Dear Potential Concessionaire

Thank you for taking the time to review the information enclosed in regards to the lease operation of a café/concession business at Atascadero’s Colony Park Community Center, located at 5599 Traffic Way in Atascadero. The “Request for Proposal (RFP)” is a standard process we request every 3-5 years based on the needs of the café at the Colony Park Community Center. The deadline for submission in Monday, March 23 at 5 pm and the official start date would be May 1, 2020.

Attached please find a “Request for Proposal (RFP)” Packet and a draft sample of the Lease Agreement/Contract for your review. Please submit your proposal based on the requirements of the RFP. Attachments to the requirements are acceptable. Please note that the proposal must indicate the monthly rent the proposer intends to pay the City along with the other details. The Sample Lease Agreement is provided for you to see what that commitment will look like once we accept the final proposal.

Please submit your RFP to the City of Atascadero, 6500 Palma Ave., Atascadero, California 93422 by Monday, March 23, 2020 at 5:00 pm.

If you have any questions or comments regarding the above information, please contact me at (805) 470-3426.

Sincerely,

Jennifer Fanning
Recreation Supervisor

Encl:
   Notice to Proposers & Request for Proposal Instructions
   Proposal Form
   Verification of Questionnaire
   Sample Contract
Notice to Proposers for the

Colony Park Community Center Café

To establish and operate a café/concession business at the Colony Park Community Center, Atascadero, California.

INTENT OF PROPOSAL:

The City of Atascadero is soliciting written proposals to establish and operate a café/concessionaire business at the Community Center, located at 5599 Traffic Way, Atascadero.

SELECTION PROCESS AND METHOD OF AWARD:

Proposals will be evaluated based on ability to perform work, qualifications of the proposers, as well as revenue to the City of Atascadero. All proposals submitted in a timely manner will be considered. In the selection of the “best responsible proposer”, consideration will be given to the following:

1. Completeness of proposal.
2. Ability and willingness to operate the business during appropriate hours.
3. Proposer has proven management capabilities and experience.
4. Proposer’s plans for operation.
5. Amount of rental payment to City set forth in proposals.
6. Other data, as deemed relevant.

The Recreation Division will submit a recommendation to the City Council for the “best responsible proposer” for approval.

Request for Proposal Instructions

1. Proposers must submit a proposal form for the Recreation Center Café business and a fully answered questionnaire on the forms provided in the proposal packet. All forms must be completed and all blanks must be filled in. Inapplicable questions or blanks must be marked “n/a” or “not applicable”. Failure to provide a completed proposal may disqualify the proposer.

2. The submission of the proposal shall be deemed evidence that the proposer has carefully examined the café area plans, these instructions, proposal form, and service agreement.

3. Proposals should be plainly marked on the outside of a sealed envelope: “Atascadero Colony Park Community Center Café Proposal”.

4. Any proposal may be withdrawn at any time prior to the time set for opening of the proposals. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the time and date set for the opening of proposals. Proposals may not be withdrawn after the time of the opening.

5. The City has the right to reject any and all proposals, and waive minor defects and/or irregularities in any proposal submitted.
6. A failure of the successful proposer to sign and deliver the service agreement within fifteen (15) days of receipt thereof and to provide the City of Atascadero with evidence of insurance required thereunder may be treated as a refusal to execute the agreement if the City so elects.

7. If there are any concerns or questions about filling out the forms or proposal procedures, assistance may be obtained from Jennifer Fanning, Recreation Supervisor, (805) 470-3426.

8. All proposals must be printed in ink or typed and signed by the proposer.

9. A draft service agreement is attached for your review. Proposers are expected to become familiar with the details of the agreement.

10. The City shall pay utility costs (electricity, water, gas, and disposal).
Proposal Form for the
Colony Park Community Center Café

Pursuant to the Notice to Proposers to establish and operate a catering business at Atascadero’s Colony Park Community Center.

