s) and City equipment and fixtures. Concessionaire shall submit all requests for repairs or maintenance to the Executive Directors at FCMoD and/or the Recreation Manager at NACC.

7.3 Cleaning and Janitorial. The Concessionaire shall keep the Concession Space(s) and its fixtures clean and in good sanitary condition as required by the ordinances, resolutions, statutes and health, sanitary and police regulations of the City of Fort Collins, County of Larimer and State of Colorado.

7.4 Trash. The Concessionaire is responsible for the ongoing cleanliness of the Concession Space(s) in order to provide a clean and orderly appearance for patrons, including but not limited to, removal of all drink containers including bottles and cups, and proper disposal into recycling or composting bins in the designated garbage collection area, and removing trash accumulations to designated trash containers.

8. Equipment

In addition to the Concession Space(s), the City shall provide the following:

- 8.2 Lighting fixtures for general area illumination;
- 8.3 Heat and air conditioning; and
- 8.4 Two (2) portable bars and limited secure storage only at NACC

The Concessionaire shall provide and pay for all telephones, cash registers, POS Systems and credit card machines.

9. Advertising

Any advertising by the Concessionaire at FCMoD and NACC requires the written permission of the Executive Directors at FCMoD and/or the Recreation Manager at NACC.

10. Service Start Dates (Approximate)

July 1, 2015.

11. Hours

The Concession Space(s) and portable bar units must be fully staffed and operational during all scheduled events as required by the Executive Directors at FCMoD and/or the Event Coordinator at NACC.

12. Miscellaneous

Concessionaire must comply with all applicable Federal, State and local laws and regulations and obtain all applicable licenses or permits.

13. Estimated Revenue

Northside Aztlan Community Center (sales information from 2014)

- Total number of event rentals: 378. Number of events with beverage service: 32.
- Total estimated annual beverage sales: \$28,000.
- Total patronage from all events: 30,058.
- Northside Aztlan Community Center currently has a liquor license and provides beverage services using City staff.

FCMoD doesn't maintain a liquor license. FCMoD has hosted events by permit and private invitation or rentals only. The City's intent is to contract a Concessionaire to provide alcohol and non-alcoholic beverage services for future events hosted at FCMoD. The estimated number of events FCMoD is planning on hosting and engaging the Concessionaire is forty (40) to fifty (50) annually.

III. Liquor License (Tavern License or Hotel and Restaurant License)

It will be the responsibility of the Concessionaire to secure and complete all documents that are required for the Liquor License applications and it will be the responsibility of the Concessionaire to achieve approval of the license through the Liquor Licensing Authority of the City. The Liquor License must be secured and in effect before the service start date. The

licensed premises shall include the entire FCMoD facility including the parking lot, all adjacent grounds (including the Big Back Yard), and the rooftop deck. The licensed premises at Northside Aztlan Community Center shall include all indoor and outdoor areas, including patio spaces, and the parking lot. A separate Liquor License is required for each City facility.

Selected Concessionaire MUST submit a complete application for the Liquor License to the City Clerk's office within one (1) week after the Agreement execution date.

All costs of securing and maintaining a Liquor License will be borne by the Concessionaire. Typical costs include the following: investigation fee, City annual license fee, State annual license fee, extended hours permit fee (City and State) and City Occupational License Tax.

Liquor licensing questions should be directed to Aimee Jensen, Deputy City Clerk, at (970) 221-6315.

IV. Concession Fee

The Concessionaire shall pay annually, as rental to the City, either a percentage of gross revenues from the concession operation and/or a fixed dollar amount, as proposed on attached Exhibit A – Proposal Form, consisting of one (1) page and incorporated herein by this reference.

Gross revenues are defined as total concession sales excluding sales tax.

V. Proposal Requirements

Vendors submitting proposals shall submit the following information in their proposal:

1. Completion of Proposal Form, attached as Exhibit A, consisting of one (1) page and incorporated herein by this reference.
2. Completion of Qualification Statement and auxiliary documents, attached as Exhibit B, consisting of one (1) page and incorporated herein by this reference.

The Proposal Form must be signed by a duly authorized representative of the company submitting the proposal. The signature shall include the title of, and contact information for, the individual signing the proposal.

Vendors may enter their proposal for Northside Aztlan Community Center only, Fort Collins Museum of Discovery only or both facilities, as indicated on Exhibit B.

The City assumes no responsibility for liability for any costs vendors may incur in responding to this RFP; including attending meetings, site visits and/or contract negotiations.

