



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request for Proposals for Concession Operations at Armory Park and Softball Complex

MEETING DATE: March 4, 1998

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council approve the Request for Proposals and the draft Agreement form, and authorize advertisement for proposals to conduct concession operations at Armory Park and the Softball Complex through December, 2000.

BACKGROUND INFORMATION: Periodically, the Parks and Recreation Department solicits proposals for concession operations at Armory Park, the Softball Complex, and Lodi Lake Park (the Lodi Lake concession contract extends through 1998, with a two-year extension possible).

The operations at Armory Park and the Softball Complex consist of the sale of food and beverages during Lodi Unified School District high school and City League recreational softball games, as well as regional and national softball tournaments and other special events.

Selection of concessionaire will be based on highest percentage of return from gross sales, as well as experience and reputation of the concessionaire.

The deadline for submitting proposals will be March 19, 1998.

FUNDING: None required.

Ronald Williamson, Parks and Recreation Director

Prepared by Joel Harris, Purchasing Officer

APPROVED: _____

H. Dixon Flynn -- City Manager

CITY OF LODI
DEPARTMENT OF PARKS AND RECREATION
REQUEST FOR PROPOSALS FOR CITY OF LODI
CONCESSION OPERATIONS
AT ARMORY PARK AND SOFTBALL COMPLEX

Areas to be Serviced:

1. Armory Park, 333 N. Washington Street, Lodi, CA
2. Lodi Softball Complex, 401 N. Stockton St., Lodi, CA

Agreement Duration:

April 10, 1998 through December 31, 2000

General Provisions:

That the City of Lodi Parks and Recreation Department deems it desirable for the proper conduct and operation of food and beverage concessions at Armory Park and the Softball Complex, that concession privileges be granted to a private individual, partnership, or corporation;

And that the award of the contract for the proper conduct and operation of said food and beverage concession be made to the highest and most responsible vendor who, in the opinion of the City of Lodi, is best qualified and fully and properly responds to this request for proposals;

And that the successful vendor shall be bound by and required to perform those duties, and will receive the benefits, as described by and set forth in the Agreement attached hereto.

Information and Instructions:

The contract for the proper conduct and operation of the food and beverage concessions will be awarded to the vendor who in the opinion of the City of Lodi is best qualified to perform the duties and obligations and render the services set forth in the attached agreement. The successful vendor shall be chosen on the basis of, but not limited to, the following information which each vendor must supply in his or her proposal:

1. The percentage of gross sales, after sales taxes, to be paid to the City of Lodi (minimum acceptable percentage is 20%);
2. Experience, background and ability to perform and provide a successful concession operation;
3. Financial condition and bondability;
4. Quality and variety of products and services offered;
5. References

In order to be considered, proposals must be submitted on a proposal form provided by the City of Lodi under sealed cover and identified as "Proposal - Concession Operations", and received by the City of Lodi Purchasing Officer, City Hall Annex, 212 West Pine Street, Lodi, CA 95240 (P.O. Box 3006, Lodi, CA 95241-1910) no later than

2:00 p.m. Thursday, March 19, 1998

At that time, in the Public Works Conference Room, First Floor, City Hall, 221 West Pine Street, Lodi, proposals will be publicly opened.

The City of Lodi reserves the right to reject any or all proposals, to waive any informality in any proposal, to accept other than the highest proposal, or not to award on the basis of proposals received.

Information and Instructions (cont'd)

The successful vendor will have the sole and exclusive right and license, except for certain special events as described in the attached Agreement, to vend food, beverages, picnic supplies, and souvenirs at or in concession stands at Armory Park and the Softball Complex, for a period of two years, eight months, twenty days, beginning April 10, 1998, and ending December 31, 2000. At the City's discretion, according to the decision of the City Manager and staff, a two year extension of this agreement may be considered, based upon performance by Concessionaire during the initial period of this agreement.

