

**Request for Proposals**

**Title: Florence Events Center  
Catering Services**

Due Date and Time:  
**4:00 PM, March 19, 2015**

**Florence Events Center  
City of Florence**



715 Quince Street  
Florence, Oregon 97439  
Telephone: (541) 997-1994  
Fax: (541) 902-0991  
[www.eventcenter.org](http://www.eventcenter.org)

## I. INVITATION TO SUBMIT PROPOSALS

### INVITATION TO SUBMIT PROPOSALS

#### **Notice to Offerors**

Proposals for **Catering Services** for the **Florence Events Center** also referred to as “**Center**” will be accepted at the Center located of 715 Quince Street, Florence Oregon, 97439.

The “CENTER” intends to establish multiple contracts to a pool of qualified contractors providing Catering Services. Inclusion in the pool does not guarantee that services will be sought from the contractor. The closing date for proposals is **March 19, 2015 at 4:00 PM**.

The “CENTER” may reject any proposal not in compliance with all prescribed public bidding procedures and requirements, and may cancel this request for good cause upon a finding of the “CENTER” it is in the public interest to do so.

#### **Project Description**

In general, work includes providing Catering Services for the “CENTER” on a contractual and/or as-needed basis.

#### **Solicitation Documents**

Offerors must submit 1 original proposal directly to the “Center”.

## II. INSTRUCTIONS TO OFFERORS

### 1.0 PROPOSAL FORM

- 1.1. Proposals shall be submitted on forms identical to the form provided by the "CENTER". Hard copy proposals shall be submitted to the "CENTER" as specified in these instructions.
- 1.2. All blanks on the proposal form shall be filled in electronically, by typewriter or manually, in ink. For hard copy proposals, mistakes must be crossed out and corrections typed or written in ink and initialed by the party signing the proposal. No erasures are permitted. The omission of any required information or forms may invalidate a proposal.
- 1.3. The offeror shall make no alterations or additional stipulations on the proposal form or qualify the proposal in any other manner. Alteration of any part of the proposal form content will cause the proposal to be considered non-responsive.
- 1.4. Complete sets of proposal documents shall be used in preparing statements. The "CENTER" does not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of request for proposal documents.

### 2.0 SUBMISSION

- 2.1 Deliver proposals to the "Center" sealed envelopes and marked with the following information:
  - **RFP Title**
  - **Contractors Name**
- 2.2 Submissions must be hand delivered. Oral, telephonic, digital or faxed statements of qualifications are invalid and will not be considered.
- 2.3 Proposals are due **March 19 at 4:00 PM.**

### 3.0 MODIFICATIONS TO PROPOSALS

- 3.1 Approval of alternate materials and equipment shall rest solely with the "CENTER" and all offerors shall be notified of such approval by addenda.
- 3.2 Any written addendum issued which includes changes, corrections, additions, interpretations, or information, and issued prior to the submission of proposals, shall be binding upon the offeror.
- 3.3 If submitted prior to the proposal due date, proposals may be modified by written notification on company letterhead signed by an authorized person, stating that the new document supersedes or modifies the prior submitted proposal.

- 3.4 Proposals may be withdrawn by written notification on company letterhead signed by an authorized person and received prior to the proposal due date.

#### **4.0 CONSIDERATION OF PROPOSALS**

- 4.1 The "CENTER" shall have the right to reject any proposal that attempts to change any contract term or condition, or that does not evidence the offeror's intent to abide by the specifications, or that does not otherwise comply with all requirements set forth in the request for proposal documents or in the Oregon Public Contracting Code and City's Public Contracting Rules.
- 4.2 Acceptance into the pool of qualified consultants does not guarantee you work with the "CENTER". If the "CENTER" or "CENTER'S" Client / Sponsor has a need for a Catering Services contractor as described in the RFP, we will review our list of qualified contractors, and may contact you to discuss a project. The selection process may include an oral interview, reference checks, or examination. We may request that you submit additional written information at that time on how you would manage the project and/or on pricing information.

#### **5.0 PUBLIC RECORDS**

- 5.1 This request for proposals and one copy of each original proposal received in response to it, together with copies of all documents pertaining to the award of a contract, shall be kept by the "CENTER" and made a part of a file or record which shall be open to public inspection. If a statement of qualifications contains any information that is considered trade secret under ORS 192.501(2), each sheet of such information must be marked with the following;

"This data constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance." ORS 192.501(2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a statement of qualification may depend upon official or judicial determinations made pursuant to the Public Records Law.

- 5.2 The above restrictions may not include cost or price information which must be open to public inspection.

#### **6.0 QUESTIONS**

- 6.1 Questions regarding this Request for Proposals may be addressed to the Florence Events Center's Director, Kevin Rhodes at 541.997.1994 or by appointment at 715 Quince Street, Florence Oregon 97439.

### III. SCOPE OF WORK

#### 1.0 INTRODUCTION

The Florence Events Center is establishing a pool of qualified contractors for Catering Services including both private and public events held in the lobby, conference rooms, dressing rooms, stage and backstage areas. It is the intent of the "CENTER" to award contracts to multiple caterers to provide this service.

The range of services required may include buffets, simple or elaborate plated-out lunches and/or dinners, desserts, snacks and specialty requests as specified by the presenter. Contractor may provide beverages, including alcohol providing all OLCC requirements are met.

The "CENTER" will accept contractors that meet the minimum qualification of the "CENTER" into the contractor pool. The "CENTER" will review those contractors in the pool when seeking services for each catering event. Catering events at the Center will be provided through a work order with a contractor in the contractor pool.

#### 2.0 QUALIFICATION AND SELECTION PROCESS

Inclusion in the pool does not guarantee that the Center will request services from the contractor.

