



Contract Number: CTN. KSC. 14 * 106
Effective Date: 1-15-14
Term Date: 1-15-15
Cost: \$50,000.-
Revenue: _____
Total: _____
Renewal By: 10-1-14
Term: 1-15-15
Reviewed by: WJ

BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: 01/07/14

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

Concessions/Alcohol Management agreement for Pinnacle Concessions LLC for the term of one year commencing on January 15th 2014 and ending on January 15th 2015.

CONTRACT NUMBER (If applicable): CTN: 14*106

STAFF RECOMMENDATION(S): **Approval**

CORPORATE HEADQUARTERS: _____

Ver- 1
Vendor- 1
Pgs. 24

To: COB - 12-24-13
Agenda - 1-7-14
(3)

Procure Dept 12/20/13 PM 01:28

CLERK OF BOARD USE ONLY: BOS MTG. _____

ITEM NO. _____

PIMA COUNTY COST: ____ and/or REVENUE TO PIMA COUNTY: \$ 50,000.00

FUNDING SOURCE(S): _____

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

	<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
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Board of Supervisors District:

1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input type="checkbox"/>	4	<input type="checkbox"/>	5	<input type="checkbox"/>	All	<input checked="" type="checkbox"/>
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IMPACT:

IF APPROVED:

Stadium District will receive increased revenues from Pinnacle Concessions LLC, for their Food, Non-Alcohol and Alcoholic Beverage sales for events throughout the year.

IF DENIED:

Stadium District will not receive increased revenues from Pinnacle Concessions LLC, for their Food, Non-Alcohol and Alcoholic Beverage sales for events throughout the year.

DEPARTMENT NAME: Stadium District

CONTACT PERSON: Monica Banuelos TELEPHONE NO.: 520-434-1285

PIMA COUNTY STADIUM DISTRICT
KINO SPORTS COMPLEX

CONTRACT
NO. <u>CIN-KSC-H00000000000000/06</u>
AMENDMENT NO. _____
<small>This number must appear on all copies of all documents pertaining to this</small>

CONCESSION SERVICE AGREEMENT 1407-CMA-R-R008-046

THIS SERVICE AGREEMENT for the Kino Sports Complex (the "**Complex**") to perform concessions services is between the **Pima County Stadium District**, a special taxing district of Pima County, Arizona, (the "**District**") as owner operator of the Complex, and **Pinnacle Concessions LLC**. (the "**Vendor**").

I. **SERVICE AGREEMENT:**

District and Vendor agree that Vendor may provide such concession services, in such designated location(s) of the Complex (collectively, the "**Premises**"), at such times as are designated by the District for the Service Period set forth in the Concession Event Authorization Form [Exhibit B], and upon the terms and conditions set forth in this Agreement.

A. **Vendor Name:** Pinnacle Concessions LLC.

B. **Vendor Website:** www.pinnacleconcessions.com

C. **Responsible Party (or Contact Person if different):**

Name: Bob Newman

Telephone: 520-661-2588

Email address: bbnewman@comcast.net

Billing Address: 8870 N. Yellow Moon Dr. Tucson, AZ 85743

D. **Designated Service(s) Periods, Locations, and Fees:** The Concession Event Authorization Form [Exhibit B] shall authorize the concession service(s) to be provided and shall designate the date, time, location and type of event, the size of expected attendance, the type and location of concession services authorized, whether excess liability insurance is required and the distribution of gross revenue from the concessions sales for the authorized events.

E. **Term:** This Service Agreement is effective for a term of one (1) year commencing on **January 15th 2014** and ending on **January 15th 2015** renewable upon the mutual written agreement of the parties. This Agreement shall be in effect for the Term specified until terminated by either party, by delivery of written notice to the other party of intent to terminate, at least seven (7) days in advance of the termination date specified in such written notice, and if terminated by Vendor, no less than (21) days before any Event for which a Concessions Event Authorization Form has been executed. In addition, District shall have the right to terminate in the event of the Vendor default or other violations as determined by District. Vendor's insurance and indemnification responsibilities set forth below shall survive any termination or expiration of this Agreement.

