



**SPECIFICATIONS/REQUIREMENTS  
FOR:**

**CONCESSION SERVICES**

**RFP # 19-004**

**CLOSING DATE**

**THURSDAY, DECEMBER 13, 2018**

**1:30 PM**

**(CST)**

**Table of Contents**

<b><u>Section Description</u></b>	<b><u>Page Number</u></b>
Notice to Bidders .....	3
Proposal of Bidders .....	4
Timeline .....	6
General Conditions .....	7
Scope of Work .....	12
Scope of Services Part A – MCINNISH SOFTBALL COMPLEX .....	12
Scope of Services Part B – ROSEMEADE RAINFOREST AQUATIC COMPLEX .....	18
Special Conditions .....	23
Insurance Requirement .....	27
Insurance Requirement Affidavit .....	28
References .....	29
Conflict of Interest Questionnaire .....	30
Certificate of Interested Parties .....	33
Sample Contract .....	35

## NOTICE TO BIDDERS

*The terms bid and “RFP” used in this document have the same meaning.*

Sealed Request for Proposals will be received by the City of Carrollton at the office of Patty Helms, Purchasing Manager, Carrollton City Hall Building, 1945 E. Jackson Road, Carrollton, Texas 75006-1790 **or via email provided a digital signature is included**, until the hour **1:30 PM on the 13<sup>TH</sup> day December, 2018**; at which time bids duly delivered and submitted will be considered for supplying the following:

### **REQUEST FOR PROPOSAL FOR CONCESSION SERVICES RFP # 19-004**

Any request for proposals received after stated closing time will be returned unopened. If request for proposals are sent by mail to the Purchasing Manager, the proposer shall be responsible for actual delivery of the request for proposal to the Purchasing Manager before the advertised date and hour for opening of request for proposals. If mail is delayed by the postal service, courier service, an ISP – internet service provider or in the internal mail system of the city of Carrollton beyond the date and hour set for the request for proposal opening, request for proposals thus delayed will not be considered and will be returned unopened.

**Information concerning the bid specifications may be obtained by emailing Kim Bybee, Parks Manager, at 972-466-9835, and via email @ [kim.bybee@cityofcarrollton.com](mailto:kim.bybee@cityofcarrollton.com). Please be sure to copy Purchasing at [bids@cityofcarrollton.com](mailto:bids@cityofcarrollton.com) on all correspondence.**

**Information on the bid process/procedures** may be obtained from Patricia Helms, Purchasing Manager at (972) 466-3115 or [purchasing@cityofcarrollton.com](mailto:purchasing@cityofcarrollton.com).

Until the final award by the city of Carrollton, said City reserves the right to reject any and/or all bids, to waive technicalities, to re-advertise, to proceed otherwise when the best interests of said City will be realized hereby. Bids will be submitted sealed and plainly marked with the date and time of opening.

The city of Carrollton Municipal Building is wheelchair accessible. For accommodations or sign, interpretive services needed for bid openings, please contact the Purchasing Office 48 hours in advance at (972) 466-3133.

CITY OF CARROLLTON, TEXAS



Patricia Helms, Purchasing Manager

**Publication Dates: Sunday, November 18, 2018 and Sunday, November 25, 2018**

**Closing Date: Thursday, December 13, 2018 @ 1:30 PM**

## PROPOSAL OF BIDDERS

All:

The following bid is made for furnishing the materials/services for the city of Carrollton, Texas.

The undersigned declares that the amount and nature of the materials/services required is understood and that this proposal is in strict accordance with the requirements of the RFP and is a part of this bid, and that there will at no time be a misunderstanding as to the intent of the specifications or conditions to be overcome or pleaded after the bids are opened.

The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any Department of Transportation (DOT)-assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements 49 CFR part 26. The proposer shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The undersigned hereby proposes to furnish any supplies or equipment necessary for this request for proposal, F.O.B. Carrollton, Texas, freight pre-paid at the unit prices quoted herein after notice of bid award. The undersigned affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this type of business prior to the official opening of this bid.

Texas Government Code §2270.002 forbids Texas government entities from contracting with any company that excludes or boycotts Israel, or will do so during the term of a contract. Also, Texas Government Code §2252.152 prohibits Texas governments from contracting with companies who do business with Iran, Sudan, or foreign terrorist organizations. If Bidder or Bidder's company boycotts Israel or will boycott Israel during the contract, does business with, or will do business with, Iran, Sudan, a terrorist organization, or is an organization listed with the Texas Comptroller pursuant to Chapter 2252 of the Texas Government Code, you must disclose this in your bid response and provide details of such business.

In addition, the Vendor who wins a bid award must guarantee that they will not employ a subcontractor in the performance of the bid award who falls under either law. Submission of a bid proposal shall be deemed an affirmative statement that Bidder does not and will not boycott Israel, and Bidder does not and will not contract with Iran, Sudan, or any terrorist organization. If you need to provide the city any detail regarding these new laws, please attach details as needed.

**Please sign on the line below as verification that your company is not excluded from contracting with the city of Carrollton by either Texas law, and will remain in compliance to these two laws for the term of the bid award.**



---

**PROPOSAL OF BIDDERS**

**RFP# 19-004  
CONCESSION SERVICES**

**Respectfully Submitted,**

**PLEASE PROVIDE A COPY OF  
YOUR W-9**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME TITLE

\_\_\_\_\_  
COMPANY NAME CONTACT PERSON

\_\_\_\_\_  
MAILING ADDRESS CITY STATE ZIP

\_\_\_\_\_  
PAYMENT ADDRESS CITY STATE ZIP

\_\_\_\_\_  
PHONE NUMBER FAX NUMBER

\_\_\_\_\_  
E-MAIL ADDRESS WEB PAGE

**HUB Vendor Status**           **YES (attach certification)**           **NO**       

**HUB VENDORS:** HUB Vendors (Historically Underutilized Business) are Vendors whose company is owned by either a minority or woman. If you are classified as a HUB Vendor and have certification to prove this, please respond below and attach a copy of your certification. If you would like to read the Texas bid statute, which references HUB Vendors, please follow this link

<http://www.statutes.legis.state.tx.us/SOTWDocs/LG/htm/LG.252.htm>

**NO BIDS:** If response is not received in the form of a "BID" or "No BID" bidder will be removed from bid list. Please give a specific reason as to why you are unable to bid, i.e.: we do not sell the required product/service.

**NO BIDS may be faxed to: 972-389-9557** \_\_\_\_\_

# REQUEST FOR PROPOSAL FOR CONCESSION SERVICES

## TIMELINE

### CITY OF CARROLLTON

**Advertise**

**Sunday, November 18, 2018**  
**Sunday, November 25, 2018**

**Deadline for Questions**

**Thursday, December 6, 2018 @ 8:00 AM**  
**Questions by Email only to:**  
**kim.bybee@cityofcarrollton.com and**  
**purchasing@cityofcarrollton.com**

**Deadline for Response to Questions**

**Monday, December 10, 2018 @ 10:00 AM**

**Deadline for Proposals**

**Thursday, December 13, 2018 @ 1:30 PM**

**Proposal Analysis**

**Expected Start of Operations**

**PART A.** The Adult Softball season is approximately February 15 - November 15. Specific schedules for league and tournament games will be provided to the contractor at least four (4) days prior to the start of the league/tournament.