Proposals shall be limited to five (5) pages. The City reserves the right to reject any proposal exceeding five pages.

All proposals shall remain subject to initial acceptance ninety (90) days after the day of submittal.

The City's preference is to award both sites to a single Concessionaire. However, the City reserves the right to split the award on an individual site basis, whichever is most beneficial to the City.

The City expects to enter into a Concession Agreement ("Agreement") with the chosen vendor that shall incorporate the Scope of Services included in this RFP. The anticipated terms and conditions of the Agreement are set forth per attached Exhibit C, consisting of nine (9) pages and incorporated herein by this reference. However, the City may include additional terms and conditions in the Concession Agreement as deemed necessary. A copy of the Concessionaire's Sales/Use Tax License and certificate of insurance must be submitted with the signed Agreement.

VI. Review and Assessment

Vendors will be evaluated on the following criteria. These criteria will be the basis for review of the written proposals and optional interview session.

The City of Fort Collins reserves the right to select a vendor for this project on the basis of written proposals only.

The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 being an average rating, and 5 being an outstanding rating. Weighting factors for the criteria are listed adjacent to the qualifications.

Weighting Factor	Qualification	Standard
3.0	Scope of Proposal	Does the proposal show an understanding of the required services? Are the products of suitable quality and price? Are there any exceptions to the Scope of Services or Agreement noted?
2.0	Qualifications	Is the vendor qualified to perform the services? Does the vendor have similar concession experience?
1.0	Motivation	Is the vendor interested in providing this service to a single facility or both facilities?
2.0	Concession Fee and Beverage Pricing	Proposed amount paid to the City? Is the beverage pricing competitive and reasonable?
2.0	Firm Capability	Does the vendor have an experienced staff? Is the vendor financially stable?

VII. Reference Evaluation (Top Ranked Firm)

The Project Manager will check references using the following criteria. The evaluation rankings will be labeled Satisfactory/Unsatisfactory.

Qualification	Standard
Overall Performance	Would you hire this firm again? Did the vendor's staff maintain a professional appearance?
Schedule Adherence	Was the vendor and staff on-time for all scheduled events?
Customer Service	Has the vendor been responsive to client needs? Has the vendor anticipated customer problems? Were problems solved quickly and effectively? Was the staff courteous?
Cost	Has original pricing been increased substantially?
Job Knowledge	Does vendor's personnel have the necessary knowledge, skills, and professionalism?

**EXHIBIT A
8064 EVENT BEVERAGE CONCESSION SERVICES - FORT COLLINS MUSEUM OF
DISCOVERY AND NORTHSIDE AZTLAN COMMUNITY CENTER**

PROPOSAL FORM

The proposer, _____, (an individual) (a partnership) (a corporation) hereby enters its proposal for 8064 Event Beverage Concession Services for:

- Fort Collins Museum of Discovery _____
- Northside Aztlan Community Center _____
- Both facilities named above _____

Concession Fee Proposal:

The Concessionaire shall pay, annually, as rental to the City, _____ percent (%) of the gross sales from the concession operation and/or a fixed amount of \$_____year.

Gross sales are defined as total concession sales excluding sales tax.

Donor Event Proposal:

The City shall pay the Concessionaire, for dispensing and serving donated alcoholic beverages at the donor event(s) at the Fort Collins Museum of Discovery, \$_____ as a flat rate fee or a fixed hourly rate of \$_____.

Signature:	Title:
Company Name:	Date:
Street: City: State/Zip:	Phone #: Email:

EXHIBIT B
8064 EVENT BEVERAGE CONCESSION SERVICES - FORT COLLINS MUSEUM OF
DISCOVERY AND NORTHSIDE AZTLAN COMMUNITY CENTER

QUALIFICATION STATEMENT FORM

1. Experience

Provide concession operating experience for yourself and your staff, including number of years operating a similar concession.

2. Customer Service

Describe your philosophy and approach to achieve great customer service.

3. Financial

Provide information on your financial ability to operate this concession.

3. Products

List the products you intend to serve along with proposed prices.

4. Other Information

Have you ever held or do you currently hold any financial interest, direct or indirect, in any retail liquor establishment, distillery, importing or wholesale liquor license?

YES___ NO___

If "YES", explain in proposal.

Attach copies of any written agreement or details of any oral agreement, by which any person (including a corporation) will share in the profit or gross proceeds of this concession, and any agreement relating to the concession which is contingent or conditional, in any way, upon volume, profit, sales, giving of advice or consultation.