NAME OF PROPOSER: ________________________________

BUSINESS ADDRESS: ________________________________

CITY/STATE/ZIP: ________________________________

RESIDENCE ADDRESS: ________________________________

CITY/STATE/ZIP: ________________________________

TELEPHONE: (Business): ____________________ (Residence): ____________________

SOCIAL SECURITY NO.: ____________ DRIVERS LICENSE NO.: ____________

In the event a service agreement is awarded, proposer agrees to execute the service agreement in a timely manner, perform said services depicted in the service agreement, and pay to the City of Atascadero by the 10th day of each month:

$_______ flat fee for café rent

_______ percent of the gross receipts for all on-site café and catering sales

_______ percent of the gross receipts for all off-site catering

The Notice to Proposers, questionnaire, and the service agreement example are all made a part of this proposal by reference, and this proposal is made subject to all the provisions thereof, whether or not expressly set forth herein.

IMPORTANT NOTICE:

If the proposal is a corporation, the authorized corporate officers must sign this proposal form and the corporate seal must be affixed. If the proposer is a partnership, a general partner must sign. If the proposer is an individual, sign by using the first, middle, and last name in full.

Executed this ____________ day of __________________________, 2020.

By: ________________________________       Title: ________________________________
Verification of Questionnaire

This questionnaire is submitted in conjunction with and as part of the Proposal to establish and operate a catering business at Atascadero’s Colony Park Community Center. Information contained in the questionnaire must be verifiable under oath. All questions must be answered in full. If additional space is required, please use the back of the page on which the question appears. If the question is not applicable, please mark “not applicable” or “n/a”.

1. What is your present business or employment? ____________________________________________
   A. For how long: ____________________________
   B. Is your business a sole proprietorship, partnership, corporation, or other? Explain: ______
   C. If a sole proprietorship, are you the owner? If other, what is your position? ______________
   D. How many people do you employ or supervise? ____________________________
   E. How many years of café and/or catering experience do you have? ____________________________
   F. What professional organizations do you belong to? ____________________________
   G. Financial:
      1) If involved in any litigation, describe: ____________________________
      2) Furnish names and addresses for all banks in which you have accounts: ____________________________
      3) List by company, amount, and expiration date, all insurance carried by your business: ______
      4) Give the names and addresses of at least three firms with whom you have accounts during the past three years: ____________________________
   H. Give any other information concerning your present business or employment that you feel is pertinent: ____________________________
   I. Attach a list of your proposed menu items and prices (i.e., food, drinks, miscellaneous, etc.).
INDIVIDUAL:

The undersigned deposes and says that he/she has read and executed the foregoing questionnaire and knows the contents thereof and that they are true of his/her own knowledge except as to matters that he/she believes to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this __________ day of ____________________________, 2020 at ____________________________, California.

______________________________
Sole Proprietor

PARTNERSHIP:

The undersigned state that they are a partnership, that they have read and executed the foregoing questionnaire and know the contents thereof, and that they are true of their own knowledge except as to matters which are therein stated of their information or belief and as to those matters that they believe them to be true.

We, and each of us, declare under penalty of perjury that the foregoing is true and correct.

Dated this __________ day of ____________________________, 2020 at ____________________________, California.

______________________________  ________________________________
General Partner                General Partner

CORPORATION:

The undersigned state that they are a corporation, that they have read and executed the foregoing questionnaire and know the contents thereof, and that they are true of their own knowledge except as to matters which are therein stated of their information or belief and as to those matters that they believe them to be true.

We, and each of us, declare under penalty of perjury that the foregoing is true and correct.

Dated this __________ day of ____________________________, 2020 at ____________________________, California.

______________________________  ________________________________
Officer Signature & Title      Officer Signature & Title

______________________________  ________________________________
Officer Signature & Title      Officer Signature & Title

______________________________  ________________________________
Officer Signature & Title      Officer Signature & Title
CITY OF ATASCADERO

CONTRACT FOR

XXX

for

Colony Park Community Center

Café Services
CONTRACTOR SERVICES AGREEMENT

FOR THE

CITY OF ATASCADERO

XXXXX

THIS CONTRACT is made and entered into between City of Atascadero, a Municipal Corporation (“City”), and XXXXXX (“Contractor”). City and Contractor agree as follows:

I. SCOPE AND STANDARDS:

A. CONTRACT. Contractor shall do all work, attend all meetings, produce all reports and carry out all activities necessary to complete the services described in the SCOPE OF WORK AND STANDARDS FOR SERVICES, attached hereto and incorporated herein by this reference as Exhibit A, as requested by the City. This Contract and its exhibits shall be known as the “Contract Documents.” Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein.

