



BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS

Requested Board Meeting Date: 01/05/2016

or Procurement Director Award

Contractor/Vendor Name (DBA): Pinnacle Concessions LLC.

Project Title/Description:

Concessions Management Agreement Annual Renewal for 2016-2017

Purpose:

The purpose of this agreement is to secure the services of Pinnacle Concessions LLC to perform the sale of alcohol and food/beverage concessions during scheduled events at Kino Sports Complex. When approved by the board, this vendor shall be permitted to perform said services under the Alcoholic Beverage License held by the Pima county Stadium District for a period of one year.

Procurement Method:

Concessions Management Agreement

Program Goals/Predicted Outcomes:

If approved, this vendor will represent one of the two vendors that shall operate under the Stadium Districts Alcoholic Beverage License. The benefit of this partnership reduces operation overhead for the District yet continues to provide a revenue stream of approximately \$50,000 per vendor annually from concessions sales.

Public Benefit:

This partnership, which has been developed between Pima County Stadium District and local companies within Pima County, provides unique opportunities for small business owners.

Metrics Available to Measure Performance:

A price menu is approved by the Stadium District prior to each event. Upon conclusion of the event, the vendor and Stadium District perform a full accounting of concessions sales. Vendor pays District a percentage of total sales upon conclusion of each event.

Retroactive:

To COB: 12-22-15

23pgs(2)

Procure Dept 12/22/15 PM 02:02

Original Information

Document Type: CTN Department Code: KSC Contract Number (i.e., 15-123): CTN 16*094

Effective Date: 01/15/2016 Termination Date: 01/14/2017 Prior Contract Number (Synergen/CMS): CTN 15*085

Expense Amount: \$ _____ Revenue Amount: \$ \$50,000

Funding Source(s): _____

Cost to Pima County General Fund: _____

Contract is fully or partially funded with Federal Funds? Yes No Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? Yes No Not Applicable to Grant Awards

Vendor is using a Social Security Number? Yes No Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Expense Revenue Increase Decrease Amount This Amendment: \$ _____

Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Monica Banuelos

Department: Stadium District Telephone: 222-1085

Department Director Signature/Date: [Signature] 12/21/15

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: C. Ruelberg 12/21/15

(Required for Board Agenda/Addendum Items)

II. SPECIAL PROVISIONS:

FACILITIES:

1. Designated Location of Service(s): Vendor will be granted designated location(s) to perform its concession service(s).

Vendor is responsible for operation of designated concession services during events, as more fully set forth in this Service Agreement and as specified in the Concession Event Authorization Form [Exhibit B] for the specific event, which upon signature by the parties will be incorporated into this Agreement as if set forth in full herein, and will be effective throughout the Service Term and any renewal period, subject to modification by District.

Vendor and its employees are the only parties allowed to be in the designated concession location(s) at all times.

District, at its sole discretion, may provide Vendor with a designated storage location. District reserves the right to access such storage areas for purposes of verifying inventory levels and counts.

2. Proper Use of Facility/Use Limitations: Vendor's use of facilities will be subject to controls set forth by the District. Requests may be made by the District to protect the facilities from damage. Vendors' use of facilities without District approval will be grounds for termination of this Service Agreement and/or Vendor may be billed for additional labor and/or supplies and services incurred by District. District may terminate any designated concessions location(s) to Vendor if use of Premises in any way conflicts with federal, state, or local laws, or if the proposed occupancy or use will tend to bring discredit to District, or physical damage to Premises. Vendor will cooperate with District and all District directives, to conform to the intent and purpose of this Service Agreement and in no event does this provision relieve Vendor of any responsibility or liability for its occupancy or use of the Premises.

In the event that the Pima County Board of Supervisors declares an emergency requiring the use of the Premises, District may terminate this Service Agreement upon immediate written notice to vendor.

3. Access/Vehicles: Any support vehicles that vendor require must be parked in the appropriate area that District designates. Vendor will not drive any vehicle on, or obstruct any portion of, any sidewalk, grass area, or other non-roadway area or ways of access of the public utilities of the Premises without approval of District. Motorized vehicles will NOT be driven on playing fields unless approved by the District in advance.
4. Installations/Modifications: Any changes or alterations to any of the designated concession location(s) will be made only after express written approval of the District and at the sole expense of the Vendor. Any changes to fixtures or the real property of the facility will become the sole property of District and upon termination of the Agreement will revert to District's sole control.
5. Fire Extinguishers: Vendor must have a fire extinguisher at each sales site with a minimum rating of 2A10B: C that has been serviced within the last year by a licensed state fire protection company. Each extinguisher will bear a tag with the servicing information. Vendors using any type of frying appliance, including commercial grade deep fryers, woks, pots, etc., must have a K Class fire extinguisher in addition to a C Class.

6. Damage: If the Complex, or any portion of Complex, during the term of this Agreement is damaged by an act, omission or negligence of Vendor or of Vendor's agents, employees, patrols, guests or any person admitted to the Complex by Vendor, Vendor will pay to District upon demand such sum as will be necessary to restore Complex to the condition that existed prior to the occurrence of such damage. Vendor hereby assumes full responsibility for the character, acts and conduct of all persons admitted to the Complex or to any portion of the Complex with the consent of Vendor or with the consent of any person acting on behalf of Vendor.
7. Electricity: District cannot guarantee electricity to Vendor. Electricity may or may not, be available for Vendor's use at designated concession location(s). District will determine electricity availability on an event basis. Vendor may not temporarily or permanently make changes to electrical availability without prior written consent from District. (See Concession Event Authorization Form [Exhibit B-Utilities] for specific fees.)
8. Embellishments: District will approve or disapprove all signs, banners, and other decorations that are part of Vendor's area including the Menu Board. District's determination with regard to signage is final.
9. Inspections: Vendor, along with District, will inspect the designated concessions location(s) and equipment defined in the {Exhibit C-Concessions Event Checklist} prior to, during and after the event to ensure that the facility and equipment are in satisfactory condition. District will record the inspection on the inspection checklist. District reserves the right to enter and inspect these areas at all times.
10. Securing Premises: Vendor is responsible for opening, closing and securing the locks or security devices at designated concessions location(s). Vendor is responsible for closing both the designated concession location(s) and securing District gate locks as well as turning off all lighting and electrical equipment as appropriate.