Qualifications will be reviewed by appropriate "CENTER" Staff for compliance with all requirements of this Request for Proposals (RFP). The "CENTER" may request additional information or documentation prior to making a decision. Written examination, reference checks, and/or oral presentation may be required of the contractors to demonstrate their skills and knowledge in the arena of Catering Services.

All contractors who respond to the RFP will be notified of acceptance or rejection of qualifications. The provisions contained in Section IV, REQUIREMENTS below constitute the minimum requirements for acceptance into the contractor pool.

Section V, the "Sample Services Contract", is the Center's proposed contract and is subject to modification. The prospective contractor may take exception to any of the specifications in the proposed contract. The prospective contractor who cannot meet each and every requirement of the specifications need not consider his/her company unqualified to respond. Contractors taking exceptions should clearly state them in writing on the Exceptions portion of Section IX, or on a separate sheet of paper titled "Exceptions", and should offer alternatives to replace the expected requirements.

Section VI is the Questionnaire for potential offerors. The questionnaire will be used to assist in awarding contracts based upon expertise required for specific projects.

Section VII is the Independent Contractor Certification Statement. Any work performed under a contract with the "CENTER" will be provided by an independent contractor responsible for their own State and Federal taxes and who will not be considered a "CENTER" employee.

Section VIII is the Standard Qualification Form. This must be filled out in its entirety and submitted with all Proposals.

Section IX is a Statement of Acceptability of Contract. This document states that the contractor has reviewed the terms and conditions in the proposed Personal Services contract and found them acceptable, or has provided documentation of exceptions to the contract. Exceptions should be noted in the "Exceptions" portion of this attachment, or on a separate sheet of paper labeled "Exceptions" and included with Section IX.

### **3.0 SCOPE OF WORK**

The initial contract period will begin as soon as the contract is negotiated and last for 2 years with the option to renew for three additional one-year periods upon mutual agreement of the "CENTER" and the Contractor. A sample contract is included.

The caterer will report directly to the Florence Events Center Director or designated staff.

The selected caterer will work with a variety of presenters. The caterer is expected to work with each presenter in a professional manner to provide menu options and accept food orders. Catering estimates shall be submitted in writing to the presenter prior to delivery. Changes to an order with either advanced notice or short notice are to be expected and handled appropriately.

**The Center will charge ten percent (10%) of gross sales to the "Contractor" (10% of the final amount "Contractor" is charged by their client, excluding gratuities). Additional kitchen fees, propane fees and equipment rental fees may apply.**

**The Caterer must present a final itemized catering invoice to the "Center's" Director along with payment within 20 calendar days after the event.**

The attached Sample Contract lists all further required terms and conditions.

The "Center" reserves the right to perform reference checks prior to issuing a contract to any contractor.

## IV. REQUIREMENTS

### 1.1 MINIMUM REQUIREMENTS

Following are the Minimum Requirements for contractors. Offerors must address each item in their Proposal to be considered.

1. A Minimum of 2 years catering experience is required for all catering companies
2. All catering contractor's employees working on site must have current Food Handler Cards.
3. Caterers must provide any additional equipment / supplies to site necessary to fulfill needs of client.
4. Caterers must have the ability to remove all catering equipment / supplies immediately following event.
5. Caterer and employees must have appropriate license to sell and serve alcohol when applicable.

### 2.1 CONTENT OF PROPOSALS

Proposals must contain all information and documentation listed below. You may include any other information you feel is relevant. All information submitted will be used to help determine expertise and suitability for work as specified in this RFP.

1. The attached Standard Qualification Form, completed.
2. A statement summarizing the caterer's qualifications and a detailed description outlining the caterer's approach to providing services as described in the Scope of Work.
3. Overview of equipment demonstrating ability to provide all required catering equipment / supplies and the ability to remove all equipment / supplies immediately following the event.
4. Experience of key personnel expected to do the work. Provide documentation of Food Handler Cards. Identify contract manager.
5. A sample menu.
6. Supplemental information such as material and data not specifically requested for consideration, but which the bidder wishes to submit.
7. The attached Questionnaire, completed.
8. Three references.
9. Documentation of independent contractor status (see Section VII for form);
10. A statement as to the acceptability of the proposed contract (see Section IX for form).



**VI. SERVICES CONTRACT**

**Catering Services**  
Fixed Term

**BETWEEN:** The FLORENCE EVENTS CENTER, an Oregon Municipal Corporation **(Center)**

**AND:** \_\_\_\_\_, **(Contractor)**

an \_\_\_\_\_, organized and existing under the laws of the State of Oregon

**CONTRACT NO.:** \_\_\_\_\_ - \_\_\_\_\_

**Tax ID Number:** \_\_\_\_\_

**Expiration Date:** \_\_\_\_\_ (1year)

**RECITALS**

- A. Contractor is engaged in the business of Catering Services.
- B. Center desires to engage Contractor to provide the Services described in this agreement and Contractor is willing to provide such Services on the terms and conditions set forth herein.
- C. Execution of this Contract is required for inclusion into the Center's pool of qualified caterers. This Contract does not guarantee any minimum, or any, work at the Center for catering events.
- D. The contract described herein was awarded pursuant to the Center's advertised due date.

**AGREEMENT**

**1. Incorporation of Exhibits; Definitions; Contractor's Representations and Warranties.**

1.1 **Exhibits.** The contract between the parties (the "Contract") includes and incorporates into this document (this "Agreement") all of the following:

1.1.1 **Exhibit A** summarizes certain laws that apply to government contracts. The provisions of **Exhibit A** are statements of law and may not be modified.

1.1.2 **Exhibit B** is a scope of services and includes the mechanisms for compensating the Center for the concession catering events provided to Contractor.

1.1.3 **Exhibit C** is a form work order to be executed for each catering event at the Center. The provisions of this Agreement will have priority over all conflicting provisions in this exhibit.