2. EMPLOYMENT STATUS OF PERSONNEL:

A. INDEPENDENT CONTRACTOR; EMPLOYEES OF CONTRACTOR. Contractor enters into this Contract as, and shall at all times remain as to the City, an independent contractor and not as an employee of the City. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. Any persons employed by Contractor for the performance of services pursuant to this Contract shall remain employees of Contractor, shall at all times be under the direction and control of Contractor, and shall not be considered employees of City. All persons employed by Contractor to perform services pursuant to this Contract shall be entitled solely to the right and privileges afforded to Contractor employees and shall not be entitled, as a result of providing services hereunder, to any additional rights or privileges that may be afforded to City employees.

B. INDEPENDENT INVESTIGATION. The Contractor agrees and hereby represents it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.
C. COMPLIANCE WITH EMPLOYMENT LAWS. The Contractor shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

D. UNLAWFUL DISCRIMINATION PROHIBITED. Contractor shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person’s race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

3. TIME OF PERFORMANCE:

The services of Contractor are to commence upon May 1, 2015. Except as provided in Sections 6 and 19 below, this Contract shall terminate no later than April 30, 2020 with the option of two (2) one-year extensions upon mutual agreement of both parties.

4. COMPENSATION:

Compensation from the Contractor shall be as set forth in Exhibit B attached hereto and made a part hereof.

5. TERMINATION:

A. 30 DAYS NOTICE. The City, upon thirty (30) days written notice, may terminate this Contract, without cause, at any time. In the event of such termination, the City shall be compensated for non-disputed fees under the terms of this Contract up to the date of termination.

B. OBLIGATIONS SURVIVE TERMINATION. Notwithstanding any termination of this Contract, Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Contractor, and the City may withhold any payments due to Contractor until such time as the exact amount of damages, if any, due the City from Contractor is determined. All of the indemnification, defense and hold harmless obligations in this Contract shall survive termination. The obligations of the Surety on the Faithful Performance Bond shall survive the termination of this Contract.

6. CHANGES:

The City or Contractor may, from time to time, request changes in the scope of the services of Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of Contractor’s obligation and/or changes in the schedule must be authorized in advance by both Parties in writing. Mutually agreed changes shall be incorporated in written amendments to this Contract. Any increase in the amount of Contractor’s obligation and/or changes in Exhibit A and or Exhibit B must be authorized in advance by the City Manager.
7. **CONFLICTS OF INTEREST:**

   A. **CONTRACTOR** covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor’s performance of services under this Contract. Contractor further covenants that in the performance of this Contract, Contractor shall take reasonable care to ensure that no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Contract. Contractor agrees to include language similar to this Section 9(A) in all contracts with subcontractors and agents for the work contemplated herein.

8. **CONFIDENTIAL INFORMATION:**

   A. **ALL INFORMATION KEPT IN CONFIDENCE.** All materials prepared or assembled by Contractor pursuant to performance of this Contract are confidential and Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

   B. **REIMBURSEMENT FOR UNAUTHORIZED RELEASE.** If Contractor or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, the City has the right to reimbursement and indemnity from party releasing such information for any damages caused by the releasing party’s, including the non-releasing party’s attorney’s fees and disbursements, including without limitation expert’s fees and disbursements.

   C. **COOPERATION.** City and Contractor shall promptly notify the other party should Contractor or City, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Contract and the work performed thereunder or with respect to any project or property located within the City. City and Contractor each retains the right, but has no obligation, to represent the other party and/or be present at any deposition, hearing or similar proceeding. Contractor and City agree to cooperate fully with the other party and to provide the other party with the opportunity to review any response to discovery requests provided by Contractor or City. However, City and Contractor’s right to review any such response does not imply or mean the right by the other party to control, direct, or rewrite said response.