Do you plan to be an active participant in the management and operation of the concession?

YES___ NO ___

If "NO", explain in proposal your intended management arrangement.

Acknowledge your consent to adhere to the Scope of Services and sample Agreement (including Insurance Requirements) outlined in this solicitation.

YES___ NO___

5. References

List three (3) references for entities with which you have provided similar services within the last two (2) years.

EXHIBIT C
SAMPLE CONCESSION AGREEMENT

*(For informational purposes, do **not** fill in or submit with proposal)*

THIS AGREEMENT made and entered into this ___ day of _____ 20___, by and between THE CITY OF FORT COLLINS, COLORADO, a municipal corporation, hereinafter referred to as the "City," and _____, an individual, hereinafter referred to as "Concessionaire."

WITNESSETH:

1. Premises covered by Concession Agreement

The premises covered by this Agreement shall be the City of Fort Collins Museum of Discovery (FCMoD), located at 408 Mason Ct, Fort Collins, Colorado 80524 and the Northside Aztlan Community Center (NACC), located at 112 E. Willow Street, Fort Collins, Colorado 80524.

2. Term

The initial term of this Agreement shall begin on _____, and end _____ unless terminated sooner as herein provided. At the sole discretion of the City of Fort Collins this Agreement may be extended for additional one-year terms, up to four (4) additional one-year terms. Written notice of renewal will be provided to the Concessionaire and mailed no later than 30 days prior to contract end.

3. Services

The Concessionaire will operate an alcoholic and non-alcoholic beverage concession at FCMoD and NACC, using a Liquor License (Tavern License or a Hotel and Restaurant License) secured by the Concessionaire and in the Concessionaire's name. The Event Coordinators will coordinate all service requests for private events at FCMoD and NACC between the hosts and the Concessionaire. Hosts shall pay Concessionaire according to the agreement between the two parties. The Concessionaire will prepare the contracts based on information from the Event Coordinators. The Concessionaire is required to submit an itemized invoice no less than one (1) business day after each event to the respective Event Coordinator. The Concessionaire shall provide a rental check to the City by the Fifteenth (15th) of the following month in the amount equal to the percentage of gross sales and/or fixed amount as defined in the Agreement.

4. Licenses, permits, and taxes

The Concessionaire shall obtain and pay for all licenses, permits and taxes, required by law or necessary for the operation of the concession at the FCMoD and NACC, including but not limited to a Liquor License, Liquor Occupation Tax, Sales/Use Tax License, etc. Any such licenses or permits held by the Concessionaire in connection with the concession are to be surrendered by the Concessionaire at the time of termination of the Agreement and the

Concessionaire expressly agrees to surrender all of such licenses or permits and not oppose any new license or permit applications by such person as the City may select. The Concessionaire shall collect and remit sales taxes on all taxable sales in the manner prescribed by law.

5. Contingency

In the event the Concessionaire is not able to obtain all licenses, insurance and permits required to operate the concession at FCMoD and/or NACC, this Agreement shall become null and void and both parties shall be released from further obligations under this Agreement.

6. Pricing

All prices charged for beverages provided by the Concessionaire shall be approved by the City's Representative. The Concessionaire shall provide sufficient numbers of event price lists to fulfill customer requests for such lists.

7. Equipment and Storage

The Concessionaire shall be responsible for providing all supplies, linens, inventory and equipment, including cold storage required to operate the concession. In addition, glassware rental must be available from Concessionaire upon request of event renters.

8. Dress Code

All Staff shall be required to wear identical uniforms and display name tags at all times while on the premises, as approved by the Event Coordinator or Executive Directors at FCMoD and/or the Event Coordinator at NACC.

9. Maintenance

The Concessionaire shall be required to provide all cleanup and maintenance connected with the sale or dispensing of alcoholic and non-alcoholic beverages for events at FCMoD and NACC; including removal of all drink containers and proper disposal into recycling or composting bins in the designated garbage collection area. The City shall pay all utility and trash removal costs in connection with the concession.

10. Sale of Alcoholic Beverages

The sale or dispensing of alcoholic beverages will be made only in connection with events scheduled at FCMoD and/or NACC. No alcohol shall be dispensed or consumed in other areas not described herein. Alcohol shall be served only in connection with programs presented primarily for adult audiences. No alcohol shall be available for programs presented primarily for minor audiences. No advertising of alcoholic beverages will be displayed at FCMoD and/or NACC at any time. At all scheduled conventions, meetings and conferences, the Concessionaire shall be limited to serving alcoholic beverages during the times specifically designated by the sponsor of the event. Donations of liquor by the Concessionaire to the City

for fund raising events are permitted with prior written approval of the Museum's Executive Directors and/or the Recreation Manager at NACC only.