F. **Exhibits:** Exhibit A – Alcohol Management Agreement (if applicable)
Exhibit B – Concession Event Authorization Form
Exhibit C – Concession Event Checklist
Exhibit D- Map of Designated Area

II. SPECIAL PROVISIONS:

FACILITIES:

1. Designated Location of Service(s): Vendor shall 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 shall be incorporated into this Agreement as if set forth in full herein, and shall 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 shall 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 shall 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 shall in any way conflict with federal, state, or local laws, or if the proposed occupancy or use shall tend to bring discredit to District, or physical damage to Premises. Vendor shall cooperate with District and all District directives, to conform to the intent and purpose of this Service Agreement and in no event shall 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, this Service Agreement may be terminated by District upon immediate written notice.

3. Access/Vehicles: Any support vehicles required by the Vendor shall be parked in the appropriate area as designated by the District. Vendor shall not drive any vehicle on, nor 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 shall NOT be driven on playing fields unless approved by the District ahead of time.
4. Installations/Modifications: Any changes or alterations to any of the designated concession location(s) shall 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 shall be required to 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., will need 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 the Vendor or of the Vendor's agents,

employees, patrols, guests or any person admitted to the Complex by the Vendor, the Vendor shall pay to the District upon demand such sum as shall be necessary to restore Complex to the condition that existed prior to the occurrence of such damage. The 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 the Vendor or with the consent of any person acting on behalf of the Vendor.

7. Electricity: The District cannot guarantee electricity to the 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 written consent from the District. (See Concession Event Authorization Form [Exhibit B-Utilities] for specific fees.)
8. Embellishments: The District shall approve all signs, banners, and other decorations that are part of the Vendor's area including the Menu Board.
9. Inspections: Vendor, along with District, shall inspect the designated concessions location(s) and equipment defined in the [Exhibit C- Concessions Event Checklist] prior, during and after the event to ensure that the facility and equipment are in satisfactory condition. District shall record the inspection on the inspection checklist. District reserves the right to enter and inspect these areas at all times.
10. Securing Premises: Vendor shall be responsible for opening, closing and securing the locks or security devices at designated concessions location(s). Vendor shall be 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), and any equipment Vendor is using or renting from District. Vendor along with District shall 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 shall be responsible for the maintenance of the stationary District equipment. (Example: walk-in coolers, ice machines, sinks, and cabinets). Vendor shall notify District immediately if District's equipment is in need of repair and/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 shall 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 shall display, in a prominent place that is easy to read, an itemized menu with prices of items approved by the District for sale. District reserves the right to specify what menu items, pricing, and sponsored products shall be sold by Vendor during event. District shall request and Vendor shall submit a proposed product menu with prices for approval by District. Once the menu is approved by District, Vendor shall sell only those approved items at the prices specified. Any deviation from the Approved Menu by Vendor shall be grounds for termination of the Agreement by District. (See Concession Event Authorization Form for Menu submittal format.)

Vendor shall be 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 shall 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 and/or beverages, including alcoholic beverages if Vendor is authorized to sell alcoholic beverages, hereunder at Vendor's sole expense.
4. Signage: Vendor shall be 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 shall be placed in a location that will be seen by the public. Approved health permits shall be posted prominently where customers can view them. Copies shall be submitted 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 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 assigned concession(s) work area approved by the District and includes all supplies and equipment.