**PART B.** The Aquatics season is Memorial Day weekend through Labor Day. Specific special events or swim meet schedules will be provided to the contractor at least four (4) days prior to the start of the event.

# GENERAL CONDITIONS

## ADDENDA

It is the responsibility of the Vendor to check for addenda. Addenda will be posted to the City’s website: [www.cityofcarrollton.com/purchasing](http://www.cityofcarrollton.com/purchasing)

## ASSIGNMENT OF REQUEST FOR PROPOSAL/CONTRACT

The successful proposer may not assign their rights and duties under and award without the written consent of the City’s Purchasing Manager. Such consent shall not relieve the assignor of liability in event of default by their assignee.

## REQUEST FOR PROPOSAL CONSIDERATION / TABULATION

After request for proposals are opened and publicly read, the request for proposals will be tabulated for comparison on the basis of the request for proposal prices and quantities (lowest responsible Vendor) or by the best value method shown in the Proposal. Until final award of the Contract, the city reserves the right to reject any or all request for proposals, to waive technicalities, and to re-advertise for new request for proposals, or proposed to do the work otherwise in the best interests of the City.

The criteria for evaluating the proposals will be based upon a combination of the following:

- Quote amount ..... 30%
- The background and experience of operator in providing quality service through similar concession operations ..... 25%
- Demonstration of qualifications necessary to operate the concession building in a business-like manner ..... 20%
- The background and experience of operator in related professional experiences... 10%
- Ability to provide a menu that offers a variety of food items as suggested in sections E.2 ..... 10%
- Reference responses ..... 5%

## REQUEST FOR PRPOSALS SUBMISSION

Request for Proposals may be submitted in person, electronically or by mail.

- To submit a Request for Proposal electronically, all documents must be returned and a **digital signature provided on the proposal to submitters form**. As an alternative to the digital signature, the request for proposal may be sent electronically and the **proposal to submitters form may be faxed to 972-389-9557. This form is the only page that will be accepted via fax.**
- **SUBMIT REQUEST FOR PROPOSALS VIA EMAIL TO [BIDS@CITYOFCARROLLTON.COM](mailto:BIDS@CITYOFCARROLLTON.COM)**
- Submit request for proposals via mail to PO Box 110535, Carrollton, TX 75011-0535
- Proposals must be marked on the outside of the packaging, “**RFP# 19-004 Concession**”. Vendors do not need to come to the opening, but are welcome, if so desired. At the opening, the name of responding Vendor will be identified. No other information will be provided. The responding Vendors will be listed on the RFP website with 24 hours.
- To submit a request for proposal via mail, all documents must be returned and an original signature provided on the proposal to submitters sheet.
- Request for proposals will not be accepted in either format without a signature.
- The City is not responsible for mail service.

## **BRAND NAMES**

If items for which request for proposals have been called for have been identified by a “brand name or equal” description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Request for proposals offering “equal” products will be considered for award if such products are clearly identified in the request for proposals and are determined by the Purchasing Manager and requesting Department to be equal in all material respects to the brand name products referenced. **Unless the proposer clearly indicates in their request for proposal that they are offering an “equal product”, their request for proposal shall be considered as offering a brand name product referenced in the Proposal Schedule.**

## **CANCELLATION OF REQUEST FOR PROPOSALS**

Request for proposals may be cancelled with **30** days written notice with good cause.

## **CHANGES OR ALTERATIONS**

No part of this request for proposal may be changed/alterd in any way. Vendors must submit written requests to change any specifications/conditions with their proposal. ***Changes made without submission of a written request to this request for proposal will result in disqualification.***

## **COMPLETING INFORMATION**

Proposer must fill in all information asked for in the blanks provided under each item. Failure to comply may result in rejection of the Request for Proposal at the City’s option.

## **CONTRACT CLAUSE**

Proposer understands and agrees that the Vendor’s request for proposal response/bid will become a legally binding contract upon acceptance in writing by the City. This contract may be superseded only if replaced with a more extensive contract that is agreed to by both parties.

## **DEFAULT**

In case of default of the successful proposer, the city of Carrollton may procure the articles from other sources and hold the proposer responsible for any excess cost occasioned thereby.

## **DELIVERY**

The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Proposer fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. All prices are to be F.O.B. Carrollton, Texas all freight prepaid.

## **DELIVERY DATE**

Delivery date is an important factor to the City and may be required to be a part of each request for proposal. The city of Carrollton considers delivery time to be that period elapsing from the time the individual order is placed until that order or work thereunder is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery at Carrollton, Texas. Failure of the proposer to meet guaranteed delivery dates or service performance could affect future City orders.

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Manager, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights

or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.

## **INDEMNIFICATION**

**IN CASE ANY ACTION IN COURT IS BROUGHT AGAINST THE CITY, OR ANY OFFICER OR AGENT OF THE CITY, FOR THE FAILURE, OMISSION, OR NEGLIGENCE OF THE VENDOR TO PERFORM ANY OF THE COVENANTS, ACTS, MATTERS, OR THINGS BY THIS CONTRACT UNDERTAKEN; OR FOR INJURY OR DAMAGE CAUSED BY THE ALLEGED NEGLIGENCE OF THE VENDOR OR HIS SUBCONTRACTORS OR HIS OR THEIR AGENTS, OR IN CONNECTION WITH ANY CLAIM BASED ON LAWFUL DEMANDS OF SUBCONTRACTORS, WORKMEN, MATERIALMEN, OR SUPPLIERS THE VENDOR SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS OFFICERS AND AGENTS, FROM ALL LOSSES, DAMAGES, COSTS, EXPENSES, JUDGMENTS, OR DECREES ARISING OUT OF SUCH ACTION.**

## **INSURANCE**

Deductibles, of any type, are the responsibility of the Vendor/contractor.

The Contractor shall secure and maintain throughout the duration of this Contract insurance of such types and in such amounts as may be necessary to protect himself/herself and the interest of the Owner against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be acceptable to the Owner but regardless of such acceptance it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve him/her of any contractual responsibility or obligation.

Satisfactory certificates of insurance shall be filed with the Owner prior to starting any construction work on this Contract. The certificate shall state that 30 days advance written notice will be given to the Owner before policy covered thereby is changed or canceled.

The Contractor shall comply with all Federal, State, and local laws and ordinances relating to Social Security, Unemployment Insurance, Pensions, etc.

1. **Commercial General Liability:** \$1,000,000.00 combined single limit per occurrence for Fire Damage, Medical Expenses, Personal & Advertising Injury, General Aggregate and Products–Completed Operations Aggregate. This policy shall have no coverage removed by exclusions.
2. **Automobile Liability:** \$500,000.00 combined single limit per accident for bodily injury and property damage. Coverage should be provided as a "Code 1," any auto.
3. **Worker's Compensation and Employers' Liability:** *Statutory*. Employers Liability policy limits of \$500,000.00 for each occurrence, \$500,000.00 Aggregate - Disease.

