

# CITY CLERK ORIGINAL

C-7460  
11/10/2010

## AGREEMENT FOR Staffing for Event Parking Concession City of Glendale Solicitation No. RFQ 11-29

This Agreement for staffing for event parking concession ("Agreement") is entered into between City of Glendale, an Arizona municipal corporation ("City"), and PRO EM, LLC, a Delaware limited liability company authorized to do business in Arizona, (the "Contractor") as of the 10th day of November, 2010.

### RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in Solicitation No. RFQ 11-29, Exhibit A hereto (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

#### 1. Key Personnel; Sub-contractors.

1.1 **Services.** Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.

#### 1.2 Project Team.

(A) Project Manager.

- (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
- (2) The City must approve the designated Project Manager; and
- (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.

(B) Project Team.

- (1) The Project manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
- (2) Project Manager will have responsibility for and will supervise all other employees assigned to the project by Contractor.

(C) Discharge, Reassign, Replacement.

- (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.
- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

(D) Sub-contractors.

- (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
- (2) Contractor will remain fully responsible for Sub-contractor's services.
- (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
- (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

2. **Schedule.** The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Contractor's Work.**

3.1 **Standard.** Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 **Licensing.** Contractor warrants that:

- (A) Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- (B) Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
  - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
  - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 **Compliance.** Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

### 3.4 Coordination; Interaction.

- (A) For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with any other professionals retained by City on the Project ("Coordinating Project Professionals").
- (B) Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- (C) For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

### 3.5 Work Product.

- (A) Ownership. Upon receipt of payment for services furnished, Contractor grants to City, and will cause its Sub-contractors to grant to the City, the exclusive ownership of and all copyrights, if any, to evaluations, reports, drawings, specifications, project manuals, surveys, estimates, reviews, minutes, all "architectural work" as defined in the United States Copyright Act, 17 U.S.C § 101, *et. seq.*, and other intellectual work product as may be applicable ("Work Product").
  - (1) This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form.
  - (2) Contractor warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests.
- (B) Delivery. Contractor will deliver to City copies of the preliminary and completed Work Product promptly as they are prepared.
- (C) City Use.
  - (1) City may reuse the Work Product at its sole discretion.
  - (2) In the event the Work Product is used for another project without further consultations with Contractor, the City agrees to indemnify and hold Contractor harmless from any claim arising out of the Work Product.
  - (3) In such case, City shall also remove any seal and title block from the Work Product.

## 4. Compensation for the Project.

**4.1 Compensation.** Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$15,000.00, as specifically detailed in **Exhibit B** (the "Compensation").

**4.2 Change in Scope of Project.** The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.

- (A) Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
- (B) Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

**5. Billings and Payment.**

**5.1 Applications.**

- (A) Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- (B) The period covered by each Payment Application will be one calendar month ending on the last day of the month or as specified in the solicitation.

**5.2 Payment.**

- (A) After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- (B) Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

**5.3 Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- (A) If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- (B) City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.

**6. Termination.**

**6.1 For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

- (A) Contractor will be equitably compensated for Service and Repair furnished prior to receipt of the termination notice and for reasonable costs incurred.
- (B) Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

**6.2 For Cause.** City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- (A) Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- (B) If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. **Insurance.**

8.1 **Requirements.** Contractor must obtain and maintain the following insurance ("Required Insurance"):

- (A) Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- (B) General Liability.
  - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000.00 per occurrence and \$500,000.00 annual aggregate.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000.00 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.
- (C) Auto. A business auto policy providing a liability limit of at least \$1,000,000.00 per accident for Contractor and \$1,000,000.00 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- (D) Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- (E) Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
  - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- (F) Certificates of Insurance.
  - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.

- (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
  - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.
- (G) Other Contractors or Vendors.
- (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
  - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- (H) Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
- (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
  - (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

**8.2 Sub-contractors.**

- (A) Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- (B) City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- (C) Contractor and Sub-contractors must provide to the City proof of the Required Insurance whenever requested.

**8.3 Indemnification.**

- (A) To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- (B) This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in

that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.