7. Communication: Vendor shall 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 shall conduct all business in the designated concession location(s) only, unless otherwise approved by the District. Vendor shall 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 shall furnish all operational supplies required to perform proper concession services. Supplies shall include, but not limited to, office supplies, perishable items, non-perishable items, paper products, cleaning supplies, etc.
10. Refuse: Vendor shall provide a complete and proper arrangement for the adequate sanitary handling of all refuse and shall provide for its timely removal, after an event. Vendor shall 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 shall keep any areas designated for refuse storage in a clean and orderly condition so as not attract rodents, pests, or birds and shall 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 shall screen for and 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 shall be 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 shall be 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 shall the Vendor restrict or prohibit entry by District staff into any part of the listed Concession areas.
3. Staff Scheduling: Vendor shall provide a staffing schedule no less than fifteen (15) days prior to the event for District review and approval. Schedule shall include number of employees at each point of sale, and a backup plan for no-shows on day of event. Vendor shall also schedule roving vendors (Hawkers) for events. Hawkers must wear badges that designate the price of products for sale. Number of scheduled hawkers 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 shall 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 shall 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 shall be 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 shall be created and sent to Vendor by the Pima County Revenue Management Division (if applicable). Vendor covenants 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 1-15 days late shall be assessed a \$50 penalty. Payments more than 15 days late shall be assessed an additional \$50 penalty. Payments that are more than 30 days late are in default are subject to the Default Process specified in this Agreement.
4. Default Process: If Vendor has failed to make full payment 30 days from the invoice date and has not made payment arrangements with Revenue Management, the delinquent account will be turned over to Collections. The Customer 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 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 shall default in making any payments, Customer shall be liable to District (by reason of such default) for any balance remaining unpaid and shall be denied future use of District facilities.
6. Cancellation by Vendor: If Vendor cancels this Concessions Service Agreement for any reason District shall 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 shall be billed by the 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 shall 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, shall maintain accurate accounting records for the operation of food and beverage sales. Records shall account for all gross receipts. District and/or County shall have the right to audit the records of the Vendor as deemed necessary by District.

Full accounting of sales shall 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 shall request additional sales documentation.
2. Inventory: District shall require Vendor to provide both beginning and ending inventory 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, his/her agents, representatives, employees, or subcontractors.

1. Minimum Scope and Limits of Insurance: Vendor shall 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 shall 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

The policy shall 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 shall be endorsed to include the District and Pima County as additional insured language.

• Combined Single Limit (CSL)	\$1,000,000
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 - D. Workers' Compensation Coverage Including Employee's Liability Coverage: Employer's liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit. Policy shall 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, shall be endorsed to include District and Pima County as an additional insured with the following additional insured language: "Pima County and Pima County Stadium District shall be named as additional insured 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 an additional insured, Pima County and Pima County Stadium District shall be an additional insured 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 shall 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 services.
 - C. Coverage provided by the Vendor shall not be limited to the liability assumed under the indemnification provisions of this Service Agreement.
 - D. The Vendor's insurance shall 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 hereby agrees that it shall indemnify, defend, and hold harmless District and Pima County, and their 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 **including flow down of all provisions and requirements to any sub-contractors.** Executive Order 2009-9 supersedes Executive Order 99-4 and amends Executive Order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's web site http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this Agreement as if set forth in full herein. During the performance of this Agreement, Vendor shall 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 shall 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 shall not be held liable if Vendor's performance is found to be in violation of any labor regulations and Vendor hereby agrees to indemnify and hold the District and Pima County, their officers, agents, and employees harmless from any and all claims, damages, suits or fines relating to such regulations.
- 4. **Compliance with Applicable Laws:** Vendor agrees to 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 shall govern the rights of the parties, the performances of this Agreement and any disputes hereunder. Any actions relative to this Agreement shall be brought in a court of the State of Arizona in Pima County. Vendor shall 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 shall be payment for services rendered prior to the date of termination.
6. Binding Agreement: This Service Agreement shall be 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 shall be ineffective to the extent of such prohibition without invalidating the remainder of this Service Agreement.
8. Independent Contractor: The status of Vendor shall be that of an independent contractor. Neither Vendor nor its officers, agents, or employees, shall be 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 shall be responsible for payment of all federal, state and local taxes associated with the compensation received pursuant to this Service Agreement and shall 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 shall be solely responsible for program development and operation.
9. Subcontractor: Vendor will be 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 that the Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Service Agreement shall create 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 hereby warrants that it 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 shall 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 shall have 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, shall be deemed to be 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 shall 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 shall 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 will be deemed to be 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 shall be 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 shall be deemed excusable delay for which Vendor shall be 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 shall be 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 shall be in writing and shall be 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
Pinnacle Concessions
8870 N. Yellow Moon Dr.
Tucson, Arizona 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 shall be 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:

Deputy County Attorney *Tobin Rosen*

TOBIN ROSEN

Print DCA Name

Date

APPROVED AS TO CONTENT:

Department Head

Date

VENDOR

Authorized Officer Signature

Printed Name and Title

Date

Exhibit A:
Alcohol Management Agreement
Pima County Stadium District

The services of the Alcohol Concession Services Vendor ("Alcohol Vendor") shall 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 application process includes the following: A State of Arizona Department of Liquor Licenses and Control applications, 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 shall 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 shall adhere to the requirements of by A.R.S § 4-244. Maximum state allowable limits are 40 ounces of beer, one liter of wine, or 4 ounces of distilled spirits per customer and Pima County's maximum allowable limits are 32 ounces of beer, 10 ounces of wine, or 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 shall 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 shall be placed in such a manner as to be easily seen by the public. The sign shall 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 1991)
 - "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 shall provide signage at all gates to inform users of the facility that it is the State of Arizona Liquor Board Retailers Law, and the District's Series 5 Government Liquor License to not allow alcoholic beverages to leave the premises. District shall also provide signage at all gates to inform users of facility that no alcohol 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 shall have a copy of all liquor laws on premises for every event.
9. District shall require Alcohol Vendor to perform ID Checks. District shall 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 shall be responsible for the provision of a variety of beverage items for sale to patrons of District events.
11. All alcoholic beverages shall be for sale at all times at full sale price and at no time shall the Alcohol Vendor provide complementary beverages or giveaways regardless of who may be sponsoring an event. Alcohol Vendor shall 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 shall be allowed in the Kino Sports Complex.
13. All alcohol sales shall 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 shall begin when gates open and shall cease after completion of the seventh (7th) inning. For soccer matches in Stadium, sales shall begin when gates open and shall cease at the beginning of 2nd half of final match. Beginning and ending times of alcohol sales shall 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, shall 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, shall also provide the Liquor Liability Coverage for the event. The bartenders must be licensed to serve alcohol in Arizona.

The Alcohol Vendor shall provide the insurance, including the coverage's, limits of liability and Additional Insurance Requirements as required in the Service Agreement as well as those listed below. The Vendor shall 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 Service Agreement are also a requirement to the Alcohol Vendor. The additional insurance coverage's and limits are as follows:

- General Liability Insurance: Policy shall include \$2 million general aggregate.
- Liquor Liability Policy:
 - Occurrence Form (may be under CGL Policy or by specialized policy). With Policy limits at least \$5 million per occurrence and \$5 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 shall 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 or by purchase from Pima County Risk Management,

Both policies shall be endorsed to include the Pima County Stadium District and Pima County as an additional insured.

Additional Employee Requirements:

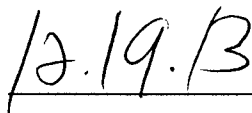
1. All employees shall have completed training annually, prior to being allowed to work events. Alcohol Vendor shall be responsible for ensuring that all employees must receive liquor training through an Arizona Department of Liquor License Control Certified Trainer. All current and new employees must remain trained and certified in accordance with all Arizona Revised Statutes Title IV 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 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 shall be kept current and shall be provided to the District prior to an event. All employees serving alcoholic beverage must receive a Photo ID Badge from the District stating they are certified to sell and serve alcoholic beverages.
2. Alcohol Vendor shall provide a staffing schedule no less than fifteen (15) days prior to the event for District review and approval. Schedule shall 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.