PROPOSAL FORM

To: The City Council
City of Lodi
Lodi, California

From: _____
(N a m e o f V e n d o r)

The undersigned declares: *I have carefully examined the Notice Inviting Proposals, the Agreement attached hereto, and these instructions for submitting this proposal, for the conduct and operation of concessions at Armory Park and the Softball Complex. I agree to be fully informed regarding all of the conditions affecting the performance under the terms of these instructions and documents, and that the information was secured by personal investigation and research and not from any estimate of any City employee or agent, and that no claim will be made against the City by any reason of estimates or representations of any officer or agent of the City. If this proposal is accepted, I agree to perform the duties of the operation of said concessions in strict compliance with San Joaquin County Health Department standards and requirements for concession operations, and according to the Agreement attached hereto.*

Proposal Form (cont'd)

The undersigned hereby proposes to pay the City of Lodi the amount of

_____%

of the gross sales from concession operations after sales taxes for the privilege of furnishing concession services at Armory Park and the Softball Complex from April 10, 1998 through December 31, 2000, in accordance with the attached specifications and Agreement.

The vendor hereby submitting this proposal shall also attach to this proposal a printed or typewritten statement which shall include information as to:

- Experience, background, and reliability in performing and providing a successful concession operation;
- Financial condition and bondability;
- List of foods, beverages, and other items and services proposed to offer in concession operations at Armory Park and the Softball Complex; with a list of prices for each of the above listed items;
- A list of at least three references indicating successful operation of a concession during the past five years.

In submitting this proposal as herein described, vendor agrees to have carefully examined the specifications and provisions of this proposal form and understands the meaning, intent, and requirements of same;

That, if awarded the contract, vendor will enter into a written contract and furnish the services in the time specified in strict conformity with the specifications and conditions contained therein for the price quoted by the vendor on this proposal;

And that this proposal is genuine, and submitted in good faith, without collusion or fraud, and that the only persons or firms interested in this proposal as principal or principals are named herein, and that this proposal is made without connection with any other person, partnership, or corporation making a proposal.

This proposal may be withdrawn by the written request of an authorized representative of the undersigned at any time prior to the deadline for submitting proposals.

Business Name: _____

Address: _____

Telephone: _____

Type of Business: (Individual, Partnership, Corp.)

Name of Authorized Representative: _____

Signature: _____

Title: _____ Date: _____



AGREEMENT

CITY OF LODI

**Concession Operations
Armory Park and Softball Complex**

THIS AGREEMENT, made and entered into this ____ day of _____, 19____,
by and between the CITY OF LODI ("City"), and _____ ("Concessionaire").

WITNESSETH

WHEREAS, City has a need for concession service at Armory Park and the Softball Complex and is authorized by Government Code § 53060 to contract for these services; and

WHEREAS, Concessionaire has represented itself as a qualified contractor for the concession service to be duly qualified, experienced and to provide such service in accordance with the City of Lodi Request for Proposal, and specifications and conditions thereto.

NOW THEREFORE, the parties mutually agree as follows:

1. SCOPE OF WORK:

Concessionaire shall furnish all labor, equipment and supplies for providing concession services at the below-described parks in strict compliance with San Joaquin County Health Department standards and requirements for concession operations, and under the terms and conditions set forth in this agreement:

Areas to be serviced:

Locations: Armory Park, 333 North Washington Street, Lodi, and
Lodi Softball Complex, 401 North Stockton Street, Lodi

City does hereby grant to Concessionaire, subject to the terms set forth in this agreement, the sole and exclusive right/license to vend food, drinks, picnic supplies, souvenirs, and other concession items as approved by the City of Lodi, at the concession stands of the above-described parks, beginning _____, 19__ and ending _____, 19__.