1.2 **Definitions.** With the exception of proper nouns, capitalized terms not otherwise

defined herein shall have the following meanings.

1.2.1 “**Agreement**” means this document, entitled Personal Services Contract and ending with the signatures of all parties.

1.2.2 “**Contract**” means the written statement of the parties’ mutual and respective agreements, promises, undertaking and rights as set forth in this Agreement and all incorporated exhibits.

1.2.3 “**Services**” means all of the products, properties and services to be provided by Contractor under this Contract, as described in Exhibit C.

1.3 **Contractor’s Representations and Warranties.** Contractor makes the following representations and warranties to Center:

1.3.1 Contractor and Contractor’s personnel are and will at all times hereunder be fully qualified by all necessary education, training, experience, licensure and certification to perform the Services.

1.3.2 As of the date of execution hereof, there are no claims or suits or proceedings, or threats thereof, seeking to enjoin the execution of the Contract by Contractor or the effect of which could prevent Contractor from performing or having the authority to perform the Services.

1.3.3 Neither the execution of the Contract nor the performance of the Services will constitute a breach or violation of any other contract, agreement, or law by which Contractor is bound or to which Contractor or any of its personnel who will perform the Services are subject.

## 2. **Services.**

2.1 **Commencement.** Contractor shall begin to provide the Services on an as-needed basis as agreed between the parties through subsequent task orders for individual catering events at the Center.

2.2 **Key Personnel.** Contractor has agreed that certain key personnel shall be assigned to perform certain parts of the Services, as described in “Work Order”.

2.3 **Security.** For all Services performed on Center’s property, Contractor will comply with all of Center’s security policies and procedures.

## 3. **Term.**

3.1 **Initial Term.** The initial term of the contract shall expire, unless terminated or renewed, on the expiration date shown in the caption of this agreement.

3.2 **Renewal.** The Contract may be extended for additional one-year periods upon mutual agreement of the parties, provided that either party may condition its consent to renewal upon the modification of any provision hereof. Renewals and any modification of the Contract shall be set forth in a written amendment signed by the parties.

4. **Compensation.** Subject to Center's right of offset for breach, Contractor will pay Center for the Services by submitting periodic invoices that conform to the requirements of **Exhibit D**.

5. **Termination.** Notwithstanding any other provisions hereof to the contrary, the Contract may be terminated as follows:

5.1 The parties, by mutual written agreement, may terminate the Contract at any time.

5.2 Either party may terminate the Contract if the other party is in breach of any provision hereof which breach continues for more than 30 days after a notice describing the breach has been given unless, in the case of a breach which cannot be cured within such 30-day period, the breaching party immediately initiates and diligently prosecutes a plan of curative action that is acceptable to the non-breaching party. Notwithstanding the foregoing, termination for a recurring breach may be made if the breach is uncured within seven days after the second notice in any twelve-month period and immediately, without opportunity for cure, in the third or any subsequent notice of breach in any twelve-month period.

5.3 Center may terminate the Contract immediately and without prior notice upon Contractor's failure to have in force any insurance required by the Contract, if Contractor breaches the Center's security requirements, if Contractor fails to maintain any certificate or license required for performance of the Services, or as provided in Exhibit A.

5.4 Contractor may terminate the Contract without liability to Center by providing at least ninety (90) days' prior written notice.

## 6. Remedies.

6.1 In the event of a termination of the Contract by Center because of a breach by Contractor, Center may complete the Services either by itself or by contract with other persons, or any combination thereof. Contractor shall be liable to Center for any costs or losses incurred by Center arising out of or related to the breach, including costs incurred in selecting other contractors, time-delay losses, attorney fees and the like, less the remaining unpaid balance of the consideration provided in the Contract.

6.2 The foregoing remedies provided to Center for breach of the Contract by Contractor shall not be exclusive. Center shall be entitled to exercise any one or more other legal or equitable remedies available because of Contractor's breach with or without termination.

6.3 In the event of breach of the Contract by Center, Contractor's remedy shall be limited to termination of the Contract and payment for Services performed to the date of termination less any offset to which Center is entitled.

7. **Records/Inspection.** Contractor shall maintain records of its charges to Center under the Contract for a period of not less than three years following Contractor's completion of the Contract. Upon reasonable advance notice, Center or its authorized representatives may from time to time inspect, audit and make copies of any Contractor's records that relate to the Contract. If any audit by Center discloses that payments to the Contractor were in excess of the amount to which Contractor was entitled under the Contract, Contractor shall

promptly pay to Center the amount of such excess. If the excess charged by Contractor for any audited period is greater than two percent of the amount that should have been charged for that period, Contractor shall also reimburse Center its reasonable costs incurred in performing the audit.