- (C) Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

**9. Immigration Law Compliance.**

- 9.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. §41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. §23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section 9.
- 9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 9.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

**10. Foreign Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutes, in the countries of Sudan or Iran.

**11. Notices.**

- 11.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
  - (A) The Notice is in writing; and
  - (B) Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested); and
  - (C) Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:

- (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
- (2) As of the next business day after receipt, if received after 5:00 p.m.
- (D) The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
- (E) Digitalized signatures and copies of signatures will have the same effect as original signatures.

**11.2 Representatives.**

- (A) Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Bradley J. Kramer  
 President and CEO  
 1450 East Grant Street  
 Phoenix, Arizona 85034

- (B) City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

Dory Ludwig  
 5800 West Glenn Drive, Suite 150  
 Glendale, Arizona 85301

With required copy to:

City Manager  
 City of Glendale  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

City Attorney  
 City of Glendale  
 5850 West Glendale Avenue  
 Glendale, Arizona 85301

- (C) Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
- (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.

- (D) Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

**12. Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

**13. Entire Agreement; Survival; Counterparts; Signatures.**

**13.1 Integration.** This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- (A) Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- (B) Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- (C) The solicitation, any addendums and the response submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. The attached Contractor response modifies the original solicitation as stated. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

**13.2 Interpretation.**

- (A) The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- (B) The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- (C) The Agreement will be interpreted in accordance with the laws of the State of Arizona.

**13.3 Survival.** Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

**13.4 Amendment.** No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

**13.5 Remedies.** All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

**13.6 Severability.** If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

**13.7 Counterparts.** This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

**14. Term.** The term of this Agreement commences upon the effective date and continues for a one year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement an additional four years, renewable on an annual basis. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least 30 calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period. There are no automatic renewals of this Agreement.

**15. Dispute Resolution.** Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C.

**16. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

|           |                    |
|-----------|--------------------|
| Exhibit A | Project            |
| Exhibit B | Compensation       |
| Exhibit C | Dispute Resolution |

The parties enter into this Agreement as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

  
\_\_\_\_\_  
Ed Beasley, City Manager

ATTEST:

  
\_\_\_\_\_  
Pam Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Craig Tindall, City Attorney

PRO EM, LLC,  
a Delaware limited liability company

  
\_\_\_\_\_  
By: Bradley J. Kramer  
Its: President and CEO

**EXHIBIT A**  
**Staffing for Event Parking Concession**  
Solicitation No. RFQ 11-29

PROJECT

*[see attached]*

## Exhibit A - Project SCOPE OF WORK

1. The Contractor shall provide event personnel with a clean shirt, sweatshirt or jacket that can easily identify the staff as parking staff. Pants and shorts shall be appropriate for the event personnel (no baggie pants or shorts). All personnel shall be required to wear closed-toe shoes.
2. **“Productive”** hours are the hours of the City Schedule hours.
3. The Contractor shall furnish all labor, insurance and supervision for the cashiering operation of the designated parking areas for the City’s special events under the direction of the City’s Event Manager.
4. The Contractor shall operate the parking areas in such a manner to provide exceptional customer services, maximum revenues and create operational efficiencies.
5. The Contractor shall advise the City as requested regarding enhancements to revenue control systems and equipment, customer services enhancements and operating procedures that will improve the level of service and efficiency.
6. The responsibilities of the Contractor include, but are not limited to those set forth below and those normally related to the cashiers operation of parking facilities.
7. The City reserves the right to add to or subtract from the number of parking areas to be operated by the Contractor at its sole discretion.
8. The Contractor shall collect fees for parking in the City’s two parking garages during events that take place in Downtown Glendale (see SIGNATURE FESTIVAL CALENDAR).
9. The Contractor shall provide all staff to collect parking fees on days outlined in the Schedule of Operating Hours.
10. All staff and representatives of the Contractor shall be courteous and efficient when dealing with the public and shall maintain a neat and standard appearance.
11. The Contractor shall provide event personnel with a clean shirt, sweatshirt or jacket that can easily identify the staff as security. Pants and shorts shall be appropriate for the event personnel (no baggie pants or shorts). All personnel shall be required to wear closed-toe shoes.
12. The Contractor shall acknowledge that it has no authority to employ persons on behalf of the City and none of the Contractor employees or agents shall be deemed to be employees or agendas of the City.
13. The Contractor shall at all times provide an adequate number of employees to operate parking fee collection at the approved event parking garages.
14. The Contractor shall at its sole cost and expense, recruit, train, supervise and furnish the required number of personnel needed during the stated time.