9. **PROVISION OF LABOR, EQUIPMENT AND SUPPLIES:**

   A. **CONTRACTOR PROPERTY.** Contractor shall furnish all necessary labor, supervision, equipment, communications facilities, and supplies necessary to perform the services required by this Contract except as set forth in Exhibit C. City acknowledges that all equipment and other tangible assets used by Contractor in providing these services are the property of Contractor and shall remain the property of Contractor upon termination of this Contract.
B. SPECIAL SUPPLIES. City shall be responsible for supplying any special supplies, stationary, notices, forms or similar items that it requires to be issued with a City logo. All such items shall be approved by the City Manager and shall be provided at City’s sole cost and expense.

10. COMPLIANCE WITH LAW:

COMPLIANCE REQUIRED. Contractor shall keep itself informed of applicable local, state, and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Contract. Contractor shall observe and comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. Contractor shall at all times hold a valid contractor’s license if performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the California Business and Professions Code, and Contractor shall provide a copy of the license(s) upon the request of the City. The City, its officials, officers, elected officials, appointed officials and employees shall not be liable at law or in equity as a result of any failure of contractor to comply with this section.

11. SUBCONTRACTING/ SUBLEASING:

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City Manager. Contractor shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Contractor.

Contractor shall not sublease or otherwise convey any interest of any sort granted by this Agreement to any person or persons whatsoever without prior written consent and approval by the City.

12. ASSIGNABILITY:

Contractor shall not assign or transfer any interest in this Contract whether by assignment or notation. However, claims for money due or to become due Contractor from the City under this Contract may be assigned to a financial institution, but only with prior written consent of the City Manager. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City. The rights and benefits under this agreement are for the sole and exclusive benefit of the City and this Contract shall not be construed that any third party has an interest in the Contract.
13. **LIABILITY OF CONTRACTOR:**

Contractor shall be responsible for performing the work under this Contract in a manner which is consistent with the generally accepted standards of Contractor’s profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Contractor or its employees, agents, contractors or subcontractors.

14. **INDEMNIFICATION:**

A. **INDEMNIFICATION FOR PROFESSIONAL LIABILITY.** When the law establishes a professional standard of care for Contractor’s Services, to the fullest extent permitted by law, Contractor shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligence, or wrongful act, error or omission of Contractor, willful misconduct, or recklessness of its officers, agents, employees or subcontractors (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of professional services under this agreement.

B. **INDEMNIFICATION FOR OTHER THAN PROFESSIONAL LIABILITY.** Other than in the performance of professional services and to the full extent permitted by law, Contractor shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney’s fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which contractor is legally liable, including but not limited to officers, agents, employees or subcontractors of Contractor.

C. **GENERAL INDEMNIFICATION PROVISIONS.** Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section for each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this agreement. In the event contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successor, assigns or heirs of Contractor and shall survive the termination of this agreement or this section.

15. **INSURANCE:**

Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit E attached to and part of this agreement.
16. **RECORDS:**

Contractor shall keep true and accurate books and records showing all of its business transactions in separate records of account for the catering operation, in accordance with generally accepted accounting principles. The records shall be clearly identified and readily accessible and in a form acceptable to the City, which the City may specify and change from time to time. The City shall have the right, through its representatives, and at all reasonable times, to inspect such books and records, including State of California sales tax records. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

The City may require Contractor, at its expense, to have its records and accounts audited by an auditor acceptable to the City and shall present said audit to the Director of Administrative Services within 30 days after the completion of the audit. If Contractor fails to provide the required audit, the City shall contract to have an audit performed at Contractor’s expense.

17. **MISCELLANEOUS PROVISIONS:**

A. **ASSIGNMENT OR SUBSTITUTION.** City has a NONDISCRIMINATION / NONPREFERENTIAL TREATMENT STATEMENT In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

B. **UNAUTHORIZED ALIENS.** Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. & 1101 et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the City for such use of unauthorized aliens, Contractor hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys’ fees, incurred by the City in connection therewith.