8. **Indemnification.** Contractor shall indemnify and hold Center, and its officers, agents and employees, harmless from and against all claims, actions, liabilities, costs, including attorney fees and other costs of defense, arising out of or in any way related to the Services, Contractor's failure to strictly comply with any provision of the Contract or any other actions or failure to act by Contractor and Contractor's employees, agents, officers and contractors. In the event any such action or claim is brought against Center, Contractor shall, if Center so elects and upon tender by Center, defend the same at Contractor's sole cost and expense, promptly satisfy any judgment adverse to Center or to Center and Contractor, jointly, and reimburse Center for any loss, cost, damage or expense, including attorney fees, suffered or incurred by Center. Center shall notify Contractor, within a reasonable time, of any claim, threat of claim or legal action subject to the provisions of this Section 8.
9. **Insurance.** Contractor shall maintain in force for the duration of this contract the insurance coverages specified below. Each policy required by these provisions shall be written as a primary policy, not contributing with or in excess of any coverage which Center may carry. A copy of each policy or a certificate satisfactory to Center shall be delivered to Center prior to commencement of the Work. Unless otherwise specified, each policy shall be written on an "occurrence" form with an admitted insurance carrier licensed to do business in the state of Oregon and shall contain an endorsement entitling Center to not less than 30 days prior written notice of any material change, nonrenewal or cancellation. In the event the statutory limit of liability of a public body for claims arising out of a single accident or occurrence is increased above the combined single limit coverage requirements specified below, Center shall have the right to require Contractor to increase the Contractor's coverages to the statutory limit for such claims and to increase the aggregate coverage to twice the amount of the statutory limit. The adequacy of all insurance required by these provisions shall be subject to approval by Center's Risk Manager. Failure to maintain any insurance coverage required by this contract shall be cause for immediate termination to this contract by Center.
  - 9.1 **Commercial General Liability.** Contractor shall maintain a broad form commercial general liability insurance policy with coverage of not less than \$1,000,000 combined single limit per occurrence, and as an annual aggregate, for bodily injury, personal injury or property damage. The policy shall have a contractual liability endorsement to cover Contractor's indemnification obligations under the Contract. The policy shall also contain an endorsement naming Center as an additional insured, in a form satisfactory to Center, and expressly providing that the interest of Center shall not be affected by Contractor's breach of policy provisions.
  - 9.2 **Workers' Compensation Insurance.** Unless Contractor is exempt, Contractor shall comply with the Oregon Workers' Compensation law by qualifying as a carrier-insured employer or as a self-insured employer and shall strictly comply with all other applicable provisions of such law. Contractor shall provide Center with such assurances as Center may require from time to time that Contractor is in compliance with these Workers' Compensation coverage requirements and the Workers' Compensation law.
  - 9.3 **Automobile Liability.** Contractor shall maintain an automobile liability insurance policy with coverage of not less than \$1,000,000 combined single limit per

occurrence, with an aggregate of \$1,000,000, for bodily injury, personal injury or property damage. The coverage shall include both hired and non-owned auto liability. The policy shall also contain an endorsement naming Center as an additional insured, in a form satisfactory to Center, and expressly providing that the interest of Center shall not be affected by Contractor's breach of policy provisions.

10. **Subcontracting.** Contractor was selected for its special knowledge, skills and expertise, and shall not subcontract the Services, in whole or in part, without Center's prior written approval, which may be withheld for any reason. Contractor shall require any approved subcontractor to agree, as to the portion subcontracted, to comply with all obligations of Contractor specified in the Contract. Notwithstanding Center's approval of a subcontractor, Contractor shall remain obligated for full performance of the Contract and Center shall incur no obligation to any subcontractor. Contractor shall indemnify, defend and hold Center harmless from all claims of subcontractors.
11. **Assignment.** Contractor shall not assign the Contract, in whole or in part, or any right or obligation hereunder, without Center's prior written approval, which approval shall not be subject to a reasonableness standard. If Contractor is a corporation or partnership, a change in ownership of Contractor resulting from a voluntary transfer of stock or partnership interests, or a transfer upon death or disability of any owner, shall not constitute an assignment unless the transferor is one of the key personnel specified in Section 2.2 of this Agreement.
12. **Independent Contractor.** Whether Contractor is a corporation, partnership, other legal entity or an individual, Contractor is an independent contractor. If Contractor is an individual, Contractor's duties will be performed with the understanding that Contractor is a self-employed person, has special expertise as to the services which Contractor is to perform and is customarily engaged in the independent performance of the same or similar services for others. The manner in which the services are performed shall be controlled by Contractor; however, the nature of the services and the results to be achieved shall be specified by Center. Contractor is not to be deemed an employee or agent of Center and has no authority to make any binding commitments or obligations on behalf of Center except to the extent expressly provided herein.
13. **Confidential Information.** To be considered "Confidential Information" under the Contract, information must be clearly marked as "confidential information," in a manner that will be obvious immediately upon access. Each party will limit its use of Confidential Information to the purpose for which it was disclosed by the other party and will use a reasonable level of care to prevent the intentional or inadvertent misuse, theft or inappropriate disclosure of such information. Contractor understands that all records held by the Center are public records and subject to public disclosure unless a statutory exemption applies, and agrees that Center shall have no liability for the disclosure of any Confidential Information under a court order in response to a public records request. Contractor also understands and agrees that the Contract documents and all records of Contractor's fees and charges may not be considered Confidential Information, and are public records for which no exemption to public disclosure applies.
14. **Compliance with Laws.** Contractor shall comply with all applicable Federal, State and local laws, rules, ordinances and regulations at all times and in the performance of the Services, including all applicable provisions of Exhibit A.

15. **Notices.** Any notice permitted or required by the Contract shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, and with return receipt requested, to the persons and addresses shown below. In addition, if directions for telephonic transmission ("FAX") are set forth below, notices may be delivered by FAX. Notices sent by certified mail will be deemed delivered three business days after placement in the mail and notices sent by FAX will be deemed delivered when successful transmission is electronically confirmed. Except as expressly provided in the Contract, required notices must be signed by the person designated to receive notices, or that person's designee or attorney.

Contractors Signature \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Center's Representative Signature \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Each party shall notify the other of any change in the name, address or FAX instructions to be used for delivery of notices.

16. **Dispute Resolution.**

16.1 **Continued Performance.** Unless the Contract is terminated, neither party shall suspend performance of its obligation hereunder pending the resolution of a dispute.

16.2 **Negotiation/Mediation.** The parties shall attempt to resolve all disputes by negotiation and voluntary mediation. The parties shall share equally in all common costs of mediation.