## Exhibit A - Project SCOPE OF WORK

15. The Contractor's trained personnel shall operate and perform parking fee collection services as required and shall ensure that the parking fee collection services are operated efficiently and in accordance with the terms of the resulting agreement.
16. The Contractor shall have full responsibility for all payments made to the Contractor's employees and the Contractor employees' insurance coverage, including, without limitation, responsibility for all salaries and other compensation, withholding and other payroll taxes, workers' compensation insurance, union dues (if applicable) and other required payments in connection with Contractor employees.
17. The Contractor shall at all times be in compliance with all laws, rules and regulations with respect to such employees and their activities.
18. The Contractor shall not hire any person who is younger than eighteen (18) years of age.
19. The Contractor shall require a completed employment application from each prospective employee.
20. The Contractor shall perform a background check and reference checks for each of their employees prior to being sent to the City.
21. The background check (see 20. above) shall include a state and federal criminal history check, employment verifications, and references for the preceding three employers in an attempt to screen out workers sent to the City with unsatisfactory work habits, undesirable character, prior poor work performance and/or prior disciplinary/termination issues.
22. The Contractor represents and warrants that it shall not, to Contractor's knowledge, employ any person for the required cashier services who has a criminal history without the City's knowledge and approval.
23. The Contractor shall notify the City of any and all criminal history of any employee providing services to the City.
24. The City reserves the right to deny Contractor employees the right to work at the parking garages based upon the result of criminal history background checks.
25. The Contractor shall terminate the employment of any employee assigned by the contractor to provide services for the City of Glendale (1) with a criminal history; (2) any employee that commits a criminal act while employed by the contractor; (3) fails to comply with the Contractor's or the City's rules and regulations; or (4) any employee that has made material misstatements or omissions on their employment application.
26. The Contractor shall indemnify the City from and against any claims by the Contractor's employees arising from or related to such dismissals.

## Exhibit A - Project SCOPE OF WORK

27. The Contractor shall adhere to all applicable labor and employment laws, hazardous materials regulations, safety standards and regulations pertaining to employees in a public facility.

28. All employees provided by the Contractor shall be subject to the approval of the City, and the City at its sole discretion, may require the Contractor to remove and replace any employee deemed unacceptable.

29. The Contractor shall provide requested number of trained, credentialed and uniformed cashiers per the City's request, which shall include report times, shift start times, staggered shift start times, and anticipated shift end times.

30. The Contractor shall provide requested trained, credentialed and uniformed supervisor.

31. The Contractor assigned Supervisor shall report to the City's Special Events Manager regarding the specific event related issues including police staff, positions and duties related to operation of both garages, transportation staff, positions and duties related to operation of both garages, if applicable, and peer security staff, positions and duties related to operation of both garages.

32. The Contractor assigned Supervisor shall be aware of other staff onsite assisting with the access to, filling of and emptying of both garages for each event day.

33. The City's Special Event Manager will ensure that the Contractor's cashiers and supervisors sign for verified cash banks and ticket stock, if applicable.

34. The Contractor assigned Supervisor shall monitor the cashier's cash banks/change funds and notify the City's Special Event Manager or assigned Special Events Program Manager of additional change needed in quantities and increments.