C. **GOVERNING LAW.** The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Contract and also govern the interpretation of this Contract. Any litigation concerning this Contract shall take place in the San Luis Obispo Superior Court, federal diversity jurisdiction being expressly waived.

D. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Contractor by this Contract. In recognition of that interest, neither any complete nor partial assignment of this Contract, may be made by Contractor nor changed, substituted for, deleted, or added to without the prior written consent of City which consent shall not be unreasonably withheld. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Contract entitling City to any and all remedies at law or in equity, including summary termination of this Contract. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Contract.
E. ENTIRE CONTRACT. This Contract constitutes the entire Contract and understanding between the parties relative to the services specified herein and there are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in this Contract and this Contract supersedes all prior understandings, agreements, courses of conduct, prior dealings among the parties and documentation of any kind without limitation.

F. AMENDMENTS. This Contract may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

G. CONSTRUCTION AND INTERPRETATION. Contractor and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

H. WAIVER. The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or other matter.

I. SEVERABILITY. The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

J. NOTICES. All invoices, payments, notices, demands, requests, comments, or approvals that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties (deemed to have been received three (3) business days after deposit in the U.S. Mail) at the following addresses:

City: City of Atascadero
      5599 Traffic Way
      Atascadero, CA  93422

Contractor: XXXXX

Each party may change the address at which it gives notice by giving ten (10) days advance, written notice to the other party.
K. AUTHORITY TO EXECUTE. The person or persons executing this Contract on behalf of Contractor warrant and represent that they have the authority to execute this Contract on behalf of their Company and further warrant and represent that they have the authority to bind Contractor to the performance of its obligations hereunder.

Effective this 1st day of May 2020 by the parties as follows,

Approved as to form: ____________________________

Counsel for contractor

CONTRACTOR NAME

By:__________________________________

Approved as to form: ____________________________

CITY OF ATASCADERO

By:__________________________________

By:__________________________________

Brian Pierik, City Attorney

By:__________________________________

Rachelle Rickard, City Manager
CERTIFICATE OF COMPLIANCE
WITH LABOR CODE § 3700

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I have complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor C. §§1860, 1861.)

XXXX

__________________________________
EXHIBIT A

Scope of Work

Contractor agrees to perform and/or provide all food/catering services at the Colony Park Community Center in a businesslike manner to the satisfaction of the Recreation Division.

The City and Contractor agree that Contractor will be the exclusive commercial food service/caterer at the Colony Park Community Center.

Contractor shall determine the method, details, and means of performing the above-referenced services so long as the method, details, and means of performing selected by the Contractor comply with all applicable statutes, ordinances, and regulations.

Contractor may use the kitchen facilities for preparing and catering food for either public or private events, both at the Colony Park Community Center and off site.

Contractor may, at Contractor's own expense, employ such assistants as Contractor deems necessary to perform the services required of Contractor by this agreement. City may not control, direct or supervise Contractor’s assistants or employees in the performance of those services.

The City has the right to inspect and schedule the prices and rates of goods sold on site. Contractor may only sell items that have been agreed upon through mutual consent between the Contractor and the City. The City reserves the right to prohibit the sale of any item which it deems objectionable or beyond the scope of merchandise deemed necessary for proper service to the public. Contractor shall post rates and prices of all items in such places as designated by the City.

The City shall have a right to rent or use the Colony Park Community Center kitchen and all City-owned appliances and equipment within the kitchen area provided the kitchen is not in use by the Contractor. If a renter wishes to rent the Colony Park Community Center's kitchen, the Community Center Supervisor must request prior authorization from the Contractor.

Contractor shall provide, at its own expense, all equipment, tools, and instrumentalities to perform the services under this Contract. Contractor may only store its equipment, tools, and instrumentalities in an area approved by the Colony Park Community Center Supervisor (or designee). The Colony Park Community Center Supervisor (or designee) may allow storage of the Contractor's equipment, tools, and instrumentalities in the Colony Park Community Center's kitchen if there is available space, as determined by the Supervisor. Contractor is responsible for returning all equipment, tools, and instrumentalities to their proper place after catering events and performing services under this contract. Neither the City nor Colony Park Community Center staff is responsible for items left out after an event.
The City is not responsible for damage to, theft of, or loss of any equipment, tools, and/or instrumentalities owned and/or rented by Contractor.