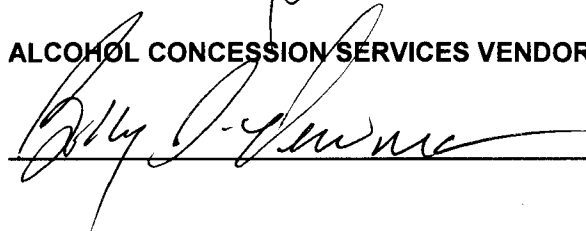
DISTRICT:



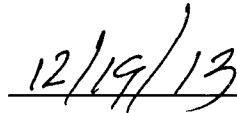
Date:



ALCOHOL CONCESSION SERVICES VENDOR:



Date:



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

Vendor Name:

Type of Service(s):

- ☐ Food & Non-Alcoholic Beverages Only
- ☐ Alcohol Only
- ☐ Alcohol, Food, & Non-Alcoholic Beverages

Title of Event:

Date and times of Event:

Type of Event:

Estimated Attendance:

Service Term:

Setup/Teardown (Dates and Times):

Designated Concession Location(s):

Designated Mapped Area: (See Exhibit C)

Keys provided to the Vendor:

1. Contact Name:
2. Phone Number:
3. Location for keys:
4. Quantity of Keys:

Sponsors:

Sponsored Products:

The District may provide all "Sponsored" soft drinks and water products on a per event basis and products may vary depending on sponsor unless otherwise noted by the District. No other outside soft drinks or bottled water shall be brought into Stadium for sale. The District reserves the right to set the price for soft drinks and water to be sold by Vendor.

Rental Equipment: (If applicable) the equipment rental fee shall be \$_____ per _____

Rent: (If applicable) the facility rental fee shall be \$_____ per _____

Utility Fees: (If utilities are available)

The following cover each day of the event (unless otherwise determined by the District).

The Utility Fee shall be \$_____ per _____

Alcohol Fee: (If applicable)

District shall receive _____% of Gross Revenues. For the purpose of this Agreement, Gross Revenues equals Total Sales minus Sales Taxes.

Food & Non-Alcoholic Beverage: (If applicable)

District shall receive _____% of Gross Revenues. For the purpose of this Agreement, Gross Revenues equals Total Sales minus Sales Taxes.

Settlement:

- ☐ Vendor shall settle in cash on same day of event.
- ☐ Vendor shall settle at a later date. (District will determine date on a per event basis.)

Payment: Vendor agrees to pay balance of fees required by the terms of Concession Event Authorization Form to District within ten (10) days from date of invoice.

Please make all checks payable as follows: **Pima County Stadium District**

All payments must be mailed to:

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

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

Liquidated Damages: Automatic Liquidated Damages of _____ are estimated sales projections according to previous events sales.

Failure to appear as scheduled and/or to substantially comply with Vendor's obligations under this Agreement shall 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**

Kino Veterans Memorial Stadium
Concession Event Check List



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: _____

VENDOR DESIGNATED WORK AREA (check one)

- ☐ Commissary; ☐ Concession Stand 1; ☐ Concession Stand 2; ☐ Concession Stand 3;
☐ Concession Stand 4; ☐ Concession Stand 5; ☐ Concession Stand 6; Other: _____

	Yes	No	N/A	Comments
<u>Required Paperwork Submittals (15) days before event:</u>				
A signed 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 Certificate of Insurance				
A copy of the Approved Menu Items and Pricing				
A copy of Staffing Schedule				
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:	Yes	No	N/A	Comments
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 operations and exits properly marked.				
Lighting is adequate and in working conditions.				
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 dispensers 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 from tripping hazards.				
Countertop surfaces – clean and sanitized				
Grease Traps clean				
Walk-in Cooler clean				
Concession Equipment clean				
Accounting				
Beginning Inventory of stand.				
Concession Location				
Menu Boards and Price Sheets are posted and visible.				
Proper disposal of Refuse(in cans, leak proof bags)				
Approved submitted menu.				
Health Permit is posted and visible				
All tables have furnishing (table cloths, skirting etc.)				
Subcontractor Sign (Name, Phone number etc.)				
Rented Concession Equipment (Texas Icers, Bars, Jockey Boxes, etc.)				
Alcohol Vendors				
Employee Photo ID Badges for serving alcohol.				
Alcohol Limits 1 Large (24oz), 2 small (16oz.) signs.				