### **Other Insurance Provisions**

5. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to:

City of Carrollton  
Purchasing Department: Purchasing  
P. O. Box 110535  
Carrollton, Texas 75011-0535

6. Insurance Certificate must be submitted and issued with the City listed as the certificate holder.

**Cancellation Policy must read as follows:**

**"Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail a 30 days written notice to the certificate holder named to the left. "**

**MISCELLANEOUS**

Except as to any supplies or components which the specifications provide need not be new, all supplies and components to be provided under this contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production and of the most suitable grade for the purpose intended. If at any time during the performance of this contract the Contractor believes that the furnishing of supplies or components, which are not new, is necessary or desirable, they shall notify the Purchasing Manager immediately, in writing, including the reasons therefore and proposing any consideration, which will flow to the City if authorization to use supplies or components is granted.

The city of Carrollton supports a recycling program. Recycled materials are acceptable and will be considered for award. The City desires to use recycled products when a comparable material/product is available. If your company distributes products made of recycled materials, please submit an alternate request for proposal for the items requested. All recycled products should meet the minimum standards established in the request for proposal specifications provided. State any exceptions: costs, warranties and percentage of recycle materials used in the manufacture of the material/product. The City will determine the acceptability of the materials/product request for proposal as an alternate.

The City will consider special Vendor pricing on discounts in exchange for City's willingness to participate in new product testing or promotion including ability of Vendor to bring other potential customers to city job sites to demonstrate product. The amount of product discount in exchange for these services should be clearly stated in the request for proposal document. Any promotional strategies should be discussed with the Purchasing Manager and approved by the appropriate City Official(s) before submission of the request for proposal.

Successful proposer(s) agrees to extend prices to all entities that have entered into or will enter into joint purchasing inter-local cooperation agreements with the city of Carrollton. As such, the city of Carrollton has executed an inter-local agreement with certain other governmental entities authorizing participation in a cooperative purchasing program. The successful Vendor may be asked to provide product/services, based upon the request for proposal price, to any other participant in the forum.

The City operates on a fiscal year that ends on September 30<sup>th</sup>. State law mandates that a municipality may not commit funds beyond a fiscal year; this request for proposal is subject to cancellation if funds for this commodity are not approved in the next fiscal year.

**PAYMENT TERMS & CONDITIONS**

All request for proposals shall specify terms and conditions of payment, which will be considered as part of, but not control, the award of request for proposal. City review, inspection, and processing procedures ordinarily require thirty (30) days after receipt of invoice, materials or service. Request for proposals which call for payment before 30 days from receipt of invoice, or cash discounts given on such payment, will be considered only if in the opinion of the Purchasing Manager the review, inspection and processing procedures can be completed as to the specific purchases within the specified time.

It is the intention of the city of Carrollton to make payment on completed orders within thirty (30) days of receiving invoicing unless unusual circumstances arise. Invoices shall be fully documented as to labor, materials and

equipment provided. Orders will be placed by the Purchasing Department and must be given a Purchase Order Number to be valid. No payments shall be made on invoices not listing a Purchase Order Number. No partial payment will be made.

Payment will not be made by the City until the Vendor has been given a Purchase Order Number, has furnished proper invoice, materials, or services, and otherwise complied with City Purchasing procedures, unless this provision is expressly waived in writing by the City.

### **PROVISIONAL CLAUSES**

The city of Carrollton will not enter into any contract where the cost is provisional upon such clauses as are known as “escalator” or “cost-plus” clauses.

### **REJECTION OF REQUEST FOR PROPOSALS**

The City reserves the right to reject any or all request for proposals or to waive technicalities at its option when in the best interests of said City.

Request for proposals will be considered irregular if they show any omissions, alteration of form, additions, or conditions not called for, unauthorized alternate request for proposals or irregularities of any kind. However, the City reserves the right to waive any irregularities and to make the award in the best interests of the City.

The City reserves the right to reject any or all request for proposals, and all request for proposals submitted are subject to this reservation. Request for proposals may be rejected, among other reasons, for any of the following specific reasons:

- Request for proposals received after the time limit for receiving request for proposals as stated in the advertisement.
- Proposal containing any irregularities.
- Unbalanced value of any items.

Proposers may be disqualified and their request for proposals not considered, among other reasons, for any of the following specific reasons:

- Reason for believing collusion exists among the Proposers.
- Reasonable grounds for believing that any Proposer is interested in more than one Proposal for the work contemplated.
- The Proposer being interested in any litigation against the City.
- The Proposer being in arrears on any existing contract or having defaulted on a previous contract.
- Lack of competency as revealed by a financial statement, experience and equipment, questionnaires, etc.
- Uncompleted work, which in the judgment of the City will prevent or hinder the prompt completion of additional work if awarded.

## **REQUEST FOR NON-CONSIDERATION**

Request for proposals deposited with the City cannot be withdrawn prior to the time set for opening request for proposals. Request for non-consideration of request for proposals must be made in writing to the Purchasing Manager and received by the City prior to the time set for opening request for proposals. After other request for proposals are opened and publicly read, the Proposal for which non-consideration is properly requested may be returned unopened. The Proposal may not be withdrawn after the request for proposals have been opened, and the Proposer, in submitting the same, warrants and guarantees that this request for proposal has been carefully reviewed and checked and that it is in all things true and accurate and free of mistakes and that such request for proposal will not and cannot be withdrawn because of any mistake committed by the Proposer.

## **SALES TAX**

The total for each request for proposal submitted must include any applicable taxes. Although the City is exempt from most City, State, or Federal taxes, this is not true in all cases. It is suggested that taxes, if any, be separately identified, itemized, and stated on each request for proposal. The City cannot determine for the proposer whether or not the request for proposal is taxable to the City. The proposer through the proposer's attorney or tax consultant must make such determination. Bills submitted for taxes after the request for proposals are awarded will not be honored.

# **REQUEST FOR PROPOSAL**

## **SCOPE OF WORK**

The scope of work shall be finalized upon the selection of the Firm. The respondent's submission shall have accurately described respondent's understanding of the objectives and scope of the requested products and services and provided an outline of respondent's process to implement the requirements of the Scope of Work and Services. It is anticipated that the scope of work will include, at a minimum, the following:

This proposal is for securing concession rights to the McInnish Softball and/or Rosemeade Rainforest Aquatic Complex concession stands operated by the City of Carrollton Parks and Recreation Department. The City of Carrollton will grant rights to the successful respondent(s) to operate the concession stands for all events at these locations. Submittals can be made for one or both locations and may be awarded to two (2) separate respondents. Proposals submitted for less than the acceptable amount will not be considered for award.

## **SCOPE OF SERVICES**

### **PART A. - MCINNISH SOFTBALL COMPLEX**

#### **A. SUBMITTAL REQUIREMENTS**

Each concessionaire that submits a written proposal must meet the minimum requirements as detailed herein and shall include the following documents; which will be used as evaluation criteria in selecting the most qualified concessionaire.

- 1) During league play; proposed payment to the City of Carrollton based on a per day rate of operation.  
During tournaments: proposed payment to the City of Carrollton based on a percentage of gross sales receipts for the duration of the tournament.
- 2) A description of the type of products to be sold and the corresponding prices for each item.
- 3) Proof of Insurance, listing the City of Carrollton as additional insured.
- 4) Proof of valid Health Permits
- 5) Proposed operating & staffing schedule for the operation of the concession locations
- 6) A Resume that will include background and experience of operator proving quality service through similar operations, demonstration of qualifications necessary to operate the concession in a business-like manner and three (3) references with name of contact person and telephone number.
- 7) The City of Carrollton has the right to hire Food Trucks for tournaments with the understanding that items for sale are different than those being sold in the concession stand.