EQUIPMENT:

1. Furnishings: Vendor is responsible for all furnishings in its designated concession location(s), such as folding tables, folding chairs, EZ up or rented tents, lights, and extension cords, etc. All tables must be covered with tablecloths or skirting. All furnishings must be in proper working condition and meet all applicable codes.
2. Cleaning: Vendor is responsible for the cleaning of the designated concession location(s) and surrounding areas and the provision of all the necessary supplies and equipment to complete these tasks. This includes, but is not limited to, the cleaning (Example: mopping, sweeping, wiping counters, walk-in coolers), of any equipment Vendor is using or renting from District. Vendor along with District will inspect the designated concessions locations(s) for cleanliness prior to and after the event to ensure the facility is in satisfactory condition.
3. Maintenance: District is responsible for the maintenance of the stationary District equipment. (Example: walk-in coolers, ice machines, sinks, and cabinets). Vendor will notify District immediately if District's equipment is in need of repair or maintenance
4. Rental: Vendor may rent District's equipment (portable bars, troughs, texas icers, jockey boxes, etc.) and will be billed in accordance with the equipment rental rates as defined in the Concession Event Authorization Form [Exhibit B-Rental Equipment].

5. Removal: District may at any time, and upon at least five (5) days advance written notice, require Vendor to remove all products and equipment from the designated concessions location(s). Failure by Vendor to vacate the premises by 6:00 a.m. on the date which the District requires the Vendor to have vacated will result in the District staff removing all items from said location(s) and billing Vendor for District's actual cost of removal including labor costs.

BUSINESS OPERATIONS:

1. Required Paperwork Submittals: Vendor will submit the required documents no less than fifteen (15) days prior to the event, otherwise the assigned concession space will be forfeited.
 1. A signed original Concession Event Authorization Form.
 2. A copy of current Business License
 3. A copy of current Health Department Temporary Permit or Mobile Food License to operate (if applicable)
 4. A current copy of Certificate of Insurance
 5. A copy of the Approved Menu Items and Pricing
 6. A copy of the Vendor/Subcontractor Company Information Sign
 7. A copy of Staffing Schedule

Alcohol Vendors:

1. A copy of current Employee Log
 2. A copy of current Certificates of Title 4 Training
 3. A copy of Certificate of Insurance
 4. A copy of Staffing Schedule
2. Menu Selection and Policy: Vendor will display in a prominent place, an easy to read, itemized menu with prices of items approved by the District for sale. District reserves the right to specify the menu items, pricing, and sponsored products to be sold by Vendor during the event. District will request and Vendor will submit a proposed product menu with prices for approval by District. Once District has approved the menu, Vendor will sell only those approved items at the prices specified. Any deviation from the Approved Menu by Vendor is grounds for termination of the Agreement by District. (See Concession Event Authorization Form for Menu submittal format.)

Vendor is responsible for the provision of a variety of food and beverage items for sale to patrons of District events. Vendor will take all necessary precautions to ensure that all products sold by Vendor are pure, wholesome and of good quality.

3. Permits: Vendor will obtain all necessary State of Arizona and Pima County Temporary Health Permit(s)/Mobile Food License to operate (if applicable) and licenses necessary to sell food or beverages, including alcoholic beverages if Vendor is authorized to sell alcoholic beverages, hereunder at Vendor's sole expense.
4. Signage: Vendor is responsible for displaying signs at each concession stand that list the full legal name of the Vendor, any subcontractor, agent and employee, authorized contact for the company, and phone number. Signs will be placed in a location that will be seen by the public. Approved health permits will be posted prominently where customers can view them. Vendor will submit copies of health permits to District fifteen (15) days before the event.

5. Event Times: District will notify vendor of each setup, teardown, and Gate opening times/dates for the Event. Vendor must be ready to sell when gates open for the event, and remain open during entire event. Failure to meet requirements will affect Vendor's ability to work future events. Vendor is responsible for removing all vendor items from premises within twenty-four (24) hours after close of event, unless otherwise approved by District. Failure to remove items will result in District staff removing all items from designated concession location(s) and billing Vendor for District's cost of removal including labor costs.
6. Assigned Work Area: Vendor must operate within the assigned concession(s) work area approved by the District, including all of Vendor's supplies and equipment.
7. Communication: Vendor will communicate and coordinate with District Concessions Manager and/or other designated District staff on any and all issues that impact the users of the District facilities and/or District employees.
8. Business Conduct: Vendor will conduct all business in the designated concession location(s) only, unless otherwise approved by the District. Vendor will not participate in any illegal activity including, but not limited to any unlawful acts, sale or use of drugs, narcotics, etc. Any violent or illegal activity is grounds for closure of the Vendor's area, expulsion from the event, and possible legal action.
9. Operational Supplies: Vendor will furnish all operational supplies required to perform proper concession services. Supplies will include, but not be limited to, office supplies, perishable items, non-perishable items, paper products and cleaning supplies.
10. Refuse: Vendor will provide a complete and proper arrangement for the adequate sanitary handling of all refuse and will provide for its timely removal after an event. Vendor will provide and use suitable covered, leak proof receptacles for all refuse on or in connection with the concession premises. Piling boxes, cartons, barrels, or other similar items in view of public area is prohibited. Vendor will keep any areas designated for refuse storage in a clean and orderly condition so as not attract rodents, pests, or birds and will dispose of refuse in designated collection location(s). The Concession Event Authorization Form [Exhibit B] will define the mapped area of responsibility for the cleanliness of the designated location(s).