2. TERMS AND CONDITIONS:

A. City's Rights and Obligations:

1. Concession Stands: City will provide enclosed concession stands with some limited city-owned equipment, which Concessionaire will be expected to service and maintain at Concessionaire's sole cost and expense. Improvements to building and/or facilities, proposed by Concessionaire, are subject to City approval. Cost of installation shall be borne by Concessionaire, and all improvements shall become property of the City upon termination of this agreement.
2. Utilities: City will provide water, sanitary sewer, gas, electricity, and garbage receptacles outside the concession buildings.
3. Building Maintenance: City will provide maintenance of the general property of the concession buildings, unless abuse and lack of general care is apparent, at which time the cost and expenditures of maintenance shall be borne by the Concessionaire.
4. Exclusive Rights: The rights granted hereunder for concession sales at the identified parks, shall be exclusive to concessionaire, save and except any special events or national or regional tournament conducted outside the normal course of operation of the above-described facilities, and of which the City shall give concessionaire thirty (30) days advance notice.
5. Non-Exclusivity During Special Events: The City reserves the right, during national or regional tournaments or other special events, to permit the approved operation of additional concessions not in conflict with Concessionaire's normal product line of food and beverages. Right to the sale or distribution of programs, photo packages, clothing souvenirs and advertisements of any kind or form for said tournaments or special events shall remain solely and exclusively the property of the City at all times prior to, during, and after said events.
6. Inspection of Premises: The City reserves the right to enter upon the premises at any reasonable time to inspect the operation and equipment thereon, or for any other purpose.
7. Termination Upon Default in Insurance: Notwithstanding other provisions contained herein, City is granted the right to immediately terminate this agreement upon failure on the part of Concessionaire to maintain in full force and effect the Workers' Compensation or Liability Insurance required by the terms of this agreement.

B. Concessionaire's Rights and Obligations:

1. Liability Insurance: Concessionaire agrees to maintain in full force during the term hereof, a policy of general liability and liquor liability insurance which contains an Additional Named Insured Endorsement naming the City of Lodi as an

Additional Insured, and under which the insurer agrees to indemnify and hold the City of Lodi harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the demised premises; where such accident, damage, or injury, including death, results or is claimed to have resulted, from any act or omission on the part of Concessionaire or Concessionaire's agents or employees in the implementation of this Agreement. The minimum limits of such insurance shall be \$1,000,000/\$1,000,000 Bodily Injury; \$100,000 Property Damage, or \$1,000,000 combined single limit. In addition to the Additional Named Insured Endorsement on Concessionaire's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Such insurance as is afforded by the endorsement for the additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said bodily injury and property damage insurance containing the above-stated required endorsements shall be delivered to the Risk Manager after the issuance of said policy, with satisfactory evidence that each carrier is required to give the City of Lodi at least 30 days prior notice of the cancellation or reduction in coverage of any policy during the effective period of this Agreement. The insurance certificate must state on its face or as an endorsement, the name of the Concessions that it is insuring. If there has been no such delivery within forty-eight (48) hours prior to the commencement of this Agreement, this Agreement shall be null and void. All requirements herein provided shall appear either in the body of the insurance policy or as endorsement and shall specifically bind the insurance carrier. This paragraph and all other provisions of this Agreement shall apply and be construed as applying to any subtenant of Concessionaire, in the event any such subtenant is allowed under the terms of this agreement.

2. Workers' Compensation Insurance: Concessionaire shall take out and maintain during the life of this agreement, Workers' Compensation insurance as required by the State of California and shall similarly require any and all subcontractors to provide proof of same. Concessionaire shall require the carrier of said Workers' Compensation insurance to give City at least thirty (30) days prior written notice of the cancellation of any policy during the effective period of the agreement.
3. Products and Price Schedule: Concessionaire shall, prior to opening for business each year of said agreement, furnish a "Products and Price Schedule" and shall follow the products and price schedule as negotiated between the City and Concessionaire.
4. Equipment and Stock in Trade: Concessionaire shall provide all equipment and products to operate said concessions. The City and Concessionaire shall furnish

each other with a list of their provided equipment, which lists shall be updated annually.