16.3 **Litigation/Arbitration.** Litigation of a claim that cannot be resolved by negotiation or voluntary mediation shall be initiated by filing a complaint in the Lane County Circuit Court that contains a stipulation to arbitration under ORS 36.410. The claim and all cross and counter-claims filed in response to the complaint shall be submitted to the Court Arbitration Program set forth in ORS 36.400 to 36.425, Chapter 13 of the Oregon Uniform Trial Court Rules and the Lane County Circuit Court supplemental local rules concerning arbitration. Either party may seek, and shall be entitled to, an order directing the other party to submit to arbitration as provided herein and to judgment for its costs, expenses and attorney fees in obtaining and enforcing the order.

In any litigation, the entire text of any order or permit issued by a governmental or regulatory authority, as well as any documents referenced or incorporated therein by reference, shall be admissible for the purpose of contract interpretation.

16.4 **Construction of Contract.** This Contract shall not be construed against either party regardless of which party drafted it. Other than as modified by agreement, the applicable rules of contract construction and evidence shall apply. This Contract

shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflict of laws.

16.5 **Forum.** Any litigation between the Center and the Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Lane County Circuit Court; provided, however, if a dispute must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon, Eugene Division. In no event shall this Subsection be construed as a waiver by the "CENTER" of any form of defense or immunity, whether sovereign immunity, governmental immunity or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THE CONTRACT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN THIS SECTION.

16.6 **Attorneys' Fees.** If any suit, action, arbitration or other proceeding is instituted upon this Contract or to enforce creditor's rights or otherwise pursue, defend or litigate issues related to or peculiar to federal bankruptcy law (including, but not limited to, efforts to obtain relief from an automatic stay), or any other controversy arises from this Contract the prevailing party shall be entitled to recover from the other party and the other party agrees to pay the prevailing party, in addition to costs and disbursements allowed by law, such sum as the court, arbitrator or other adjudicator may adjudge reasonable as an attorneys' fee in such suit, action, arbitration or other proceeding, and in any appeal. Such sum shall include an amount estimated by the court, arbitrator or adjudicator, as the reasonable costs and fees to be incurred in collecting any monetary judgment or award or otherwise enforcing each award, order, judgment or decree entered in such suit, action or other proceeding.

The award of costs and expenses after trial de novo following arbitration under ORS 36.400 et seq. shall be made as provided for in ORS 36.425. The award of costs and expenses after appeal from a judgment entered after trial de novo shall be to the prevailing party designated as such by the appeals court.

17. **Integration.** The Contract embodies the entire agreement of the parties concerning the Services. There are no promises, terms, conditions or obligations other than those contained herein. The Contract shall supersede all prior communications, representations or agreements, either oral or written, between the parties. The Contract shall not be amended except in writing, signed by both parties.

18. **Survival.** Any duty, liability or obligation of a party which arises under this Contract, including without limitation, obligations with respect to indemnification, shall survive the termination or expiration of this Contract and shall be legally enforceable until satisfied by performance or payment, or until enforcement is legally precluded by lapse of time.

19. **No Third-Party Beneficiaries.** There are no third-party beneficiaries of this Contract. The parties agree and intend that this Contract shall be enforceable only by the parties and their duly authorized representatives.

In witness whereof, the parties have, through their duly authorized representatives, executed this Agreement on the dates set forth below.

FLORENCE EVENTS CENTER

By: \_\_\_\_\_ Date: \_\_\_\_\_

Certification of Signatory: If Contractor is other than one or more individuals who have signed below, the individual(s) signing on behalf of Contractor certifies and swears under penalty of perjury and warrants to Center that: (a) the full legal name and status of Contractor are as set forth in the caption to this Agreement, and (b) s/he is authorized to execute and deliver this Agreement to Center of behalf of, and as the act of Contractor.

CONTRACTOR

By: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT A**

**FLORENCE EVENTS CENTER - STANDARD CONTRACT PROVISIONS**

Following are contract provisions required by Oregon law for public contracts. To the extent applicable, each of the following provisions shall apply to the Contract.

1. Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor. ORS 279B.220(1).
2. Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract. ORS 279B.220(2).
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3).
4. Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.617. ORS 279B.220(4).
5. Contractor shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. ORS 279B.230(1).
6. All subject employers working under the contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2).
7. Contractor shall pay employees for hours worked as required by ORS 279B.235(1) or ORS 279B.235(3), as applicable. ORS 279B.235.
8. The Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2).
9. All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid. ORS 701.430.
10. Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.
11. Contractor certifies that it has not discriminated against minorities, women or emerging small business enterprises or a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontractors. ORS 279A.110.
12. As used in this section, "nonresident contractor" means a contractor that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident contractor and the contract price exceeds \$10,000, the contractor shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120.

## **Exhibit B**

### **Scope of Services and Compensation Florence Events Center Food Concession**

#### Catering Event "Work Order"

1. The provision of services at a catering event under this Agreement shall be made pursuant to an individually executed "work order". A separate work order shall be created for each catering event at the Center.
2. A work order substantially similar to the form attached as Exhibit C shall be used for each catering event. A representative authorized to execute contracts shall sign each work order. Contractor shall ensure that the person signing each work order is authorized to bind contractor to the terms of the catering event work order.
3. Work performed under a work order will be subject to any specific provisions in the work order, as well as all provision in the Agreement.

#### General Requirements

4. Contractor shall at all times maintain all licenses, certifications, and registrations to carry on a food services business within the City of Florence, as required by all applicable state, county, and city laws.
5. Catering and food concession services at the Center are essential for proper accommodation of visitors to, and events at the Center.
6. Contractors shall operate the food services in a proper and first-class manner with high quality and in a clean, pleasant, and safe atmosphere.
7. Food service operations at the Center are not exclusive to Contractor. City expects Contractor and other food services contractors to cooperate and accommodate the use of Center facilities by other food service contractors.
8. Contractor shall not use the Center for purposes other than provided herein and shall not conduct any other business without Center's prior written consent.