Except as otherwise provided in this Contract, Contractor, at its own cost and expense agrees as follows:

A. To maintain throughout the Contract term in good sanitary order, and condition, all portions of the Colony Park Community Center kitchen facilities, including, without limitation, (a) the interior of the kitchen facilities, including flooring, exposed plumbing, lighting lamps and wiring, paint and finish; (b) any windows; (c) the outside patio area; (d) any personal property of the Contractor situated in or on site; (e) all City-owned kitchen appliances, including but not limited to the stove, grill, dishwasher, ice machine, refrigerator and freezer; (f) any heating, ventilating or air conditioning equipment installed by Contractor in or on site.

B. To maintain the Colony Park Community Center kitchen facilities in conformance with the highest standards of health and safety.

C. To notify the City promptly of any damage to the Colony Park Community Center or the building in which they are situated resulting from or attributed to the acts or omissions of the Contractor, its invitees or its authorized representatives, and thereafter promptly to repair all such damage at Contractor’s sole cost and expense.

D. The City shall pay the reasonable costs for the actual utilities, including water, gas, heat, light and power supplied to the kitchen facilities at the Colony Park Community Center. Contractor shall provide and pay for telephone services related to catering services.

The suspension or interruption in utility service to the Colony Park Community Center for reasons beyond the ability or control of the City shall not constitute a default by City or entitle Contractor to any reduction or abatement of the monthly payment due to the City.
EXHIBIT B

Compensation and Method of Payment

Contractor will pay the City on a monthly basis as follows:

(1) a flat fee of $xxx per month.

(2) xx% of total gross earnings from food and beverage sales and catering opportunities at any City-owned properties, including the Colony Park Community Center.

(3) xx% of total gross earnings from off-site catering services, where food was prepared on-site at the Colony Park Community Center.

Gross earnings shall not include any sales or excise taxes imposed by any governmental entity.

Contractor shall make monthly payments to the City of Atascadero by the tenth of each month. Contractor must submit monthly payments to the City of Atascadero, ATTN: Colony Park Community Center, 5599 Traffic Way, Atascadero, CA 93422.

The City will consider monthly payments received after the tenth of each month to be delinquent and will assess a 10% penalty. Late payments received after the twenty-fifth of each month will be assessed an additional 10% penalty.

Failure by Contractor to tender payment to the City within 30 days of any payment so due, shall be sufficient cause for the City to terminate this Contract.

Contractor agrees to pay all lawful taxes, assessments or charges which may be levied by government entities.
EXHIBIT C

Items Provided by City

The Colony Park Community Center shall be equipped with kitchen appliances, including but not limited to the stove, grill, dishwasher, ice machine, refrigerator and freezer. The City will be responsible for repairs to the facility and City owned equipment as needed.

The City shall pay the reasonable costs for the actual utilities, including water, gas, heat, light and power supplied to the kitchen facilities at the Colony Park Community Center.
EXHIBIT D

Location Schedule

The premise of operation is Atascadero’s Colony Park Community Center, 5599 Traffic Way, Atascadero, California, including the Colony Park Community Center kitchen facilities.
EXHIBIT E

Insurance Requirements

INSURANCE REQUIREMENTS FOR CONTRACTORS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code 1 (any auto)
3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability insurance (for lessees with employees).

Minimum Limits of Insurance

Lessee shall maintain limits no less than:

1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability $1,000,000 per accident for bodily injury and property damage.
3. Employer’s Liability $1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
Other Insurance Provisions

The general liability and automobile policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance or as a separate owner’s policy (CG 20 10 11 85)

2. For any claims related to this project, the Contractor’s insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to the City.

4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII.

Additional Insured

The City of Atascadero will to be added to the policy as Additional Insured by endorsement, adding the City’s name to the Certificate of Insurance is not sufficient and will not be accepted.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City’s forms, provided those endorsements or policies conform to the requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Subcontractors

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.