11. Delay

If either party is prevented in whole or in part from performing its obligations by unforeseeable causes beyond its reasonable control and without its fault or negligence, then the party so prevented shall be excused from whatever performance is prevented by such cause. To the extent that the performance is actually prevented, the Concessionaire must provide written notice to the City of such condition within fifteen (15) days from the onset of such condition.

12. Early Termination by City/Notice

Notwithstanding the time periods contained herein, the City may terminate this Agreement at any time without cause by providing written notice of termination to the Concessionaire. Such notice shall be delivered at least fifteen (15) days prior to the termination date contained in said notice unless otherwise agreed in writing by the parties. All notices provided under this Agreement shall be effective when mailed, postage prepaid and sent to the following addresses:

Concessionaire:	City:	Copy to:
	City of Fort Collins	City of Fort Collins
Attn:	Attn:	Attn: Purchasing Dept.
	PO Box 580	PO Box 580
	Fort Collins, CO 80522	Fort Collins, CO 80522

In the event of early termination by the City, the Concessionaire shall be paid for services rendered to the date of termination, subject only to the satisfactory performance of the Concessionaire's obligations under this Agreement. Such payment shall be the Concessionaire's sole right and remedy for such termination.

13. Regulations and Administration

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any judicial action to interpret or enforce this Agreement shall only be in the District Court for Larimer County, Colorado. The City's obligations under this Agreement shall be subject to any and all applicable limitations under Colorado and federal law and under the City's Charter, Code and regulations, including, without limitation, those in Article X, Section 20 of the Colorado Constitution and City Charter Article V, Section 8, both of which provide that any multiple fiscal year debt or obligation of the City shall be subject to annual appropriation.

14. Independent Contractor/Indemnification

The Concessionaire is an independent contractor and not an employee of the City of Fort Collins. The City shall not be responsible for any liabilities of the Concessionaire arising out of the concession herein granted. The Concessionaire hereby agrees to indemnify, save and hold harmless the City and its officers, employees, agents and representatives from any and all liability or loss that may be incurred or claimed by any person as a result of injury to person or

property, arising directly or indirectly out of the operation of the concession, including, without limitation, any debts incurred by the Concessionaire and any liability arising out of the Colorado Dram Shop Act, Section 13-21-103, C.R.S.

15. Insurance Requirements

A. The Concessionaire will provide from insurance companies, acceptable to the City, the insurance coverage designated hereinafter and pay all costs.

The Concessionaire shall indemnify the City. Before commencing work under this Agreement, the Concessionaire shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statement:

“The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the City.”

In the case of the breach of any provision of this requirement, the City, at their option, may take out and maintain, at the expense of the Concessionaire, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due to the Concessionaire under this Agreement.

Without limiting any of the Concessionaire's obligations hereunder, the Concessionaire shall provide and maintain insurance coverage naming the City as an additional insured for general, vehicle and liquor liability under this Agreement as specified in Exhibit _____, consisting of one (1) page, and incorporated herein by this reference.

In the event any work under this Agreement is performed by a sub-contractor, the Concessionaire shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a sub-contractor, which liability is not covered by the subcontractor's insurance.

16. Assignment

The Concessionaire shall neither assign any of the rights nor delegate any of the duties imposed upon it under the provisions of this Agreement without having first obtained the written permission of the City. Any assignment of this Agreement or subletting of the concession area without the City's prior written consent shall be deemed null and void and of no effect and shall be considered in default under this Agreement.

17. Acceptance Not Waiver

The City's approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights or benefits provided to the City under this Agreement or cause of action arising out of performance of this Agreement.

18. Default

In the event the Concessionaire defaults in any performance required by this Agreement, and if such default is not corrected within ten (10) days after written notice setting forth the same is delivered to the Concessionaire, then, at the option of the City, the Agreement may be terminated and, upon such termination, all rights the Concessionaire has in the concession shall immediately cease and terminate.

19. Entire Agreement

This Agreement, along with all Exhibits and other documents incorporated herein, shall constitute the entire Agreement of the parties. Covenants or representations not contained in this Agreement shall not be binding on the parties.