## **B. SPECIAL NOTES**

- 1) The minimum acceptable proposal is stated in Section N. "Gross Revenue is defined" as: total money received before any operating expenses, taxes, payroll or other expenses are deducted.
- 2) The Adult Softball season is approximately February 15 - November 15. Specific schedules for league and tournament games will be given to the contractor at least four (4) days prior to the start of the league/tournament.
- 3) Concessionaire is expected to be open and operating 15 minutes before all competition game times and 15 minutes after the final game begins at complexes. Failure to open the concession operation for scheduled event's (games) will be considered an offense and default of the contract terms. Each offense will incur an additional \$25 fee. After ten (10) offenses, the contract will be terminated.
- 4) Concessionaire may be given opportunities to sell at other City of Carrollton special events.
- 5) Site inspection may be arranged by calling the City of Carrollton at (972) 466-9835 contact Kim Bybee by appointment ONLY.

## **C. CONTRACT PERIOD**

- 1) The term of the contract shall be for the 2019 Adult Softball Season (February 15-November 15, two (2) one (1) year options to extend the contract are allowed. Each contract period shall begin in February and terminate in December of that year.

## **D. FACILITIES & HOURS**

- 1) The McInnish Softball Concession stand, 2335 Sandy Lake Road, is located adjacent to Fields #1-4 (4-Plex). This is a permanent concession building with a concession area approximately 305 sf, with A/C available in stand. *This concession stand will be operated from February-November for league night games (Sun – Fri; 6:45-10:45pm) and tournaments (Sat, Sun) as scheduled by Recreation Staff.*
  - Adult Softball Games approximately 6-10 weeks long in spring, summer, and fall.
  - Softball Tournaments on weekends as scheduled from February-November.

## **E. PRODUCT & PRICES**

- 1) No Item shall be sold without permission from the City of Carrollton. All prices on items sold shall be presented to the City of Carrollton prior to opening. The City of Carrollton must approve all price changes on existing items and the addition or substitution with pricing of new items.
- 2) The following is a recommended menu: A copy of the price list shall be provided to City of Carrollton and kept on file with this contract.
  - Hot Dogs
  - Nachos
  - Popcorn
  - Pickles
  - Packaged chips, candy, and other packaged snacks
  - Soft Drinks, water, coffee, hot chocolate and sport drinks
- 3) Price of food purchased after initial price scale is approved by the City of Carrollton shall not increase without written approval by the City of Carrollton.
- 4) All signage must follow City of Carrollton Regulations and Policies.
- 5) The following items are **prohibited** from being sold:
  - Party-Poppers, snaps, confetti, cray paper, glitter or similar type products
  - Any device that could be considered fireworks
  - Any item that is prohibited by City of Carrollton, Ordinance, State of Texas, or United States
  - Alcohol and tobacco products

## **F. EQUIPMENT**

- 1) Contractor will be required to supply the necessary equipment for operations, including but not limited to the following:
  - Microwave
  - Cheese/Chili warmer
  - Hot Dog Roller
  - Any heating materials needed for menu items
  - Soda Dispenser/Fountain, Cooler
  - Extra Refrigerator/Freezers not already in building
  - Cash Register/Electronic Devices (NO internet or wi-fi is currently available)
  - Note: Stand does not have a grill.
  
- 2) City of Carrollton will provide the following items:
  - Electrical, water, and sewer will be provided and paid for by the City of Carrollton.
  
- 3) As long as it is operational, the following equipment is available for concessionaire's use:
  - Drink coolers and ice machine (not exclusive use). Should any of this equipment become inoperable, it is the concessionaire's responsibility to notify the City of Carrollton immediately. The City of Carrollton will be responsible for repair or replacement of the drink coolers and ice machine.

## **G. CLEANING OF PREMISES**

- 1) Concessionaire shall furnish all labor, services, materials, supplies and equipment necessary to maintain in a clean, orderly and inviting condition of the premises used in the operation of the concession to the satisfaction of the City of Carrollton. This includes all premises used and occupied by the concessionaire in the operation of concessions, together with the area surrounding the buildings and facility, which are affected, by said operation and items sold by Concessionaire.
  
- 2) All health and safety practices must be followed to ensure a safe, clean, and welcoming environment for customers. Any concerns with food handling and reported un-sanitary practices will be addressed immediately by the City of Carrollton.
  
- 3) Concessionaire shall be responsible for all trash within the concession facility and such trash/debris must be removed when operating the concessions. Trash is to be placed in trash bags and placed in appropriate trash receptacles. No trash is to be left over night in the concession facility or in bags sitting outside of facility. Any boxes or large items that do not fit in trash/recycle receptacles must be taken to the dumpster or recycling center. Parks staff will empty trash and recycle receptacles and remove bagged trash daily.

## **H. EMPLOYEES**

- 1) The contractor must be able to produce verification of successfully passed background checks for all employees working the concession stands, executed within the past one (1) year. Contractor agrees to maintain updated records of background check and submit copies of these records to the City of Carrollton upon request. Contractor shall remove any person that the City of Carrollton determines unacceptable by reason of criminal history or other conduct deemed by the City of Carrollton to be unsuitable to be working with or near children, or the general public.

## **I. LICENSES AND PERMITS**

- 1) The concessionaire will be responsible for obtaining and maintaining any and all certificate and permits necessary to run a food business in the City of Carrollton at their own expense. Required permits must be obtained and properly displayed prior to opening to the public.

## **J. INSPECTIONS**

- 1) The City of Carrollton reserves the right for its representatives to conduct inspections at reasonable times to insure that fire, safety, and sanitation regulations, and other provisions contained in the agreement, are being adhered to by the concessionaire.

## **K. REPAIRS & MAINTENANCE**

- 1) The City of Carrollton shall, at its cost and expense, make all ordinary and reasonable repairs required to preserve the building and refreshment stands owned by the City of Carrollton occupied under this contract.
- 2) The concessionaire shall maintain the facilities on a day-to-day basis. If the concessionaire damages the facilities the concessionaire will be responsible for repairs.

## **L. SUBLEASE**

- 1) The concessionaire shall not have the authority to sell, sublet, or assign this contract, or any portion thereof to any other person or persons, except upon the written approval of the City of Carrollton.

## **M. ACCOUNTING RECORDS & REPORTS**

- 1) Concessionaire shall maintain any records necessary to verify the amount of total gross receipts for the contract period, payment of wages, etc. These records shall be available for auditing at the City of Carrollton's request. Such records shall be maintained in accordance with generally accepted accounting principles and may be specifically prescribed by the City of Carrollton.

## **N. ACCEPTABLE OFFER & PAYMENT**

- 1) League Play: \$15 per day for league nights
- 2) Tournaments: 20% of gross revenue
- 3) Any amount **less than the minimum acceptable quote per day will not be considered**
- 4) Concessionaire shall pay to the City of Carrollton the amount owed for the prior one month period of operations. A lump payment shall be made to the City of Carrollton no later than the 15<sup>th</sup> day of each month for the prior month period. Check must be made payable to the City of Carrollton. A sales report must be submitted with each payment. A five (5) dollar per day late fee will be assessed if payment is not received by the 15<sup>th</sup> of the month following the month being reported.