Alcohol Signs, all Stands. (Alcohol Policies District provides.)				
Alcohol signs at the gates.(No alcohol beyond this point.)				
Is Alcohol Manager present at event?				
Are employees performing ID Checks?				
Are employees using ID Scanners were located?				
Are Alcohol Beverages being dispensed in non-glass containers?				
Alcohol sales shall cease no later than one (1) hour prior to the end of an event or midnight (12:00 a.m.) whichever is earlier. <u>Baseball Events in Stadium</u> -Alcohol shall begin at gates opening time, end after completion of the seventh (7 th) inning. <u>Soccer Matches in Stadium</u> - Alcohol shall begin at gates open time, cease at the beginning of 2 nd half of final match.				
Accounting:				
Ending Inventory by location.				
Sales Report per location.				
Sales Summary per category.				
Final Recap of Sales per event.				
Copy of Stand Sheets per event.				
Received final settlement after event.				
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.(Equipment may be moved to a different location on a as needed basis.)	Yes	No	N/A	Comments
Commissary:				
Manitowoc Ice Bins /Machine (2) N008485				
Alto Sham (2) 2 Drawer Hot Dog Warmers Model # 5002D, Serial # 38825-1097, 19302-0397				
Concession Stand 1:				
Alto Sham Hot Dog Warmers (4) Model # 5002D, Serial # 35042-089,38825-1097, 19302037,38834-1097				
Manitowoc Ice Machine/Bin Model # SY1004A/C730				
Tabco Steel Prep Table, 3x5				

Concession Stand 2:				
Manitowoc Ice Machine /Bin 1000 Series Model # JY1004A / C730				
Stainless Steel Table Advance Tabco				
Table Top Vulcan Oven Model # ET4 Serial # 48046270AN				
Concession Stand 3:				
Double Deep Fryer Model # 9711G10060 Serial # AO				
Advance Steel Table Model/Serial # KMS-304				
Counter Top Double Warmers Hatco Model # GRSDS-52D Serial # 8289739711				
Magikitchen Charbrolier Grill w /Areo Stand 97124228				
Scotsman Ice Machine Model # B9485 Serial # 13011320015454				
Stainless Steel Wall Shelf				
Concession Stand 4:				
Hatco Pizza Warmer GRS-72-1 / 8294389712				
Flat Top Griddle Wolf Agency w/Stand KMS304				
Scotsman Ice Machine Model # B9485 Serial # 12121320011167				
Stainless Steel Tables (1) Lg. 8 x 6 (1) Sm. 4 x 6				
Stainless Steel Wall Shelf				
Concession Stand 5:				
Manitowac Ice Machine 1000 /Bin Model # JY1004A/971162598, C730 / 971021536				
Lipton Tea Machine (2) 7480918, 480914, 480952				
Cleveland Steam Craft Ultra 5 (3) Model # 21CET16, Serial # WC80907-03C-01, WC 80907-03C-02, WC 80742-03C-01				
Concession Stand 6:				
Convection Ovens Garland Master (2) 0303CJ0960 / 0303CJ0959				
Scotsman Ice Machine Model # B9485 Serial # 12121320011010				
Delfield Sandwich Refrig.				
Stainless Steel Shelf				
Concession Office:				
Floor Safes NKL Series (2) Right/ 801055 Left /801108				
Air Condition Units Quiteside (2) QSHE121/ QSHC121				
Concession Storage Room				
Blue Iowa Rotocast Texas Icercs (8) ea.				

Metro (1) Stationary Wire Security Cabinet 38 ½" x 21 ½" x 66 13/16", w/(2) Metro Super Erecta Adjustable Chrome Shelf				
Freeland Polythouh 100 Gallon Trough Black (8) ea.				
Duchess Series Portable Bar (4) ea				
Transport Cabinets (4) Grey				
South Quad Concession Stand				
Stainless Steel Prep Table (3)				
Industrial Wire Shelving (1)				
North Quad Concession Stand				
Stainless Steel Prep Table (2)				

(This space is intentionally left blank)

Exhibit D:
Map of Designated Use Area