EMPLOYEES:

1. Screening of Employees: Vendor will screen for and will not hire employees who have been convicted of crimes involving sex, the trafficking of illegal drugs, endangering public health, or committing felonies that affect one's fitness or trustworthiness in the provision of alcohol services to the public. Vendor is solely responsible and liable for the safety, injury and health of its working personnel while its employees are performing services pursuant to the concessions described in this document.
2. Employee Contact Information: Vendor is responsible for providing District with full contact information for all employees that have been provided with keys to the facility. Duplicate keys may only be obtained through District, and there will be a key charge for any lost keys. [See Concession Event Authorization Form Exhibit B-Keys provided]. Vendor will be responsible for reimbursing District for replacing any locks or rekeying any locks due to the loss of any keys by Vendor staff. District will retain the privilege of access to the Concession Stands, Commissary, Walk-in Freezer, and Walk-In Refrigerators for routine maintenance, inspection and emergencies. At no time will the Vendor restrict or prohibit entry by District staff into any part of the listed Concession areas.

3. Staff Scheduling: Vendor will provide a staffing schedule no less than fifteen (15) days prior to the event for District review and approval. Schedule will include number of employees at each point of sale, and a backup plan for no-shows on day of event. Vendor will also schedule roving vendors (Hawkers) for events. Hawkiers must wear badges that designate the price of products for sale. Number of scheduled hawkiers must be approved by the District before event.
4. Employee Parking: A designated parking area will be provided for Vendor and their employees working the event.
5. Employee Identification: District will provide Vendor with entrance wristbands prior to the event for everyone working on a per event basis. Wristbands must be distributed to workers in advance of their scheduled shifts to avoid confusion with entry to the event. District is not responsible for lost or stolen wristbands.
6. Employee Presentation: Vendor and their representatives will conduct themselves in a professional manner that is consistent with general standards of decency and in good taste. Appropriate uniform dress attire is required with name tag at all times when on duty.
7. Drug-Free Workplace: Vendor responsible for maintaining an alcohol and drug-free workplace. Possession, use or being under the influence of alcohol or controlled substances by employees (including during any breaks) is prohibited.

FINANCIAL:

1. Payment: Once a full accounting of event is finalized, an invoice will be created and sent to Vendor by the Pima County Revenue Management Division (if applicable). Vendor agrees to pay the District all fees required by the terms of this Agreement within ten (10) days from date of invoice unless otherwise defined in Concessions Event Authorization Form and will include all other fees applicable.

Please make check payable to: **Pima County Stadium District**

All checks must be mailed to:

**Pima County
Revenue Management Division
33 N. Stone Ave., DT-BAB6-404
Tucson, Arizona 85701**

2. Final Fee Settlement: Vendor agrees to pay fees depending on type of settlement. The settlements will be defined in the Concession Event Authorization Form [Exhibit B].
3. Late Payment: Payments received one (1) through fifteen (15) days late will be assessed a fifty dollar (\$50.00) penalty. Payments more than fifteen (15) days late will be assessed an additional fifty dollar (\$50.00) penalty. Payments that are more than thirty (30) days late are in default and are subject to the Default Process specified in this Agreement.
4. Default Process: If Vendor has failed to make full payment thirty (30) days from the invoice date and has not made payment arrangements with Revenue Management, the delinquent account will be turned over to Collections. Vendor will be subject to credit-reporting and court action. Interest will accrue at ten percent (10%), as allowed by A. R. S. § 44-1201, unless a court judgment reduces the rate. Further, future Vendor event involvement at Stadium District facilities will be suspended until the account is paid in full.

5. Default of Payment: Vendor waives any and all claims against the District and Pima County for compensation. If Vendor defaults in making any payments, Vendor is liable to District (by reason of such default) for any balance remaining unpaid and will be denied future use of District facilities.
6. Cancellation by Vendor: If Vendor cancels this Concessions Service Agreement for any reason District will retain any money received by District. District may cancel for non-payment by Vendor.
7. Cancellation by District: District reserves the right to cancel this Concessions Service Agreement, in whole or in part, due to weather, safety, and/or maintenance issues. If cancellations occur during event, every attempt will be made to reschedule cancelled reservations as soon as possible.
8. Rents and Utilities: All rents and utilities related to event are as defined in Concessions Event Authorization Form [Exhibit B-Rent, Utility Fees]. District retains the option to adjust the rent structure as deemed necessary.
9. Equipment Rental: Vendor will be billed by District for any equipment costs as determined by the District on an event basis. Equipment rates are defined in the Concessions Event Authorization Form [Exhibit B- Rental Equipment].
10. Gross Revenues: For the purpose of this Service Agreement, Gross Revenues are defined as Gross Sales minus Taxes. As an example only, Gross Sales includes Sales Tax, so Gross Sales total is divided by 1.081 (8.1% sales tax rate) to determine total Gross Revenues. Gross Revenues are then multiplied by the appropriate percentage for each event. Vendor is responsible to pay all sales tax requirements.
11. Taxes and Fees: Vendor covenants and agrees to pay all taxes, license and rates charged or assessed against Vendor and/or the District relating to the use and occupancy of the Premises used by Vendor.
12. Liquidated Damages: Failure to appear as scheduled and/or to substantially comply with Vendor's obligations under this Agreement will result in an automatic Liquidated Damages payment to District as defined in Concessions Event Authorization Form [Exhibit B-Liquidated Damages]. The parties agree that this payment constitutes a good faith pre-estimate by District of its likely losses in the event that Vendor fails to appear and/or substantially perform as required by the terms and conditions set forth in this Agreement, and as such, constitutes Liquidated Damages and not a penalty.