## **O. FEE REQUIREMENTS**

### **LOST KEY FEE**

Keys given to the concessionaire unlock the complex gates and concession stand doors. The concessionaire will not be permitted to make copies of the keys. The concessionaire will be required to pay \$100 per key to the City of Carrollton for any lost keys.

## **PART B. - ROSEMEADE RAINFOREST AQUATIC COMPLEX**

### **A. SUBMITTAL REQUIREMENTS**

Each concessionaire that submits a written proposal must meet the minimum requirements as detailed herein and shall include the following documents; which will be used as evaluation criteria in selecting the most qualified concessionaire.

- 1) During daily operating hours and special events; proposed payment to the City of Carrollton based on a percentage of gross sales receipts during the scheduled activities.
- 2) A description of the type of products to be sold and the corresponding prices for each item.
- 3) Proof of Insurance, listing the City of Carrollton as additional insured.
- 4) Proof of valid Health Permits
- 5) Proposed Operating & staffing schedule for the operation of the concession locations
- 6) A Resume that will include background and experience of operator proving quality service through similar operations, demonstration of qualifications necessary to operate the concession in a business-like manner and three (3) references with name of contact person and telephone number.
- 7) **No Food Trucks** or **Mobile units will be allowed** to be within the complex or facility.

### **B. SPECIAL NOTES**

- 1) Proposals are to be submitted on a percentage of gross revenue receipts payable to the City of Carrollton. The minimum acceptable proposal is stated in Section N. "Gross Revenue is defined" as: total money received before any operating expenses, taxes, payroll or other expenses are deducted.
- 2) The Aquatics season is Memorial Day weekend through Labor Day. Specific special events or swim meet schedules will be given to the contractor at least four (4) days prior to the start of the event.
- 3) Concessionaire is expected to be open and operating during specified operations hours. Failure to open the concession operation during the facility's operating hours will be considered an offense and default of the contract terms. Each offense will incur an additional \$25 fee. After ten (10) offenses, the contract will be terminated.
- 4) Concessionaire may be given opportunities to sell at other City of Carrollton special events.
- 5) Site inspection may be arranged by calling the City of Carrollton at (972) 466-9835 contact Kim Bybee by appointment ONLY. **{currently under construction}**

## **C. CONTRACT PERIOD**

- 1) The term of the contract shall be for the 2019 Aquatics Season (Memorial Day weekend through Labor Day). Two (2) one (1) year options to extend the contract are allowed. Each contract period shall begin in February and terminate in December of that year.

## **D. FACILITIES & HOURS**

- 1) The Rosemeade Rainforest Aquatic Complex is located at 1334 E Rosemeade Parkway. This is a permanent concession building approximately 550 sf with a large storage and A/C available in stand. This concession stand will be operated from Memorial Day weekend – Labor Day for operating hours, seven (7) days a week and special events/swim meets as scheduled by PARD office.
  - Daily Operations approximately 15 weeks long in summer.
  - Special events and swim meets on weekends as scheduled from May - September.

## **E. PRODUCT & PRICES**

- 1) No Item shall be sold without permission from the City of Carrollton. All prices on items sold shall be presented to the City of Carrollton prior to opening. The City of Carrollton must approve all price changes on existing items and the addition or substitution with pricing of new items.

- 2) The following is a recommended menu: A copy of the price list shall be provided to City of Carrollton and kept on file with this contract.

- Hot Dogs
- Hamburgers
- Chicken Sandwich
- Pizza
- Nachos
- Frito Pie
- Popcorn
- Pickles
- Packaged chips, candy, and other packaged snacks
- Soft Drinks, water, and sport drinks

- 1) Price of food purchased after initial price scale is approved by the City of Carrollton shall not increase without written approval by the City of Carrollton.

- 2) All signage must follow City of Carrollton Regulations and Policies.

- 3) The following items are **prohibited** from being sold:

- Party-Poppers, snaps, confetti, cray paper, glitter or similar type products
- Any device that could be considered fireworks

- Any item that is prohibited by City of Carrollton, Ordinance, State of Texas, or United States
- Alcohol and tobacco products

## **F. EQUIPMENT**

- 1) Contractor will be required to supply the necessary equipment for operations, including but not limited to the following:
  - Microwave
  - Cheese/Chili warmer
  - Hot Dog Roller
  - Any heating/grilling materials needed for menu items
  - Soda Dispenser/Fountain, Cooler
  - Extra Refrigerator/Freezers not already in building
  - Cash Register/Electronic Devices (access to internet/wi-fi is available)
- 3) City of Carrollton will provide the following items:
  - Electrical, water, and sewer will be provided and paid for by the City of Carrollton.
- 4) As long as it is operational, the following equipment is available for concessionaire's use:
  - Ice machine (not exclusive use). Should any of this equipment become inoperable, it is the concessionaire's responsibility to notify the City of Carrollton immediately. The City of Carrollton will be responsible for repair or replacement of the ice machine.

## **G. CLEANING OF PREMISES**

- 1) Concessionaire shall furnish all labor, services, materials, supplies and equipment necessary to maintain in a clean, orderly and inviting condition the premises used in the operation of the concession to the satisfaction of the City of Carrollton. This includes all premises used and occupied by the concessionaire in the operation of concessions, together with the area surrounding the buildings and facility, which are affected, by said operation and items sold by Concessionaire.
- 2) All health and safety practices must be followed to ensure a safe, clean, and welcoming environment for customers. Any concerns with food handling and reported un-sanitary practices will be addressed immediately by the City of Carrollton.
- 3) Concessionaire shall be responsible for all trash within the concession facility and such trash/debris must be removed when operating the concessions. Trash is to be placed in trash bags and placed in appropriate trash receptacles. No trash is to be left over night in the concession facility or in bags sitting outside of facility. Any boxes or large items that do not fit in trash/recycle receptacles must be taken to the dumpster or recycling center. Parks staff will empty trash and recycle receptacles and remove bagged trash daily.

## **H. EMPLOYEES**

- 1) All concession stand workers must be at least 16 years of age and a supervisor must be on site at all times during operating hours who is at least 18 years of age.
- 2) The contractor must be able to produce verification of successfully passed background checks for all employees working the concession stands, executed within the past one (1) year. Contractor agrees to maintain updated records of background check and submit copies of these records to the City of Carrollton upon request. Contractor shall remove any person that the City of Carrollton determines unacceptable by reason of criminal history or other conduct deemed by the City of Carrollton to be unsuitable to be working with or near children, or the general public.

## **I. LICENSES AND PERMITS**

- 1) The concessionaire will be responsible for obtaining and maintaining any and all certificate and permits necessary to run a food business in the City of Carrollton at their own expense. Required permits must be obtained and properly displayed prior to opening to the public.

## **J. INSPECTIONS**

- 1) The City of Carrollton reserves the right for its representatives to conduct inspections at reasonable times to insure that fire, safety, and sanitation regulations, and other provisions contained in the agreement, are being adhered to by the concessionaire.

## **K. REPAIRS & MAINTENANCE**

- 1) The City of Carrollton shall, at its cost and expense, make all ordinary and reasonable repairs required to preserve the building and refreshment stands owned by the City of Carrollton occupied under this contract.
- 2) The concessionaire shall maintain the facilities on a day-to-day basis. If the concessionaire damages the facilities the concessionaire will be responsible for repairs.