5. Payments to City: Concessionaire shall pay 25% of gross receipts after taxes to the City of Lodi, which payments shall be due on the tenth (10th) calendar day of every month for sales of the previous month. If said percentage has not been paid by the due dates, there shall be a penalty of five percent (5%) per day for any amounts not paid, and owing to City.
6. Record of Books and Accounts: Concessionaire shall keep accurate records and books of accounts of all purchases and sales, and does hereby give to City or its authorized agents, the right to examine and audit said books at any time City desires. Concessionaire shall complete monthly records on forms provided by City, and these reports shall be provided to City by the tenth (10th) calendar day of each month while concessions are in operation.
7. Dates and Times of Operation: The dates and times of operation shall be as follows:

Armory Park and Softball Complex:

Concessionaire shall operate from February 15 to November 15 at times commencing one-half hour before City and/or Lodi Unified School District events and to the conclusion of the last scheduled game or event.

Saturday/Sunday tournaments or other non-City or Lodi Unified School District games or events, concessionaire shall open one-half hour prior to the first scheduled game, and remain open until the conclusion of the last scheduled game or event.

8. Permits and Licenses: Concessionaire agrees to obtain at his/her own expense, any and all permits and licenses which may be required by law or ordinance in conducting the concessions, and to pay any and all taxes which may be assessed against him for whatever purposes in the operation of said concessions. Concessionaire shall obtain and maintain throughout the life of this agreement a City of Lodi Business Tax Certificate.
9. Maintenance of Facilities and Equipment:
 - a) Concessionaire shall keep the concession stands and the immediate surrounding areas in clean and presentable condition at all times and follows the strictest of sanitary conditions, and any State and local ordinances applicable to the business to be conducted.
 - b) Concessionaire shall be responsible for daily removal from the premises of packaging materials (cartons, boxes, and cases) in which food and beverage items are packed.
 - c) Concessionaire shall be responsible to give the City written notice of any maintenance problems.

10. Permits, Taxes and Fees: Concessionaire agrees to obtain at its own expense any permits and licenses which may be required by law or ordinance in the conduct of the concession and to pay any and all taxes which may be assessed against Concessionaire for whatever purposes in the operation of said concession. Additionally, Concessionaire specifically is aware that a Possessory Interest Tax is or may be charged each year by the County Assessor for the use of the facilities and that payment of this tax is the responsibility of the vendor.
11. Director Approval of Employees: City reserves the right to approve or disapprove any employee or operator of said concession stand on a basis of such considerations as dress, general cleanliness, and working relationship with the public and staff, as needed to successfully vend food for day-to-day operations, tournaments or special events or activities. City will counsel and coordinate this action with Concessionaire. All concession employees will be dressed in like uniforms, white or other light color as approved by City, and be identified, by name, as employees of Concessionaire. All concession employees shall wear appropriate head attire to meet San Joaquin County Health Department requirements, and shall be clean at all times.
12. Assignment of Contract: Concessionaire shall not have the right to sell, mortgage, assign or sublet the contract/agreement or any part thereof without the prior written consent of City. A breach of this condition shall automatically terminate any contract or agreement between City and Concessionaire. In the event that Concessionaire is unable to provide required concession products and/or services for major regional or national tournaments or other special events, City shall have the right to secure said services and/or food and beverage products, and to negotiate any and all agreements or contracts to provide said services and/or food and beverage products for sale to the public, and all proceeds therefrom shall be forfeited to City. Said original Concessionaire shall have first right of refusal to participate in said negotiations.
13. Alcoholic Beverages:
 - a) The Sale of alcoholic beverages shall be limited to beer, selection of which shall include at least one premium brand, and shall be subject to approval by City;
 - b) The sale of alcoholic beverages shall be subject to all local, state, and federal laws and Concessionaire shall bear full responsibility for knowledge of, and compliance with, such laws.
 - c) Concessionaire agrees that no alcoholic beverage will be sold at any time during regional or national youth softball tournaments.
14. Staffing:
 - a) Armory Park: Concessionaire shall provide a minimum staff of at least one person at all times during all scheduled events;