### **35. CASHIER JOB DESCRIPTION**

- Shall report to Cashiering Supervisor
- One Cashier shall be assigned to each open lane
- Responsibilities shall include:
  - Greets, assists and collects parking fee from each guest, or verifies and logs credentials from building tenant.
  - Accurately handles cash transactions and credential verification, logging and/or collections.
  - Deposits event revenue to Cashiering Supervisor.
  - Deposits Cash Bank to Cashiering Supervisor.
  - Balances total cash, logged credentials and adjustments to tickets sold and total vehicles. Completes and signs a Daily Cashiers Report with necessary information including tickets sold, event revenue, building credentials verified/logged, list totals and adjustments.

## Exhibit A - Project SCOPE OF WORK

- Documents lane adjustments by category on the Adjustment Sheet. This sheet, with entry options including building credentials verified/logged or lists, provides an explanation between the difference of the meter reading and tickets sold.

### **36. CASHIERING SUPERVISOR JOB DESCRIPTION**

- Shall report to the City's Special Event Manager or Special Event Program Manager Designee
- One Money Supervisor shall be scheduled for each event day
- Responsibilities shall include:
  - Distribute cash banks, parking tickets, and parking lists to Cashiers.
  - Supervise and monitor the performance of Cashiers.
  - Monitor and report cash and ticket sale status.
  - Monitor traffic flow into garages, answer Guest questions, and report any incidents.
  - Issue permission for parking refund tickets and adjustments.
  - Deposit Cash Banks to Special Event Manager.
  - Balances tickets issued and returned to determine tickets sold.
  - Assists Cashiers with Daily Cashiers Report prior to submitting to the Special Event Manager.
  - Monitors garage space inventory either personally or with transportation/event assistance and reports to Special Event Manager or Special Event Program Manager designee for cashier staffing numbers and gate control when garage(s) is (are) full to capacity.
  - Complete a Money Supervisor Report to record any incidents.

### **37. COLLECTION OF REVENUE**

37.1 The Contractor shall take reasonable action to collect and enforce the collection of all charges due to the City from users of the parking facilities.

37.2 An audited quantity of vehicle tickets shall be issued to the Contractor for each event. At the conclusion of each event, the vehicle tickets used and unused shall be reconciled.

37.3 At the conclusion of each event, the Contractor and the City shall reconcile sales with receipts.

37.4 The City shall have the right to request an audit of the monies collected by the Contractor at any time.

37.5 The Contractor shall be in compliance at all times during the term of the resultant agreement with all the laws, rules and regulations with respect to the collection of parking fees including, but not limited to, all environmental, safety, state, local, and employment laws, rules and regulations.

Exhibit A - Project  
SCOPE OF WORK

**38. CUSTOMER SERVICES**

A high level of professionalism and customer services is a priority of the City. The contractor shall operate the cashiering concession in a professional, business-like, and efficient manner, providing the highest level of assistance, services and courtesy to patrons of the facility.

**39. ACCOUNT, RECORDS AND REPORTS**

39.1 The selected firm shall keep true and complete records and accounts of all receipts and business transactions.

39.2 Reports may include, but shall not be limited to, parking department adjustment list, currency control log, cashier deposit slip, ticket distribution form, security deposit log, daily cashiers report, parking garage revenue report and daily parking revenue summary.

**40. SAFETY AND COOPERATION**

40.1 The Contractor shall work with the City to coordinate safety issues which affect the facilities and effectively control traffic and parking around the facilities.

40.2 The City shall have full authority to direct the contractor to follow all City safety related recommendations, including but not limited to, Police Department and Transportation Department requirements.

**41. ADDITIONAL PROVISIONS**

41.1 The Contractor shall maintain, at its sole cost and expense during the term of the resultant agreement, a valid business license and any other necessary permits or licenses and shall provide proof of same to the City.

41.2 The Contractor agrees that it shall be responsible for obtaining, at its sole cost and expense, all liability insurances, licenses and or permits required in connection with the contracted services.

41.3 The Contractor shall NOT use subcontractors to fulfill its obligations.

**42. DAYS/HOURS OF OPERATION**

42.1 Event parking shall be 1-2 hours before the time the event is to start and continue until a time to be determined by the Contractor and the City on a case by case basis.