ACCOUNTING:

1. Vendor, at all times, will maintain accurate accounting records for the operation of food and beverage sales. Records will account for all gross receipts. District and/or County has the right to audit the records of the Vendor as deemed necessary by District.

Full accounting of sales will include the following information:

- a) A breakdown of Sales Report per location and Sales Summary per category (food, non-alcoholic beverages, alcoholic beverages, catering, suites, VIP, vending).
- b) A final recap of all Sales per event.
- c) A copy of Stand Sheets per location.
- d) If necessary, District may request additional sales documentation from Vendor.

2. Inventory: Vendor will provide both beginning and ending inventories to District to validate sales during events. District also may elect to provide and require Vendor to use a cash register or other point of sale device for all sales.

INSURANCE: The insurance requirements herein are minimum requirements for this Service Agreement and in no way limit the liability and indemnity covenants contained in this Service Agreement. The District in no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Service Agreement by the Vendor, its agents, representatives, employees, or subcontractors.

1. Minimum Scope and Limits of Insurance: Vendor will provide coverage with limits of liability not less than those stated below and maintain at its own expense, during the entire term of the Service Agreement the following type(s) and amounts of insurance:

- A. Commercial General Liability – Occurrence Form:
Policy will include bodily injury, property damage, broad form contractual liability and completed operations coverage. Policy should include Spectator Liability coverage if alcohol is being sold at an event.
- | | |
|---|-------------|
| • General Aggregate | \$2,000,000 |
| • Products Completed Operations Aggregate | \$2,000,000 |
| • Personal and Advertising Injury | \$2,000,000 |
| • Each Occurrence | \$2,000,000 |
| • Damaged to Rented Property | \$300,000 |

The policy will be endorsed to include the District and Pima County as additional insured. (See Additional Insurance Requirements for approved language).

- B. Liquor Liability Insurance: as required in Exhibit A Alcohol Management Agreement
- C. Automobile Liability Insurance: Bodily injury and property damage for any owned, non-owned and hired vehicles used in the performance of this Service Agreement. The policy will be endorsed to include the District and Pima County as additional insureds.
- | | |
|-------------------------------|-------------|
| • Combined Single Limit (CSL) | \$1,000,000 |
|-------------------------------|-------------|
- D. Workers' Compensation Coverage Including Employee's Liability Coverage: Employer's liability insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee, and \$1,000,000 disease policy limit. Policy will contain a waiver of subrogation against the District.
- E. Property: Pima County will not be responsible for damage to loss of personal property belonging to Vendor.

2. Additional Insurance Requirements: All policies, excluding workers' compensation policy, will be endorsed to include District and Pima County as additional insureds with the following additional insured language: "Pima County and Pima County Stadium District will be named as additional insureds with respect to liability arising out of the services performed by, or on behalf of the Vendor."

- A. On insurance policies where the Pima County and Pima County Stadium District are named as additional insureds, Pima County and Pima County Stadium District will be additional insureds to the full limits of liability purchased by the Vendor even if those limits of liability are in excess of those required by this Service Agreement.

B. The Commercial General Liability, Automobile Liability, and Workers' Compensation policies will all contain a waiver of transfer of the rights of recovery (subrogation) against the Pima County and Pima County Stadium District for any claims arising out of the Vendor's services.

C. Coverage provided by the Vendor will not be limited to the liability assumed under the indemnification provisions of this Service Agreement.

D. The Vendor's insurance will be primary insurance and non-contributory with respect to all other available sources.

E. For specific events the County Risk Management Office may require changes in insurance requirements based on an assessment of the risks for that event

3. Other Requirements:

A. Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona with an "A.M. Best" rating of A-VII. The District in no way warrants that the above required minimum insurer rating is sufficient to protect the Vendor from potential insurer insolvency.

B. All Certificates of Insurance must provide thirty (30) days written notice to the District for cancellation or non-renewal.

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

D. Vendor must inspect the premises prior to event to ensure that designated concessions area(s) are satisfactory for event.

INDEMNIFICATION: Vendor will indemnify, defend, and hold harmless District and Pima County, and their governing boards, officers, agents and employees from and against any and all claims, suits, demands, causes of action, costs of defense, attorney's fees, witness fees, liabilities and other expenses in any way arising from the Vendor's use or occupancy of the Premises pursuant to this Service Agreement. District may also require Vendor to obtain individual release forms from participants.