#### Services provided by Center

9. Center will supply normal and reasonable trash removal at no additional cost to Contractor. Contractor may be charged additional fees for excessive amounts of trash removal.
10. Center will provide a one-time set-up and tear-down of FEC tables and chairs as needed per event. Contractor will provide an event layout at least one week in advance to Center.

### Use of Kitchen Facilities and Equipment

11. For each food service event, Contractor has the option to rent the Kitchen Facilities for an additional cost in order to prepare and provide food services at the Center. The “Kitchen Facilities” consists of the kitchen and dishwashing area. The Kitchen Facilities does not include the Concessions area.
12. All cleaning equipment, dishwashing materials and supplies under normal kitchen usage are included with the kitchen rental.
13. Upon completion of each “work order” under the Agreement, Contractor shall clean the Kitchen Facilities and leave all kitchen equipment clean and in good operating condition.

14. Contractor shall immediately report to the Center Director any required repair or replacement of Kitchen Facilities or kitchen equipment.
15. Other than under normal use, Contractor shall be solely responsible for all costs of repair and replacement for equipment damaged by its officers, employees or agents.

#### Alterations, Fixtures and Signs

16. Contractor shall make no alterations, improvements or additions to the Kitchen Facilities or change the decor of any part of the Center without Center's prior written approval. Contractor shall not install any fixture, sign, devices or appurtenance on any exterior or semi-enclosed surface of the Center building without the written permission of Center.

#### Equipment Provided by Center for Kitchen Facilities Rental

17. Included in the kitchen rental, Center shall provide basic kitchen equipment and utensils needed for providing standard food services including: stoves, ovens, coolers, freezers, mixers, pots, pans, knives serving utensils and other miscellaneous cooking equipment.
18. Scheduling. Center shall cooperate with Contractor to schedule all Center and Center-sponsored events in a timely manner to enable Contractor to provide catering and concession services.

#### Supplies and Equipment Provided by Contractor

19. Contractor is responsible to provide all table settings including plates, glasses, cups, flatware, linens and paper supplies.

#### Contractor Services

20. Catering. Catering functions are those where Contractors fees are billed to a single client, rather than to consumers. Catering functions vary in size and include, but are not limited to, food and beverage service to banquets, meetings, and backstage service. Catering services shall include planning of menus, purchasing, preparation, set-up and service of all food, beverages, linens, plates, flatware, provision and management of all food servers and bartenders, and food event clean-up and trash removal. Contractor shall provide catering for the following events:
  - a) Any events sponsored by the Center, including events held outside of Center facilities;
  - b) All other events held at the Center for which the event sponsor requests Contractor's catering services. Event sponsors are solely responsible for payment to Contractor. In no event will Center be responsible for any amount due to Contractor from any non-Center event sponsor.
21. Concession Services. Concession services are those in which the consumers are charge separately for items of food and beverages. Contractor will provide standard concession services for Center events for which food or beverage concessions are required, including, but not limited to the following:
  - a) Public Events. Concessions may include popcorn, hotdogs, candy, soda, other similar snacks foods, beer and wine. For public performance events, Contractor shall maintain an open concession stand from the time the Centers doors open for the scheduled event until

Centers approved *concession stand* closing time. For other events such as art shows and flat floor shows, Contractor shall coordinate concession sales hours with the Center Director. Contractor shall operate multiple sales locations within facility when appropriate to maximize concessions sales. Contractor shall maintain concession preparation and service areas in a clean and attractive state.

- b) Centerplate Meals. Centerplate meals are offered prior to theater productions. Meals will be served in the manner and location stipulated by Center. Contractor will create a different Centerplate menu for each new theatrical production. Contractor will furnish its Centerplate menus, including prices, to the Center Director in time for inclusion in the Centers monthly event publications, or as otherwise requested by the Center Director, but not less than one week prior to each performance for inclusion in the theatrical program.

### Performance Standards

- 22. Licensing. Contractor shall secure and maintain proper Oregon Liquor Control Commission (OLCC) licensing to permit service of beer, wine, and hard liquor. Contractor shall pay all license fees for alcohol sales and service and all other licensing fees for operation of food service within the Center.
- 23. Health Department Requirements. Contractor shall maintain proper sanitary cleaning procedures in the kitchen and comply with all State, County, and City sanitation regulations.
- 24. Food Quality and Value Standards. Contractor will strive to achieve and maintain a high level of excellence in its menu and in the quality and freshness of its supplies and food preparation. Contractor will keep informed of current trends in consumer food preferences and products and will have a formal program for quality control and improvement. Food quality and price shall be at least consistent with the quality and price offered by concessionaires providing similar services within Lane County, Oregon.

### Miscellaneous Requirements

- 25. Recyclable Products. Contractor shall use recyclable products to the maximum extent economically feasible in the performance of the contract work.
- 26. Deliveries; Trash. Contractor shall coordinate deliveries so as not to disrupt activities and operations of the Center. Contractor shall be responsible for placing trash in sealed plastic bags in a dumpster.
- 27. Manager. Contractor shall appoint a Manager of its operations at the Center, who shall have full authority to act for and on behalf of Contractor. The Manager or a designee shall be available by phone during normal business hours.
- 28. Personnel. Contractor shall provide all personnel necessary to perform all catering and concession services to be performed by Contractor. Contractor shall employ adequate numbers of qualified personnel to fulfill client needs in a professional, courteous manner.
- 29. Contractor's personnel will be well trained and well-groomed employees at all times, and Contractor shall not permit its agents or employees to conduct themselves in a loud, noisy, boisterous, offensive, or objectionable manner.
- 30. Contractor shall not solicit business while conducting food service at the Center, except for the use of menus and signs constructed and maintained in accordance with the provisions of this Agreement.