- b) Softball Complex: Concessionaire shall provide a minimum staff of two (2) persons at all times during all high school games and all weekday City league games, and three (3) persons during weekend games and all tournaments and special events.
- c) Changes in minimum staffing levels may be renegotiated if City and Concessionaire agree that such changes will have no adverse effect on quality or level of service, or on quality of food served.
15. Security: Concessionaire shall be responsible for the security of the concession stands and any storage buildings assigned to his/her exclusive use, including but not limited to the installation of locks on doors or windows, or installation of an alarm system if it is deemed necessary, and Concessionaire shall be responsible for any acts of vandalism to Concessionaire's equipment and/or inventory.
16. Condition Upon Surrender: At the conclusion or termination of any stated agreement or contract, Concessionaire shall surrender said concession premises in a condition as good as that in which they received same, less normal wear and tear. Damage to or mistreatment of the buildings or City equipment shall be the responsibility of the Concessionaire to repair, replace, or reimburse City for repairs or replacements.
17. Performance Bond: Concessionaire shall be required to provide City upon the signing of this agreement a Performance Bond in the amount of \$2,500. Further, Concessionaire shall be responsible for the payment of the City's reasonable costs and attorney's fees to be fixed by the court in the event suit is brought upon the bond.
18. Termination Upon Default: If Concessionaire defaults in any of the terms contained herein, the Concessionaire's agreement to provide service as specified herein shall terminate upon failure of Concessionaire to correct the default within thirty (30) days of receiving written notice thereof from City. Upon termination thereof, Concessionaire agrees to quit and surrender possession peaceably and City shall have the right to remove Concessionaire and all other occupying through or under this agreement. Under such termination of agreement Concessionaire's performance bond shall be forfeited to City for payment of all outstanding debts owed by Concessionaire to City, including monthly payment(s) and any and all reimbursements for repairs or replacement of the facilities.
19. Nondiscrimination: In connection with the execution of this agreement Concessionaire shall not discriminate against any customer, employee or applicant for employment on the basis of age, race, religion, color, sex, disability or national origin. Concessionaire shall take affirmative action to ensure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex, disability or national origin. Concessionaire shall comply with Title VII of the Civil Rights Act of 1964 and with all applicable statutes, regulations, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or

hereafter enacted. Further, Concessionaire shall comply with section 1735 of the California Labor Code.

20. Conformance with Federal and State Law: All equipment, supplies and services used by Concessionaire in the performance of this agreement shall conform to the laws of the government of the United States and the State of California.
21. Hold Harmless: Concessionaire agrees to indemnify and hold harmless City, its officers, agents, employees and volunteers from any claims arising out of injury to person or property in connection with the concession operations that are the subject of this agreement.
22. Loud Speakers: No sound producing or amplification devices may be used by Concessionaire within or outside his concession space.

3. GENERAL PROVISIONS:

A. Attorney's Fees: In the event that either party brings an action under this Agreement for the breach or enforcement thereof, the prevailing party shall be entitled to its reasonable attorney's fees and costs, whether or not such action is prosecuted to judgment.

B. Termination of Agreement: The agreement/contract may be terminated by written agreement of either party hereto without cause upon sixty (60) days' written notice to the other party. Such notice shall be delivered to the City Manager's Office, City Hall, 221 West Pine Street, Lodi, or to the Concessionaire at a premises, which is subject to this agreement.

C. Independent Contractor Relationship: The parties hereto mutually agree that the relationship of Concessionaire to City is that of an independent contractor and not an officer, employee or agent of City. It is further understood that the agents and employees of Concessionaire, in the performance of this agreement, are employees of Concessionaire and not officers, agents, employees or volunteers of City.

D. Amendment, Alteration or Variation: No amendment, alteration or variation of the terms or specifications of this agreement shall be valid unless made in writing and mutually signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties.

E. Time: Time is of the essence in the agreement.

F. Advertising Signs: All advertising signs of any type shall be posted only upon approval of City.

G. Entire Agreement and Modification: This agreement supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Concessionaire shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Concessionaire specifically acknowledges that in entering into and executing this agreement, Concessionaire relies solely upon the provisions contained in this agreement and no others.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands the day and year first hereinabove written.

CITY OF LODI, a municipal
corporation

CONCESSIONAIRE

H. Dixon Flynn
City Manager

ATTEST

APPROVED AS TO FORM

Alice M. Reimche
City Clerk

Randall A. Hays
City Attorney