GENERAL PROVISIONS:

1. NON-DISCRIMINATION: Vendor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this License Agreement as if set forth in full herein **including flow down of all provisions and requirements to any sub-contractors**. During the performance of this agreement, Vendor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

2. Americans with Disabilities Act: Vendor will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

3. Compliance with Labor Regulations: District will not be held liable if Vendor's performance is found to be in violation of any labor regulations and Vendor will indemnify and hold the District and Pima County, their governing boards, officers, agents, and employees harmless from any and all claims, damages, suits or fines relating to such regulations.
4. Compliance with Applicable Laws: Vendor will comply with all applicable federal, state and local laws, rules, regulations, standards and Executive Orders, without limitations to those designated in this Agreement. The laws and regulations of the State of Arizona govern the rights of the parties, the performances of this Agreement and any disputes hereunder. Any actions relative to this Agreement must be filed and maintained in a court of the State of Arizona in Pima County. Vendor will conduct no activity or provide any service that is unlawful or offensive.
5. Termination: District reserves the right to terminate this Service Agreement at any time and without cause by serving upon Vendor seven (7) days advance written notice of such intent to terminate. In the event of such termination, the District's only obligation to Vendor will be payment for services rendered prior to the date of termination.
6. Binding Agreement: This Service Agreement is binding upon the Parties hereto, their heirs, executors, administrators, successors and assigns.
7. Severability: Each provision of this Service Agreement stands alone, and any provision of this Service Agreement found to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Service Agreement.
8. Independent Contractor: The status of Vendor is that of an independent contractor. Neither Vendor nor its officers, agents, or employees, is considered an employee of District or Pima County and be entitled to receive any employment-related fringe benefits under the Pima County Merit System. Vendor is responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Service Agreement and will indemnify and hold District and Pima County harmless from any and all liability which District may incur because of Vendor's failure to pay such taxes. Vendor is solely responsible for program development and operation.
9. Subcontractor: Vendor is fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent Vendor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Service Agreement creates any obligation on the part of County or District to pay or see to the payment of any money due any subcontractor, except as may be required by law.
10. Cancellation for Conflict of Interest: This Contract is subject to cancellation for conflict of interest pursuant to ARS § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
11. Legal Arizona Workers Act Compliance: Vendor will at all times during the term of this Contract comply with all federal immigration laws applicable to Vendor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Vendor will further ensure that each subcontractor who performs any work for Vendor under this contract likewise complies with the State and Federal Immigration Laws.

District or Pima County has the right at any time to inspect the books and records of Vendor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Vendor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Vendor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Vendor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

Vendor will advise each subcontractor of District or Pima County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SUBCONTRACTOR hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SUBCONTRACTOR's employees, and with the requirements of A.R.S. § 23-214 (A). SUBCONTRACTOR further agrees that District or Pima County may inspect the SUBCONTRACTOR'S books and records to insure that SUBCONTRACTOR is in compliance with these requirements. Any breach of this paragraph by SUBCONTRACTOR is a material breach of this contract subjecting SUBCONTRACTOR to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article are the responsibility of Vendor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Vendor's approved construction or critical milestones schedule, such period of delay is excusable delay for which Vendor is entitled to an extension of time, but not costs.

12. Notice: Whenever by the terms of any Service Agreement or rule, District is entitled to take any action upon giving written notice to Vendor, the said written notice may be delivered to Vendor personally if Vendor is an individual, or to any officer of Vendor, if a corporation or LLC, or may be enclosed in a properly stamped envelope, addressed to Vendor at the address given by Vendor in Service Agreement, or at the residence or place of business of Vendor, or at the place where Vendor last resided or had a place of business to the knowledge of District, and deposited in any post office or branch thereof, or any box or chute designated as a depository for the United States Postal Service's mail. Postal Delivery Confirmation is conclusive evidence against Vendor that the same was received by Vendor following the date of the mailing.

Any notice required or permitted to be given under this Service Agreement must be in writing and served by personal delivery or by Certified Mail upon District at District address.

District:

Attn: Monica Banuelos, Concessions Manager
Pima County Stadium District
2500 E. Ajo Way
Tucson, Arizona 85713

Vendor:

Bob Newman, Owner
Pinnacle Concessions
8870 N. Yellow Moon Dr.
Tucson, AZ 85743

13. Entire Agreement: This Service Agreement sets forth all the covenants, promises, agreements and understandings between the parties concerning this Service Agreement, and there are no covenants, promises, agreements or understandings either oral or written between them except as herein set forth. No subsequent alterations, amendments, changes or additions to this Service Agreement are binding upon the parties unless reduced to writing and duly executed by each of the respective parties to this Service Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Service Agreement upon the day and year first above written:

DISTRICT

A special taxing district of Pima County, Arizona

Chair, Board of Supervisors

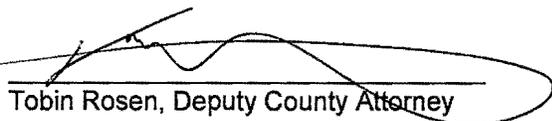
Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO FORM:



Tobin Rosen, Deputy County Attorney

12/22/15

Date

APPROVED AS TO CONTENT:



Benny J Young, Stadium District Director

12/21/15

Date

VENDOR



Authorized Officer Signature



Printed Name and Title

12/16/15

Date

**Exhibit A:
Alcohol Management Agreement
Pima County Stadium District**

The services of the Alcohol Concession Services Vendor ("Alcohol Vendor") will include, but are not limited to, the following:

Additional Operational Requirements:

1. District operates under a Series 05 Government Liquor License for events held at the District. Vendor may request to become a Licensed Manager on the District's Liquor License. Vendor's application process includes the following: A State of Arizona Department of Liquor Licenses and Control application, Department of Public Safety (DPS) questionnaire, applicant fingerprint card, training verification certificate, and required fees related to Department of Public Safety background check. A full DPS background investigation will be conducted (six week process) on each applicant prior to District approval.
2. Alcohol Vendor will not contract with any third party without written consent from the District. Alcohol Vendor must provide District, fifteen (15) days prior to Event, with copies of any Agreement(s) with Licensee (Event Promoter). District to verify all necessary clauses consistent with Agreement between Licensee and District and that the Agreement(s) requires compliance with all Arizona laws and District policy and includes the District insurance requirements.
3. Alcohol Vendor will adhere to the requirements of by A.R.S § 4-244. Maximum state allowable limits are forty (40) ounces of beer, one (1) liter of wine, or four (4) ounces of distilled spirits per customer and Pima County's maximum allowable limits are thirty-two (32) ounces of beer, ten (10) ounces of wine, or four (4) ounces of distilled spirits per customer. District reserves the right to prohibit or limit types of sales of alcoholic beverages at any particular event.
4. The sale of beer, wine and liquor will be allowed in accordance with all applicable State Laws and State of Arizona Department of Liquor Licenses and control rules and regulations, provided that alcohol sales are permitted by the terms of the Concessions Event Authorization Form.
5. Alcohol Vendor shall purchase all products sold from a licensed liquor distributor.
6. District requires Alcohol Vendor to prominently display a sign which the District will provide at each designated concession location where alcohol is being served. Signs will be placed in such a manner as to be easily seen by the public. The sign will list the following information:
 - A copy of Stadium District Liquor License
 - Cut off times for alcohol sales
 - Warning Pregnancy Sign
 - Right to Refuse Service notice
 - Types of ID's required
 - Legal Year Sign (Example: This date 1994)
 - "We ID everyone who looks 30 years and younger."
 - Drink Limit Sign
 - Full legal name of the Alcohol Vendor, any subcontractor, agent and employee, authorized contact for the company, and phone number.
7. District will provide signage at all gates to inform users of the facility that it is a requirement of the State of Arizona Liquor Board Retailers Law, and the District's Series 5 Government Liquor License not to allow alcoholic beverages to leave the premises. District will also provide signage at all gates to inform users of facility that no alcoholic beverage may be brought into facility.

8. District approved Alcohol Manager or a qualified responsible party from the Alcohol Vendor must be present at all events. Alcohol Vendor will have a copy of all liquor laws on premises for every event.
9. District will require Alcohol Vendor to perform ID Checks. District will provide ID scanners to verify the age of all attendees desiring to purchase alcoholic beverages. District requires Alcohol Vendor to provide wristbands for all customers.
10. Alcohol Vendor will be responsible for the provision of a variety of beverage items for sale to patrons of District events.
11. All alcoholic beverages will be for sale at all times at full sale price and at no time will the Alcohol Vendor provide complimentary beverages or giveaways regardless of who may be sponsoring an event. Alcohol Vendor will not purchase any alcoholic beverages for any person, or accept anything in trade for alcohol in lieu of money.
12. All beverages must be dispensed in non-glass containers. No glass bottles or containers are allowed in the Kino Sports Complex.
13. All alcohol sales will cease no later than one (1) hour prior to the end of an event or midnight (12:00 a.m.), whichever is earlier. For baseball games in Stadium, sales will begin when gates open and will cease after completion of the seventh (7th) inning. For soccer matches in Stadium, sales will begin when gates open and will cease at the beginning of second (2nd) half of final match. Beginning and ending times of alcohol sales will be submitted to District prior to each event.
14. Any promotional events, sponsored events, or other special events that do not meet policies as established in this Alcohol Management Agreement, will be submitted to District for approval prior to event scheduling and approval will be at the sole discretion of the District.
15. Alcohol Insurance Coverage for Events:
The Alcohol Vendor who is providing the bartender(s) for the event will also provide the Liquor Liability Coverage for the event. The bartenders must be licensed to serve alcohol in Arizona.

The Alcohol Vendor will provide the insurance, including the coverages, limits of liability and Additional Insurance Requirements as required in the Management Agreement as well as those listed below. The Vendor will maintain the insurance at the Vendor's own expense, during the entire term of the Service Agreement. The additional insurance Requirements and the Indemnification Language as written in the Management agreement are also a requirements of the Alcohol Vendor. The additional insurance coverages and limits are as follows:

Liquor Liability Insurance – Occurrence Form (may be under CGL Policy or by specialized policy).

- Policy limits provided by the Alcohol Vendor will be at least \$2 million per occurrence and \$2 million general aggregate. For all concerts, no matter what the attendance, and for any sporting or other event in which attendance is expected to exceed 1,500 persons the policy limits will be increased to at least \$5 million per occurrence and \$5 million general aggregate. The Vendor may acquire the additional insurance by purchase from a private broker.
- This policy will be endorsed to include the Pima County Stadium District and Pima County as an additional insured.
- Policy should include Spectator Liability coverage if alcohol is being sold at an event.

Both policies will be endorsed to include the Pima County Stadium District and Pima County as additional insured's.

Additional Employee Requirements:

1. All employees will have completed training annually, prior to being allowed to work events. Alcohol Vendor will be responsible for ensuring that all employees must receive liquor training through an Arizona Department of Liquor License Control Certified Trainer. All current and new employees must remain trained and certified in accordance with all Arizona Revised Statutes Title 4 liquor law training requirements. An employee log must validate alcohol training for all employees, and must include ages of all employees serving or providing any alcohol support services. Alcohol Vendor must present current employee log to District fifteen (15) business days prior to the event. All copies of training certificates must be presented to District fifteen (15) business days prior to event. All information will be kept current and will be provided to the District prior to an event. All employees serving alcoholic beverage must receive a ID Badge from the District stating they are certified to sell and serve alcoholic beverages.
2. Alcohol Vendor will provide a staffing schedule no less than fifteen (15) days prior to the event for District review and approval. Schedule will include number of employees at each point of sale, number of ID Staff, number of Hawkers, and backup plan for no-shows on day of event.