31. Contractor shall not permit its employees or agents to operate any equipment in an unsafe or unsanitary manner at the Center.
32. Contractor shall not allocate to the services provided under this Agreement any agent or employee whose conduct Center deems detrimental to the best interests of the public or the operation of the Center. It is specifically understood and acknowledged by Contractor that the conduct of Contractor's agents and employees is of the utmost concern to Center in light of the public interests served by the Center, particularly with regard to safety. Any dismissal of an employee or agent of Contractor pursuant to the exercise of Center's authority herein shall be consistent with applicable law and Contractor's obligations under any applicable collective bargaining agreement.
33. Compliance with Laws, Regulations, and Rules. In addition to all other provisions of this Agreement governing Contractors actions and compliance with laws, during the term of this Agreement, Contractor shall at all times strictly observe and comply with the following:
  - a) Center Rules. All applicable rules, regulations, orders and restrictions now enforced or hereafter adopted by City with respect to the operation of the Center.
  - b) Other City Directives and Rules. All orders, directions, rules, regulations or restrictions given or imposed by City with respect to use of roadways, driveways, curbs, sidewalks, parking areas and public areas at the Center.
  - c) Laws and Ordinances. All applicable laws, ordinances, statutes, rules, regulations or orders of federal, state and local governmental authorities and agencies.
34. Alterations and Improvements by Center. Center shall have the right to regulate, police, and further develop, improve, reconstruct, modify, or otherwise alter the Center or any portion thereof, including the Kitchen Facilities, in such manner as Center sees fit without any liability to Contractor.

### Compensation

35. Fees for each catering event will include a percentage paid to the Center. Separate fees may apply for a "Kitchen Facilities" rental or equipment rental, when applicable.
  - a) Percentage Fee. As consideration for the Contractor's use of the Center, in addition to rental and other fees specified elsewhere in this Agreement, Contractor agrees to pay to Center the following concession fees:
    - i. Catering Revenues. Contractor agrees to pay Center **10%** of its gross revenues from catering for events held at the Center.
    - ii. Concession Revenues. Contractor agrees to pay Center 10% of its gross revenues from all concession activities.
  - b) Kitchen Facilities Rental Fee. In addition to the percentage fees, Contractor shall have the option to rent the Kitchen Facilities. The fee shall be charged for each catering event and shall be based upon an hourly charge. The rental fee shall be paid at the same time as the percentage fees. The Kitchen Facilities fee shall be \$25 per hour with a two hour minimum. The price can be discounted at the discretion of the Center for extended lengths of time beyond eight (8) hours. The "Concessions Area" is considered separate and is not part of the "Kitchen Facilities".

36. Time and Manner of Payments. Within 20 days of completing each catering event, Contractor shall furnish to Center a detailed written statement, signed and certified by an officer or authorized agent of Contractor, setting forth the amount of Contractor Gross Revenues for each catering event. Contractor shall remit with such statement any concession fees due.
37. Late Payment/Statement Administrative Charge. The parties recognize that Center will incur additional administrative costs if Contractor is late in making its payments or providing the catering event statements, and that the amount of those costs is difficult to determine with certainty. Center may assess and Contractor agrees to pay, a late charge of \$10 per day for each day on which a payment due is late.
38. Limitation on Billing Format. Contractor acknowledges that the payments by Contractor to Center under this Agreement are for Contractor's use of the facilities at the Center and that none of those payments reflects a fee that is imposed by Center upon customers attending Center events. Contractor understands that Center does not support the practice of transferring Contractor's obligation for payment of the Concession Fee due herein to its customers. Contractor is prohibited from using the following words in any form: City, Center, Government, Florence, Concession, Access, Passage, Cost of Doing Business, Fee, Toll Assessment, or Tax in identifying any surcharge the Contractor may impose on Center customers. Any charges made by Contractor to its customers in an attempt to recover its costs in operating under this Agreement must appear "above the line" and before any total fee to which legal and legitimate taxes are applied. Contractor is prohibited from stating or implying, in writing or verbally, that the City or Center imposes or approves of any such direct charge to a customer. If Contractor elects to separately state a charge, surcharge or fee to recover the Concession Fee pursuant to this subsection, Contractor may not exclude that charge from Gross Revenue.
39. Calculation of Gross Revenues. Gross catering revenues are defined as all income from made by Contractor in connection with any catering event at the Center for which Contractor does not bill Center directly. When gratuities are paid both to employees and owners who are acting as additional service staff, owner's portion of the gratuity shall be considered part of gross revenues. Gross revenue shall be determined in accordance with Contractor's usual accounting procedures, so long as such procedures accurately reflect the value of all income, whether in cash, trade or otherwise accepted by Contractor as compensation for its goods and services.
40. Exclusions from Gross Revenue. The following transactions and charges are specifically excluded from Gross Revenues.
- c) Gratuities paid to employees or received by Contractor when owners are acting as sole service staff.
  - d) Sales or similar taxes or fees imposed by federal, state, county, or municipal law which are separately stated to and paid by the customer and which are payable directly to the taxing authority by Contractor, provided that this exclusion does not include income taxes, franchise taxes, taxes levied on Contractor's activities, facilities, equipment, or real or personal property, or payroll taxes.
  - e) Sums received from customers or insurance carriers for the damage, loss or conversion of Contractor's personal property, provided that this exclusion shall not include sums received to compensate Contractor for lost sales or profit.
  - f) Any other transactions or charges specifically approved in writing for exclusion by the Center in response to a written request from Contractor.

**Exhibit C**

**Florence Events Center  
Catering Work Order**

**Catering Company** \_\_\_\_\_

**Date(s) of event:** \_\_\_\_\_

**Time(s) of event:** \_\_\_\_\_

**Name of Event:** \_\_\_\_\_

Pursuant to the Catering Services Agreement between Caterer and the "Center", Caterer shall provide catering services for the Catering Event described above.