## **L. SUBLEASE**

- 1) The concessionaire shall not have the authority to sell, sublet, or assign this contract, or any portion thereof to any other person or persons, except upon the written approval of the City of Carrollton.

## **M. ACCOUNTING RECORDS & REPORTS**

- 1) Concessionaire shall maintain any records necessary to verify the amount of total gross receipts for the contract period, payment of wages, etc. These records shall be available for auditing at the City of Carrollton's request. Such records shall be maintained in accordance with generally accepted accounting principles and may be specifically prescribed by the City of Carrollton.

## **N. ACCEPTABLE OFFER & PAYMENT**

- 1) 15% of gross revenue. (Any amount **less than 15% will not be considered**)
- 2) Concessionaire shall pay to the City of Carrollton the amount owed for the prior one month period of operations. A lump payment shall be made to the City of Carrollton no later than the 15<sup>th</sup> day of each month for the prior month period. Check must be made payable to the City of Carrollton. A sales report must be submitted with each payment. A five (5) dollar per day late fee will be assessed if payment is not received by the 15<sup>th</sup> of the month following the month being reported.

## **O. FEE REQUIREMENTS**

### **LOST KEY FEE**

Keys given to the concessionaire unlock the complex gates and concession stand doors. The concessionaire will not be permitted to make copies of the keys. The concessionaire will be required to pay \$100 per key to the City of Carrollton for any lost keys.

## SPECIAL CONDITIONS

**THESE TERMS APPLY TO AND BECOME PART OF THE TERMS AND CONDITIONS OF BID. ANY EXCEPTION MUST BE IN WRITING.**

1. Part A - The term of the contract shall be for the 2019 Adult Softball Season (February 15-November 15). Two (2) one (1) year options to extend the contract are allowed. Each contract period shall begin in February and terminate in December of that year.
2. Part B - The term of the contract shall be for the 2019 Aquatics Season (Memorial Day weekend through Labor Day). Two (2) one (1) year options to extend the contract are allowed. Each contract period shall begin in February and terminate in December of that year.
3. The City of Carrollton reserves the right to cancel this agreement upon thirty-(30) days written notice with good cause.
4. Submittals can be made for one or both locations and may be awarded to two (2) separate respondents. Proposals submitted for less than the acceptable amount will not be considered for award.
5. **The RFP will be evaluated based on the following criteria:**
  - Quote Amount ..... 30%
  - The background and experience of operator in providing quality service through similar concession operations ..... 25%
  - Demonstration of qualifications necessary to operate the concession building in a business-like manner ..... 20%
  - The background and experience of operator in related professional experiences..... 10%
  - Ability to provide a menu that offers a variety of food items as suggested in sections E.2 ..... 10%
  - Reference responses ..... 5%
6. Contractor shall provide all materials and equipment necessary to complete this project. All material is to be delivered by Vendor and coordinated with the City.
7. Contractor shall be required to submit a list of **three (3)** verifiable references. Please use pages in this RFP to submit references.
8. The proposal should clearly demonstrate how the firm can best satisfy the requirements of the City of Carrollton. The City of Carrollton shall reserve the right to enter into an agreement with the firm with the highest overall grade and who presents the proposal that is most advantageous to the City of Carrollton.

9. Insurance Requirement Affidavit should be submitted as part of the proposal. (Requirements are listed on page 36). This form is simply a confirmation from your insurance company that you will be able to provide the insurance requirements should you be the chosen company.
10. Insurance Certificate must be submitted and issued with the City listed as the certificate holder within 10 days of notice of award. See general terms and conditions for detailed insurance requirements.
11. By signing the proposal sheet, the representative has read and understands all, specifications involved with this project.

## **AGREEMENT BY BIDDER**

**THESE TERMS APPLY TO AND BECOME PART OF THE TERMS AND CONDITIONS OF BID. ANY EXCEPTION MUST BE IN WRITING.**

1. Bids must be submitted on the attached form only. Each bid must be placed in a separate envelope. Each envelope must be completely and properly identified and sealed, showing the date of bid opening and the subject advertised.
2. The City of Carrollton reserves the right to reject any and all bids, to waive any technicalities in the bidding, and to award each item to different bidders or all items to a single bidder.
3. No bidder may withdraw his bid within a period of thirty (30) days after the date and hour set for the opening of bids. A bidder may withdraw his bid at any time prior to the time fixed for the opening of bids.
4. All prices shall be quoted F.O.B. Carrollton, Texas, and delivery to City of Carrollton location shall be without additional charges unless otherwise stated in specifications.
5. The bidder shall attach the manufacturer's name of the equipment or materials to be furnished, type, model numbers, manufacturer's descriptive bulletins and specifications. All guarantees and warranties must be clearly stated. This data shall be in sufficient detail to describe accurately the equipment or material to be furnished. Manufacturer's specifications in respect to the successful bidder shall be considered as part of his contract with the City of Carrollton.
6. Any exceptions to these items or conditions or deviations from written specifications shall be shown in writing and attached to the bid form in section A-1.
7. In the event cash discounts are offered by the bidder, the discount date should begin with the date of invoice or the date of receipt of all material covered by the purchase order.
8. The bidder's attention is directed to the fact that the purchase of certain items of equipment or material by the City of Carrollton is exempt from Federal Excise Tax. In such cases, the bidder shall quote prices, which do not include Federal Excise Tax. The City of Carrollton will execute exemption certificates upon presentation by the bidder at the time of purchase.
9. Information to bidders and specifications are on file in the office of the City Clerk and copies may be obtained from the Municipal Building, Carrollton, Texas.
- 10. BIDDER AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CARROLLTON FROM AND AGAINST ALL DEMANDS, CLAIMS, SUITS, COSTS EXPENSES, DAMAGES AND JUDGMENTS BASED UPON INFRINGEMENT OF ANY PATENT RELATING TO GOODS SPECIFIED IN THIS ORDER OR THE ORDINARY USE OR OPERATION OF SUCH GOODS BY THE CITY OR USE OR OPERATION OF SUCH GOODS IN ACCORDANCE WITH BIDDER'S DIRECTION.**
11. The specifications are complete as written. No oral representation made by any agent or employee of the City, or its affiliate agencies, shall be of any force or effect unless reduced to writing and submitted to all prospective bidders at least 24 hours in advance of the bid opening.
12. Any protest of the award of this proposed contract by a bidder on the contract shall be in writing, shall specify the grounds for the protest in specific terms and shall be received by the City within three (3) business days after the award of the contract by the governing body. All other provisions of these specifications shall also apply.
13. The city of Carrollton is tax exempt from state and local sales taxes, and a tax-exempt certificate will be provided to the awarded Vendor. No state or local sales taxes should be charged to the city for products or services in compliance with this contract.