The parties hereto have executed this Alcohol Management Agreement on the day, month, and year written below.

DISTRICT:

Date:

ALCOHOL CONCESSION SERVICES VENDOR:

Date:



12/11/15

**Exhibit B:
Concession Event Authorization Form
Pima County Stadium District**

Vendor Name:

Type of Service(s):

Title of Event:

Event (Dates and times):

Type of Event:

Estimated Attendance:

Service Term:

Concession Requirements:

These requirements will stipulate to assure that attendees, vendors, customers, and Pima County are receiving and providing the optimal concession operations, and that such operations are in the best interest of all involved.

Approved Food & Beverage Vendors:

All food and beverage vendors will contract directly with the Stadium District. Any food, beverage vendors, sublets or caterers must be a District approved vendor. New vendors will apply at our website at www.kinosportscomplex.com. Vendor will provide an adequate number of vendors to satisfy the estimated attendance.

Sponsorship:

Any sponsorship money provided to the approved vendor must be outlined in the Agreement set forth with District.

Hours of Operations:

There will be a set schedule provided for each event. On event day, vendor will be open, fully staffed and ready for business according to schedule. Vendor vehicles must exit the Stadium grounds one (1) hour prior to event opening and will not be permitted to re-enter the venue until one half- (1/2) hour after the event closes. Vendors are required to operate food concessions continuously until close of event. Vendors will not close early (make sure you have adequate inventory). Vendors who do not meet these requirements will be penalized which will affect future privileges and opportunities to participate.

Menu and Pricing:

Vendor must submit proposed food and beverage menu/pricing for District approval. District will review and approve food menu items, and pricing before event and Vendor will only sell those menu items (and prices) that were submitted for event.

Electrical:

Vendor portable booth spaces will include electric (if available) at no charge. Every effort should be made on deciding the size, age and energy efficient equipment to minimize cost.

Permits, and Licenses:

Food and Beverage Vendor is required to have a current Health Permit, current Certificate of Insurance on file prior to working event. Additionally, vendors are expected to comply with all Pima County Stadium District rules and policies, Pima County Health Department regulations, and any other governing authorities' rules and regulations that may apply.

Insurance Coverage Limits:

Minimum Scope and Limits of Insurance –Vendor will provide coverage with limits of liability not less than those stated below and maintain at its own expense, during the entire term of the Concession Event Authorization Form the following type(s) and amounts of insurance:

Commercial General Liability – Occurrence Form Policy will include bodily injury, property damage, broad form contractual liability and completed operations coverage.

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Each Occurrence	\$2,000,000
Damage to Rented Property	\$300,000

Automobile Liability Insurance: Bodily injury and property damage for any owned, non-owned and hired vehicles used in the performance of this License.

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

Workers' Compensation Coverage Including Employee's Liability Coverage. Employer's liability insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee, and \$1,000,000 disease policy limit. Policy will contain a waiver of subrogation against the District.

The Customer's insurance will be primary insurance and non-contributory with respect to all other available sources. The Commercial General Liability policy will contain a waiver of transfer of the rights of recovery (subrogation) against the District and Pima County.

The liability insurance policy will be endorsed to include the following language: **"The District and Pima County are named as Additional Insured's with respect to liability arising out of the activities performed by or on behalf of the Customer"**.

Setup/Teardown (Dates and Times):

Vendor will set up _____ . Vendor will tear down _____. If vendor fails to be vacated by _____ vendor will pay a storage rate of twenty-five dollars (\$25.00) per day.

When the event is underway; no motorized vehicles may be used to transport products or supplies to assigned locations. Vendors may unload goods and use a hand truck to deliver those supplies to their booth.

There will be a set schedule provided for each event. On event day, vendor will be open, fully staffed and ready for business according to schedule. Vendor vehicles must exit the Stadium grounds one half- (1/2) hour prior to event opening and will not be permitted to re-enter the venue until one half- (1/2) hour after the event closes. Vendors are required to operate food concessions continuously until close of event. In situations where weather is not conducive to sales of products, Vendor will provide twenty-four (24) hour notice to the Stadium District that they will not sell for the event. Vendors who do not meet these requirements will be penalized which will affect future privileges and opportunities to participate.

Stadium District Contact: Gilbert Wilson 520-349-7826

Designated Concession Location(s) & Scheduling:

Concession Stand

Minimum (2 Employees)

Concession stand locations must be open one –half (1/2) hour prior to gates open.

Designated Mapped Area:

(See Exhibit C-Map of Designated Use Area)

Inventory:

District will require Vendor to provide both beginning and ending inventories to validate sales during events. District also may elect to provide and require Vendor to use a cash register or other point of sale device for all sales.

Food & Non-Alcoholic Beverage:

District will receive ___% of all Gross Revenues. For the purpose of this Agreement, Gross Revenues equals Total Sales minus Sales Taxes. As an example only, Gross Sales includes Sales Tax, so Gross Sales total is divided by 1.081 (8.1% sales tax rate) to determine total Gross Revenues. Gross Revenues are then multiplied by the appropriate percentage for each event. Vendor is responsible to pay all sales tax requirements.