## Exhibit A - Project SCOPE OF WORK

### 42.2 Events 2010-2011 Operating Hours Schedule:

|                                       |  |
|---------------------------------------|--|
| Glendale Glitters Spectacular Weekend | November 26 & 27, 2010<br>3 pm – 10 pm both nights                             |
| Glendale's December Weekend Events    | December 3 – 18, 2010<br>Friday and Saturday nights<br>4 pm – 10 pm each night |
| Glendale Glitter & Glow Block Party   | January 8, 2011<br>2 pm - 11 pm  |
| Glendale Chocolate Affaire            | February 4, 2011<br>3 pm – 10 pm   |
|                                       | February 5, 2011<br>9 am – 10 pm   |
|                                       | February 6, 2011<br>11 am – 5 pm   |
| Glendale Jazz & Blues Festival        | April 9, 2011<br>10 am – 10 pm   |
|                                       | April 10, 2011<br>10 am – 6 pm   |

42.3 Cashier hours shall be determined by event and shall include a minimum of two and up to a maximum of four cashiers during the operating hours listed above.

42.4 Supervisor hours shall be, at a minimum, the operating hours listed above.

### 43. INVOICING

43.1 The contractor shall submit a copy of the employee's time sheet with the location of the work site employee is assigned to within 3 business days of the work being performed.

43.2 The contractor shall submit any and all corrections/adjustments to the employee's time sheet within 7 business days of the submitted time sheets.

43.3 The contractor shall submit on invoice for the total hours billed for all employees by location of assignment.

43.4 The contractor shall submit a copy of the employees' time sheet, corrections/adjustments to employee time sheet and invoice of total hours billed to: City of Glendale, Marketing-Special Events, 5850 West Glendale Avenue, Glendale, AZ 85301

43.5 The Contractor shall invoice the City only for **productive** hours at the job site.

## Exhibit A - Project SCOPE OF WORK

43.6 The Contractor shall submit **one** consolidated invoice that includes all charges for the event-staffing services provided for each event.

43.7 Each invoice shall contain the following itemized information:

- Name of the event for which event services were provided
- Date(s) of the event for which event services were provided
- Name(s) of the event personnel classification(s)
- Hourly rate per event personnel classification
- Times and total hours per event personnel classification
- Copy of the sign-in sheet for event services personnel with name, time in and out and assignment
- Line items of any approved supplies that will be charged back to the City at cost. (Proof of Contractor's cost shall be satisfied with a copy of the vendor invoice)

### **44. EVENT PRICING**

44.1 Fees for all services shall be in accordance with the Unit Hourly Rate prices identified on Exhibit B - Compensation.

44.2 The Unit Hourly Rate prices are based upon a regular hourly rate. Overtime and or differential rates shall not be applicable regardless of when services are performed (e.g. day, evening, weekend, overnight, holiday, etc.)

44.3 **Extra charges will not be allowed, without written approval from the City's Special Event Manager.**

**EXHIBIT B**  
**Staffing for Event Parking Concession**  
Solicitation No. RFQ 11-29

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

Cashier - \$16.25 per hour  
Supervisor - \$18.00 per hour

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$15,000.00 annually and be in accordance with available City budget. Contractor is not guaranteed \$15,000.00 annually.

**DETAILED PROJECT COMPENSATION**

Cashier - \$16.25 per hour  
Supervisor - \$18.00 per hour

**EXHIBIT C**  
**Staffing for Event Parking Concession**  
**Solicitation No. RFQ 11-29**

**DISPUTE RESOLUTION**

**1. Disputes.**

- 1.1 **Commitment.** The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 **Application.** The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 **Initiation.** A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 **Informal Resolution.** When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
- (A) The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
- (B) The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
- (C) The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

**2. Arbitration.**

- 2.1 **Rules.** If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
- (A) The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
- (B) The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 **Discovery.** The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 **Hearing.** The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

- 2.4 **Award.** At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- 2.5 **Final Decision.** The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 **Costs.** The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions.**

- 4.1 **Third Party Claims.** City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 **Liens.** City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 **Governmental Actions.** This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.