14. Each bidder when affixing his signature to the "Invitation for Sealed Bids" states that he has not, directly or indirectly, entered into any agreement, express or implied, with any other bidder or bidders, having for its object the controlling of the price, or amount of such bids, the limiting of the bids of bidders or the paying to any one any money for promotion expenses. the parceling or farming out to any bidder or bidders or other persons of any part of the contract or any part of the subject matter of the bid or the profits thereof.
15. Texas Government Code §2270.002 prohibits any Texas government from doing business with any company who boycotts doing business with Israel, and Texas Government Code §2252.152 prohibits any Texas government from doing business with Iran or any terrorist entity. The Texas Comptroller maintains a list of these companies, and this list will be checked before Carrollton chooses a company for this bid award. Bidder, by submitting a proposal, and by signing an agreement with the City, represents that Bidder does not boycott Israel or do business with Iran or any terrorist entity, and will not boycott Israel or do business with Iran or any terrorist entity during the term of the contract.
16. No bidder shall divulge the information in his sealed bid to any person whomsoever, except those having a partnership or other financial interest with him in said bid, until after the sealed bids are opened.

**A VIOLATION OF ANY ONE OF THE FOREGOING PROVISIONS ON THE PART OF A BIDDER SHALL BE SUFFICIENT REASON FOR THE REJECTION OF HIS BID OR MAKING VOID ANY CONTRACT MADE BY HIM WITH THE CITY BASED UPON SUCH BID.**

# INSURANCE

## INSURANCE REQUIREMENTS

1. The City is to be named as an additional insured on the Commercial General Liability Insurance policy. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by the insurer to bid coverage on its behalf.
2. Insurance is to be placed with insurers with a Best rating of no less than A. The company must also be duly authorized to transact business in the State of Texas.
3. Workers' Compensation and Employers' Liability Coverage: Statutory. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from the activities under this contract.
4. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to the Purchasing Manager upon award of the contract(s).
5. Insurance Certificate must be submitted and issued with the City listed as the certificate holder.
6. During the duration of any agreed contract, the contractor shall maintain, at its sole cost and expense, Professional E&O Liability insurance with a minimum policy limit of \$1,000,000. The insurance policy must name the City of Carrollton as an additional insured. A certificate of insurance evidencing such coverage shall be furnished to the City prior to the commencement of any work for the City.



# REFERENCES

Please list at least three (3) references of governments, individuals or companies that have used your concession services. Included in the reference information should be customer contact information, duration of business relationship, and the status of business relationship.

1. \_\_\_\_\_  
COMPANY NAME OR CONTACT PERSON

\_\_\_\_\_

STREET ADDRESS	CITY	STATE	ZIP
----------------	------	-------	-----

\_\_\_\_\_

CONTACT PERSON	TELEPHONE NUMBER
----------------	------------------

\_\_\_\_\_

SERVICES USED/DURTAION OF BUINESS RELATIONSHIP/STATUS OF RELATIONSIP

\_\_\_\_\_

2. \_\_\_\_\_  
COMPANY NAME OR CONTACT PERSON

\_\_\_\_\_

STREET ADDRESS	CITY	STATE	ZIP
----------------	------	-------	-----

\_\_\_\_\_

CONTACT PERSON	TELEPHONE NUMBER
----------------	------------------

\_\_\_\_\_

SERVICES USED/DURTAION OF BUINESS RELATIONSHIP/STATUS OF RELATIONSIP

\_\_\_\_\_

3. \_\_\_\_\_  
COMPANY NAME OR CONTACT PERSON

\_\_\_\_\_

STREET ADDRESS	CITY	STATE	ZIP
----------------	------	-------	-----

\_\_\_\_\_

CONTACT PERSON	TELEPHONE NUMBER
----------------	------------------

\_\_\_\_\_

SERVICES USED/DURTAION OF BUINESS RELATIONSHIP/STATUS OF RELATIONSIP

\_\_\_\_\_

## CONFLICT OF INTEREST QUESTIONNAIRE

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code went into effect which requires that any Vendor or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the Vendor or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the City Secretary of the city of Carrollton not less than the seventh business day after the person becomes aware of facts that require the statement to be filed.

The conflict of Interest Questionnaire must be completed and returned with your bid if a Vendor or its agent has a conflict pursuant to Chapter 176.

It is the responsibility of every Vendor filling out and returning this bid to determine if there is a conflict meeting the parameters listed above. If so, **the City of Carrollton requires that this Questionnaire be completed and turned in with your bid.** If there is no conflict, or if the amount of the conflict is less than \$23,500, then you are not required to submit the Questionnaire with your bid. In addition to the foregoing, after the submission of a bid a Vendor must file a questionnaire if the Vendor becomes aware of facts or an event that would constitute a conflict pursuant to state law, or if the facts or event would make a statement in a previously filed questionnaire incomplete or inaccurate.

See Section 176.006, Local Government Code which reads, "A person commits an offense if the person violated Section 176.006, Local Government Code. An offense under this section is:

- (1) A Class C misdemeanor if the contract amount is less than \$1 million or if there is no contract amount for the contract;
- (2) A Class B misdemeanor if the contract amount is at least \$1 million but less than \$5 million; or
- (3) A Class A misdemeanor if the contract amount is at least \$5 million.

The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a Vendor failed to file a conflict of interest questionnaire required by Section 176.006.

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

**FORM CIQ**

<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<p><b>OFFICE USE ONLY</b></p> <hr/> <p>Date Received</p>
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>	
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>	
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p style="margin-left: 40px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>	
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>	
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>	
<p><b>7</b></p> <p style="text-align: center;">_____ Signature of vendor doing business with the governmental entity</p> <p style="text-align: right;">_____ Date</p>	

**CONFLICT OF INTEREST QUESTIONNAIRE**  
**For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

## CERTIFICATE OF INTERESTED PARTIES

Form 1295 (Certificate of Interested Parties attached) must be submitted through the Texas Ethics Commission's website, and a notarized original form as printed from the website to the City prior to approval of the contract. More information is found at the following link:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

[https://www.ethics.state.tx.us/whatsnew/FAQ\\_Form1295.html](https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html)

**Once bid evaluations take place by city staff, you will be notified that an award to your company is pending and that this form is mandatory. You will need to provide this form to the city before City Council approval can be considered.**

**You can fill out the form online, get a certificate number, and that number goes in the upper right box.**

**CERTIFICATE OF INTERESTED PARTIES**

**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION  
 My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.  
 My address: \_\_\_\_\_ (street) \_\_\_\_\_ (city) \_\_\_\_\_ (state) \_\_\_\_\_ (zip code) \_\_\_\_\_ (country).  
 I declare under penalty of perjury that the foregoing is true and correct.  
 Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 (month) (year)  
 \_\_\_\_\_  
 Signature of authorized agent of contracting business entity  
 (Declarant)

**ADD ADDITIONAL PAGES AS NECESSARY**

THE STATE OF TEXAS §

COUNTY OF DALLAS §

**Contract**

**with** \_\_\_\_\_

THIS CONTRACT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, by and between the **CITY OF CARROLLTON, TEXAS**, a municipal corporation located in Dallas County, Texas, (hereinafter referred to as "City"), acting by and through its City Manager or her designee, and \_\_\_\_\_ ("hereinafter referred to as "Contractor") acting by and through its Director and Managing Member \_\_\_\_\_ whose address is \_\_\_\_\_.

**W I T N E S S E T H:**

WHEREAS, City desires to obtain services from Contractor for Concession Services at McInnish Softball Complex and Rosemeade Rainforest Aquatic Complex ; and

WHEREAS, Contractor is willing to undertake the performance of such services for City in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

**I.**

**Independent Contractor**

Contractor will perform as an independent contractor all services under this Contract in a manner that provides a safe environment. Contractor shall require all agents, sub-contractors, and employees to abide by the terms of this Contract. .