Caterer shall pay Center 10% of its gross revenues (excluding gratuities) and a Kitchen Facilities rental fee as provided under the Agreement, when applicable. The Kitchen Rental fee shall be for \_\_\_\_\_ hours.

After the catering event, Caterer shall be responsible for cleaning all tables, kitchen equipment and Kitchen Facilities.

Catering Company Name \_\_\_\_\_

Business Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email Address \_\_\_\_\_

Phone # \_\_\_\_\_ Cell # \_\_\_\_\_

Authorized Person (Print Name) \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date: \_\_\_\_\_

Catering Key Personnel

1. Name \_\_\_\_\_

2. Name \_\_\_\_\_

FEC Client Requesting Catering Services \_\_\_\_\_

Authorized Person \_\_\_\_\_

Authorized Person Signature \_\_\_\_\_ Date \_\_\_\_\_

Florence Events Center Director (Signature) \_\_\_\_\_

Kevin Rhodes \_\_\_\_\_ Date: \_\_\_\_\_

**VII. INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT**

To qualify as an independent contractor you must certify that you meet the following standards as required by ORS chapters 316, 656, 657 and 701:

- (1) You provide labor and services free from direction and control, subject only to the accomplishment of specified results.
- (2) You are responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law.
- (3) You furnish the tools or equipment necessary to do the work.
- (4) You have the authority to hire and fire employees.
- (5) Payment is made to "Center" upon completion of the project within 20 calendar days
- (6) You filed federal and state income tax returns for the business for the previous year if you performed labor or services as an independent contractor in the previous years.
- (7) You represent to the public that you are an independent business, as follows (**YOU MUST INDICATE THAT YOU MEET FOUR (4) OR MORE OF THE FOLLOWING**):
  - A) You work primarily at a location separate from your residence. \_\_\_\_\_
  - B) You have purchased commercial advertising, business cards, or have a professional / trade association membership. \_\_\_\_\_
  - C) You use a telephone listing and service separate from your personal residence listing and service. \_\_\_\_\_
  - D) You perform labor or services only pursuant to written contracts. \_\_\_\_\_
  - E) You perform labor or services for two or more different persons within a period of one year. \_\_\_\_\_
  - F) You assume financial responsibility for defective workmanship and breach of contract, as evidenced by performance bonds or liability insurance coverage. \_\_\_\_\_

**SIGNATURE:**

I hereby certify that to the best of my knowledge the information provided is complete and correct. I hereby certify that the business will operate as an independent contractor as stated above.

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Signature and Printed Name of Owner, Partner, or Corporate Officer                      Company                      Date

**VIII. STANDARD QUALIFICATION FORM**

FLORENCE EVENTS CENTER

I, the undersigned, and authorized representative of \_\_\_\_\_  
(Firm Name)

which is a sole proprietor \_\_\_\_\_, partnership \_\_\_\_\_, or corporation \_\_\_\_\_

whose address is: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
(Number and Street) (City and State) (Zip)

have read and thoroughly understand the specifications, the special provisions, the RFP Instructions, any contract provisions and all other conditions of the Request for Proposals issued by the "CENTER" for Catering Services.

Acting on behalf of my firm, which is listed above, I do attest that the services offered by us meets the Center's specifications in every respect.

Offeror is \_\_\_\_\_ (or) is not \_\_\_\_\_ a resident Oregon Bidder, as defined by ORS 279A.120. "Resident Bidder" means an offeror that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the statement of qualifications, has a business address in this state, and has stated in the statement of qualification whether the offeror is a "resident bidder".

I have fully informed myself regarding the accuracy of the foregoing statements, and the same are made by me based on my personal information.

Statement of qualifications shall be valid for five years upon acceptance into the qualified pool.

The undersigned agrees to be bound by all addenda issued for this solicitation.

The offeror certifies that the offer has been arrived at by the offeror, independently, and has been submitted without collusion with, and without any agreement, understanding or planned course of action with, any other contractor, offeror, or vendor on materials, supplies, equipment or services, described in the solicitation documents, designed to limit independent offers or competition. The contents of the offer herein presented and made have not been communicated by the offeror or their employees or agents to any person not an employee or agent of the offeror or its surety on any bond furnished with the solicitation, and will not be communicated to any such person prior to the official opening of the solicitation.

Offeror agrees that the Center may enter a contractors or subcontractor's plant or place of business during normal business hours for the following purposes: inspect and/or test supplies or services for acceptance by the Center pursuant to the terms of the Contract; and investigate the offeror's minority business certification or other offeror qualifications.

By submitting this offer, the offeror hereby proposes to furnish all material and labor and to perform all work as herein indicated in strict accordance with the drawings, specifications, terms and conditions of this solicitation. The offeror has read all of the solicitation documents and familiarized with the local conditions under which the work is to be performed.

Offeror certifies that they have read and understand the terms and conditions included in the solicitation documents, addenda, and contract provisions, and agree to abide by and fulfill the requirement thereof if awarded the contract as a result of this solicitation.

Offeror in carrying out the contract will comply with all applicable laws. Offeror certifies, under penalty of perjury, that the offeror is, to the best of the offeror's knowledge, not in violation of any tax law described in ORS 305.380(4).

I have read and understood the attached RFQ provisions and agree to abide by and fulfill the requirements thereof if awarded the contract as a result of this Request for Qualification.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Company contact for this project (if different from above):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

**IX. Acceptability of Contract**

I hereby certify that I have reviewed the Sample Services Contract, Section VI. The terms and conditions stated in the proposed contract are acceptable to me. Any specifications of the proposed contract I have taken exception to are listed in the "Exceptions" area below, or are on a separate sheet of paper labeled "Exceptions" attached to this document.

**EXCEPTIONS:**

Signature \_\_\_\_\_ Date \_\_\_\_\_