20. Rental

The Concessionaire shall pay annually, as rental to the City, _____ percent (_____ %) of the gross revenues from the concession operation and/or a fixed amount of \$ _____ (\$ _____). Gross revenues are defined as total concession sales excluding sales tax. All such sums shall be payable annually to the City, with payment due forty-five (45) days after the close of the fiscal year. Concurrent with the annual payment, the Concessionaire shall submit a complete accounting of its annual concession operation for the current year, due January 31st of the following year. The Concessionaire shall keep adequate and proper business records which shall include all expenses and receipts of the concession operation. Upon the City's request, all of such records shall be made open and available for inspection and audit by the City.

21. Saving Clause

If any term or provision of this Agreement is or becomes invalid or unenforceable by reason of a conflict with any applicable laws, statutes, ordinances, rules or regulations, such invalidity or unenforceability shall not affect or impair any other terms or provisions of this Agreement.

22. Prohibition Against Employing Illegal Aliens

Pursuant to Section 8-17.5-101, C.R.S., et. seq., Service Provider represents and agrees that:

- A. As of the date of this Agreement:
 - 1. _____ Service Provider does not knowingly employ or contract with an illegal alien who will perform work under this Agreement; and
 - 2. _____ Service Provider will participate in either the e-Verify program

created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "e-Verify Program") or the Department Program (the "Department Program"), an employment verification program established pursuant to Section 8-17.5-102(5)(c) C.R.S. in order to confirm the employment eligibility of all newly hired employees to perform work under this Agreement.

- B. Service Provider shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement.
- C. Service Provider is prohibited from using the e-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- D. If Service Provider obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Service Provider shall:
 - 1. Notify such subcontractor and the City within three days that Service Provider has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - 2. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Service Provider shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- E. Service Provider shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.
- F. If Service Provider violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City may terminate this Agreement. If this Agreement is so terminated, Service Provider shall be liable for actual and consequential damages to the City arising out of Service Provider's violation of Subsection 8-17.5-102, C.R.S.
- G. The City will notify the Office of the Secretary of State if Service Provider violates this provision of this Agreement and the City terminates the Agreement for such breach.

23. Special Provisions

Special provisions or conditions relating to the services to be performed pursuant to this Agreement are set forth in Exhibit " ", AFFIDAVIT PURSUANT TO C.R.S. 24-76.5-103, consisting of () pages, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this day and year first above written.

THE CITY OF FORT COLLINS, COLORADO, a Municipal Corporation

CITY OF FORT COLLINS, COLORADO
a municipal corporation

By: _____

Gerry Paul

Director of Purchasing and Risk Management

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

By: _____

PRINT NAME

TITLE

Date: _____

**EXHIBIT
INSURANCE REQUIREMENTS**

1. The Service Provider will provide, from insurance companies acceptable to the City, the insurance coverage designated hereinafter and pay all costs. Before commencing work under this bid, the Service Provider shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statement:

"The insurance evidenced by this Certificate will not be cancelled or materially altered, except after ten (10) days written notice has been received by the City of Fort Collins."

In case of the breach of any provision of the Insurance Requirements, the City, at its option, may take out and maintain, at the expense of the Service Provider, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Service Provider under this Agreement. The City, its officers, agents and employees shall be named as additional insured on the Service Provider's general liability, automobile liability and liquor liability insurance policies for any claims arising out of work performed under this Agreement.

2. Insurance coverage shall be as follows:
 - A. Workers' Compensation & Employer's Liability. The Service Provider shall maintain during the life of this Agreement for all of the Service Provider's employees engaged in work performed under this agreement:
 1. Workers' Compensation insurance with statutory limits as required by Colorado law.
 2. Employer's Liability insurance with limits of \$100,000 per accident, \$500,000 disease aggregate, and \$100,000 disease each employee.
 - B. Commercial General & Vehicle Liability. The Service Provider shall maintain during the life of this Agreement such commercial general liability and automobile liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a "broad form" basis. The amount of insurance for each coverage, Commercial General and Vehicle, shall not be less than \$1,000,000 combined single limits for bodily injury and property damage.
 - C. \$1,000,000 Liquor Liability.

In the event any work is performed by a subcontractor, the Service Provider shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a subcontractor, which liability is not covered by the subcontractor's insurance.

EXHIBIT
AFFIDAVIT PURSUANT TO C.R.S. 24-76.5-103

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

___ I am a United States citizen, or

___ I am a Permanent Resident of the United States, or

___ I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date