**II.**

**Scope of Services**

Contractor shall perform such services as are necessary to Concession Services specifically including, but not necessarily limited to, the tasks enumerated more fully in the Scope of Work listed Part A McInnish Sports Complex and Part B. Rosemeade Rainforest Aquatic Complex . However, in case of conflict in the language of Attachment "A" and "B" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

**III.**

**Payment for Services**

Concessionaire shall pay to the City of Carrollton the amount owed for the prior one month period of operations. A lump payment shall be made to the City of Carrollton no later than the 15<sup>th</sup> day of each month for the prior month period. Check must be made payable to the City of Carrollton. A sales report must be submitted with each payment. A five (5) dollar per day late fee will be assessed if payment is not received by the 15<sup>th</sup> of the month following the month being reported.

**IV.**  
**Revisions of the Scope of Services**

City reserves the right to revise or expand the scope of services as the City may deem necessary,. In any event, when Contractor is directed to revise or expand the scope of services under this Section of the Contract, Contractor shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Contractor undertaking any revised or expanded services as directed by City under this Contract, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Program.

It is expressly understood and agreed by Contractor that any compensation not specified in Paragraph III herein above may require Carrollton City Council approval and is subject to the current budget year limitations.

**V.**  
**Term**

The term of the contract shall be for the 2019 Adult Softball Season (February 15-November 15). Two (2) one (1) year options to extend the contract are allowed. Each contract period shall begin in February and terminate in December of that year.

**VI.**  
**Contract Termination Provision**

This Contract may be terminated at any time by City for any cause by providing Contractor thirty (30) days written notice of such termination.

**VII.**  
**Ownership of Documents**

All materials and documents prepared or assembled by Contractor under this Contract regarding the Program shall become the sole property of City and shall be delivered to City without restriction on future use.

**VIII.**  
**Insurance Requirements**

1. The City is to be named as an additional insured on the Commercial General Liability Insurance policy. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by the insurer to bid coverage on its behalf.
2. Insurance is to be placed with insurers with a Best rating of no less than A. The company must also be duly authorized to transact business in the State of Texas.
3. Workers' Compensation and Employers' Liability Coverage: Statutory. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from the activities under this contract.
4. Certificates of Insurance and Endorsements effecting coverage required by this clause shall be forwarded to the Purchasing Manager upon award of the contract(s).
5. Insurance Certificate must be submitted and issued with the City listed as the certificate holder.

6. During the duration of any agreed contract, the contractor shall maintain, at its sole cost and expense, Professional E&O Liability insurance with a minimum policy limit of \$1,000,000. The insurance policy must name the City of Carrollton as an additional insured. A certificate of insurance evidencing such coverage shall be furnished to the City prior to the commencement of any work for the City.

## IX.

### Right to Inspect Records

Contractor agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Contractor involving transactions relating to this Contract.

- 1) Contractor further agrees to include in subcontract(s), if any, a provision that any subcontractor agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such sub-contractor involving transactions to the subcontract. The City of Carrollton reserves the right for its representatives to conduct inspections at reasonable times to insure that fire, safety, and sanitation regulations, and other provisions contained in the agreement, are being adhered to by the concessionaire.

## X.

### Successors and Assigns

City and Contractor each bind themselves and their successors, executors, administrators and assigns to the other party to this contract and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract. Neither City nor Contractor shall assign or transfer its interest herein without the prior written consent of the other.

## XI.

### INDEMNIFICATION

**CONTRACTOR DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONTRACTOR'S PERFORMANCE UNDER THIS CONTRACT OR WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS, OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 (A) AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).**

**BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.**

**INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.**

In its sole discretion, the City shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the City. Contractor shall retain approved counsel for the City within seven (7) business days after receiving written notice from the City that it is invoking its right to indemnification under this Contract. If Contractor does not retain counsel for the City within the required time, then the City shall have the right to retain counsel and the Contractor shall pay these attorneys' fees and expenses. The City retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so.

**XIII.**  
**Independent Contractor**

Contractor's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of City in the performance of this Contract. No term or provision of or act of Contractor or City under this Contract shall be construed as changing that status. Contractor shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

**XIV.**  
**Default**

If at any time during the term of this Contract, Contractor shall fail to perform in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then City shall have the right, if Contractor shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy due to Contractor's nonperformance under this Contract, the cost to City to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to Contractor hereunder, Contractor shall be liable for and shall reimburse City for such excess. Contractor's liability under this provision shall be limited to the total dollar amount of this Contract.

City's remedies for Contractor's default or breach under this Contract shall be any and all remedies available in law or equity.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

**XV.**  
**Changes**

City may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between City and Contractor shall be incorporated by written modification to this Contract.

**XVI.**  
**Conflict of Interest**

Contractor covenants and agrees that Contractor and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities and other efforts made by Contractor pursuant to this Contract will be conducted by employees, associates or subcontractors of Contractor.

**XVII.**  
**Confidential Information**

Contractor hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. Contractor shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Carrollton, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by Contractor or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of Contractor, or are required to be disclosed by a governmental authority.

**XVIII.**  
**Mailing Address**

All notices and communications under this Contract to be mailed to City shall be sent to the address of City's agent as follows, unless and until Contractor is otherwise notified:

Kim Bybee  
Parks Manager  
City of Carrollton  
Post Office Box 110535  
Carrollton, Texas 75011-0535

Notices and communications to be mailed or delivered to Contractor shall be sent to the address of Contractor as follows, unless and until City is otherwise notified:

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

**XIX.**  
**Applicable Law**

The Contract is entered into subject to the Carrollton City Charter and ordinances of City, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Contractor will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Contractor's income. Situs of this Contract is agreed to be in Carrollton, Texas, for all purposes, including performance and execution.

**XX.**  
**Severability**

If any of the terms, provisions, covenants, conditions or any other part of this Contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**XXI.**  
**Remedies**

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Contract may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Contract.

**XXII.**  
**Entire Agreement**

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

**XXIII.**  
**Non-Waiver**

It is further agreed that one (1) or more instances of forbearance by City in the exercise of its rights herein shall in no way constitute a waiver thereof.

**XXIV.**  
**Headings**

The headings of this Contract are for the convenience of reference only and shall not affect any of the terms and conditions hereof in any manner.

**XXV.**  
**Venue**

The parties to this Contract agree and covenant that this Contract will be enforceable in Carrollton, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

**XXVI.**  
**No Third Party Beneficiary**

For purposes of this Contract, including its intended operation and effect, the parties (City and Contractor) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with City or Contractor or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Contractor.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

**CITY OF CARROLLTON**

By: \_\_\_\_\_  
Erin Rinehart  
City Manager

Date Signed: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Laurie Garber  
City Secretary

\_\_\_\_\_  
(Contractor's Name)

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

Date Signed: \_\_\_\_\_

THE STATE OF TEXAS           §  
COUNTY OF \_\_\_\_\_       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ in his capacity as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of \_\_\_\_\_.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Notary Public \_\_\_\_\_ County, Texas  
My commission expires \_\_\_\_\_