Recap:

Vendor will provide District a full accounting of sales by 8:00a.m. each morning from the following previous day's events and will include the following information:

- a) A breakdown of Sales Report or Z Tapes per location/register and Sales Summary per category (food, non-alcoholic beverages, & vending).
- b) A final recap of all Sales per event.
- c) A copy of Stand Sheets per location if provided.
- d) If necessary, District will request additional sales documentation.

Commission:

Vendor will pay Kino Sports Complex a commission for food, non- alcoholic & alcoholic beverages on gross sales, excluding sales tax. (Commission will vary by event.)
Each vendor will provide documentation of all food and beverage transactions for the day.

(For example):

TOTAL CASH SALES _____
GROSS SALES (Total cash sales divided by 1.081): _____
GROSS SALES X 25% (example only): _____
COMMISSION PAID TO DISTRICT for food, non- alcoholic & alcoholic beverages _____

Payment:

Vendor is required to pay for all commissioned sales to District either on-site upon conclusion of event, or next business day upon District's request.

Please make checks payable to:

Pima County Stadium District
Kino Sports Complex
2500 E. Ajo Way
Tucson, AZ 85713

Failure to pay fees will result in termination of this Service Agreement.

Liquidated Damages:

District will determine Automatic Liquidated Damages based on estimated sales projections or actual sales from last event. Failure to appear as scheduled and/or to substantially comply with Vendor's obligations under this Agreement will result in an Automatic Liquidated Damages payment to District as defined in Concessions Event Authorization Form [Exhibit B]. The parties agree that this payment constitutes a good faith pre-estimate by District of its likely losses in the event that Vendor fails to appear and/or substantially perform as required by the terms and conditions set forth in this Agreement, and as such, constitutes Liquidated Damages and not a penalty.

Approved Menu Format:

Description of Food or Beverage for Sale	Unit Price (All goods sold as one each.)	Ounces Sold Per Unit Price	How is Item Sold and Priced?	Retail Price
(ex. Chicken wings)	1 plate consists of 6, 2 Oz wings	12 oz. Plate	Per Plate 6, 2 oz. wings	\$4.00/plate

**Exhibit C:
Concession Event Checklist**

Concessions Event Checklist



This checklist is intended to verify the requirements needed to perform Vendor concession services for the following event:

Event Name: _____

Date: _____

Checklist performed by: _____

Vendor

Signature: _____

AREA INSPECTED

North Concession Stand (Example)

	Yes	No	N/A	Comments
Pre Event:				
<u>Required Paperwork Submittals (15 days) before event:</u>				
A signed copy original Concession Event Authorization Form				
A copy of Staffing Schedule				
A copy of current Business License				
A copy of current Health Department Temporary Permit or Mobile Food License to operate (if applicable)				
A current copy of Certificate of Insurance.				
A copy of the Approved Menu Items and Pricing				
A list of employees requiring keys.				
<u>Alcohol Vendor Submittals (15 days) before event:</u>				
A copy of current Employee Log				
A copy of current Certificates of Title 4 Training				
A current Certificate of Insurance				
A copy of Staffing Schedule				
Employee Photo Badges printed.				

Walk Through Inspection:				
Required Fire Extinguishers (Min. Rating 2A10B: C) Deep Frying will need a K Class in addition to a C Class.				
Ceiling not in disrepair.				
Walls not in disrepair.				
Electrical outlets working and not overloaded.				
Cabinets are properly mounted and not overstocked.				
Floor drains- draining properly.				
Doors are operational and exits properly marked.				
Lighting is adequate and in working condition.				
Sinks drain and no visible signs of plumbing leaks.				
No evidence of rodent droppings, roaches, other pests.				
Roll up doors are operational and air curtain functions.				
Sanitizing (Eco Lab system) unit in working order.				
Hand soap dispensers full and operational.				
Paper towel dispenser full and operational.				
Walk-in cooler operating at proper temperature.				
3 Compartment Sinks-not plugged, clean and not in disrepair.				
Visual Inspection:				
Ceiling clean				
Walls clean				
Floor no grease build up and free of tripping hazards.				
Countertop surface-clean and sanitized				
Grease Traps clean				
Walk-in Cooler Equipment clean				
Post Event				
Walk Through Inspection:				
Required Fire Extinguishers (Min. Rating 2A10B: C) Deep Frying will need a K Class in addition to a C Class.				
Ceiling not in disrepair.				
Walls not in disrepair.				
Electrical outlets working and not overloaded.				
Cabinets are properly mounted and not overstocked.				
Floor drains- draining properly.				
Doors are operational and exits properly marked.				
Lighting is adequate and in working condition.				
Sinks drain and no visible signs of plumbing leaks.				
No evidence of rodent droppings, roaches, other pests.				
Roll up doors are operational and air curtain functions.				

Sanitizing (Eco Lab system) unit in working order.				
Hand soap dispensers full and operational.				
Paper towel dispenser full and operational.				
Walk-in cooler operating at proper temperature.				
3 Compartment Sinks-not plugged, clean and not in disrepair.				
Visual Inspection:				
Ceiling clean				
Walls clean				
Floor no grease build up and free of tripping hazards.				
Countertop surface-clean and sanitized				
Grease Traps clean				
Walk-in Cooler Equipment clean				

LIST OF EQUIPMENT BY AREA

Check to verify that equipment is still in area specified and that is in good working condition. Please note repairs in comment section.	Yes	No	N/A	Comments
North Quad Concession Stand				
Stainless Steel Prep Table (2)				
(2) Hot Dog Warmers				

Exhibit D:
Map of Designated Use Area

