

CITY OF ROSEBURG
REQUEST FOR PROPOSALS
FOR
FOOD CONCESSION SERVICES
AT
2010 MOVIES IN THE PARK SERIES



RFP NO: PW-10-02

SUBMITTAL DEADLINE: 2:00 P.M., April 8, 2010

**CITY OF ROSEBURG
900 SE DOUGLAS AVE
ROSEBURG, OREGON 97470**

**CITY OF ROSEBURG
REQUEST FOR PROPOSALS FOR
FOOD CONCESSION SERVICES AT
2010 MOVIES IN THE PARK SERIES
RFP NO: PW-10-02**

NOTICE IS HEREBY GIVEN, the City of Roseburg is requesting sealed proposals from qualified persons to provide food concession services at the 2010 Movies in the Park series, held in Stewart Park, Roseburg, Oregon for a period of time beginning upon execution of a contract issued pursuant to this request for proposals ("RFP") and continuing thereafter until July 9, 2010. Interested parties will be provided sufficient information to prepare and submit proposals for consideration by the City. It is the City's intent to select the most advantageous proposals based on the evaluation criteria set forth in this request for proposals (RFP). A copy of this information may be obtained from the City Recorder's Office, at City Hall, 900 SE Douglas, Roseburg, OR 97470, or by calling 541/672-7701, extension #222 or by downloading from the City's website at www.cityofroseburg.org. The planholder list shall also be available on the City's website.

All proposals must be sealed, clearly marked Concessionaire Services Proposals - RFP No. PW-10-02, 2:00 p.m., April 8, 2010 and received in the City Recorder's Office at Roseburg City Hall by the above specified date and time. Any proposal received after that date and time, or not submitted in the proper manner, will be returned unopened without further consideration.

The City reserves the right to reject any and all proposals received as a result of this RFP, to waive any irregularities and to accept the proposal deemed to be in the best interest of the City. Preparation and submission of a proposal is at the proposer's sole risk and expense.

Sheila R. Cox, City Recorder

Dated this 17th day of February 2010.
Published in The News-Review on March 1, 2010.

**CITY OF ROSEBURG
TRADE SERVICES REQUEST FOR PROPOSALS
FOR FOOD CONCESSION SERVICES AT 2010 MOVIES IN THE PARK SERIES
RFP NO: PW-10-02
GENERAL REQUIREMENTS AND INSTRUCTIONS TO PROPOSERS**

1. GENERAL INFORMATION. These general requirements and instructions have been written to describe a minimum performance criteria of the trade services being sought by the City of Roseburg (City) and to be furnished by the persons submitting proposals (hereinafter referred to as the "proposer"). The successful proposers will provide the City with food and/or beverage concession services at the 2010 Movies in the Park series, located in Stewart Park, Roseburg, Oregon, for a period of time covering six Friday evenings beginning June 4, 2010 and continuing thereafter until July 9, 2010. Movies in the Park is a series of six family oriented outdoor movies that is free and open to the public.

This RFP is intended to provide interested persons with sufficient information to prepare and submit proposals for consideration by the City. It is the City's intent to select the most advantageous proposals based on the evaluation criteria set forth in this RFP.

The City reserves the right to reject any and all proposals received as a result of this RFP prior to the execution of a trade services contract upon a finding that it is in the public interest to do so. Preparation and submission of a proposal is at the proposer's sole risk and expense.

Proposals and all accompanying documents will become the property of the City and will not be returned. See Section 16, entitled "Public Records".

This RFP contains and incorporates the following:

GENERAL REQUIREMENTS AND INSTRUCTIONS TO PROPOSERS

Exhibit "A" Proposal Form

Exhibit "B" Trade Services Contract, including City's Standard Contract Conditions For Trades Services Contracts

Exhibit "C" Description of Services

Exhibit "D" Minimum Qualifications

Exhibit "E" Evaluation Criteria

2. FORM OF PROPOSAL. Proposals are to be based on and submitted in accordance with the instructions contained in this RFP. The City may change these instructions at any time prior to the solicitation closing by addendum as provided in Section 6 of this RFP. Proposers are responsible for responding to all addenda.

3. POINT OF CONTACT. The City Manager's office is the point of contact in the City for this RFP. All correspondence pertaining to this RFP should be directed to Sheila R. Cox, City Recorder, 900 SE Douglas Avenue, Roseburg, OR 97470. The City Recorder's Office may be contacted by calling 541-672-7701, extension #222. Information regarding the actual services being sought should be directed to Parks & Recreation Program Manager Barbara Taylor by calling 541-440-1188, extension 233.

4. TECHNICAL CLARIFICATION, REQUESTS FOR CHANGES. Questions regarding specific technical aspects of the service requested by this RFP, or seeking clarification concerning these instructions may be directed to Barbara Taylor, Parks & Recreation Program Manager at 541-440-1188. No oral clarification will be binding on the City. The City will be bound only by this RFP and any written addendum issued hereunder. Interested parties may contact the Parks Division at 541-440-1188 to view the concession area.

Requests for changes to these instructions, or to any of the exhibits to this RFP must be submitted in writing to the City Recorder not later than 10 calendar days prior to the date of the solicitation closing. The request must include a statement of the requested changes and the reason therefore. The request shall be marked as a "Request of Change in RFP" and specify the RFP Number set forth in the caption to this RFP. The City will respond to all written requests for changes, in writing, within five business days of receipt of such request.

If inquiries, comments or requests for changes raise issues that require clarification or a modification to this RFP, the clarification or modification will be made by written addendum as provided in Section 6 of this RFP.

5. SCHEDULE OF EVENTS. The following schedule of events shall be followed for this RFP. Proposers are strongly encouraged to attend the RFP conference, if scheduled. If no date is shown below, then the event is not scheduled for this RFP. Failure to attend a mandatory RFP conference may result in proposal rejection.

Solicitation Starting Date - (RFP available)	February 19, 2010
Solicitation Closing	2:00 p.m., on April 8, 2010
Initial Proposal Review Period	April 9 – April 14, 2010
Notice of Competitive Range	April 15, 2010
Interview Period	April 16 – April 23, 2010
Notice of Intent to Award	within 30 days after Closing
Award and Execution of Contract	within 60 days after Closing

6. ADDENDUM TO THE REQUEST FOR PROPOSALS. In the event it becomes necessary to revise any part of this RFP prior to the solicitation closing, an addendum will be provided to all proposers who have requested and received a copy of this RFP. RECEIPT OF AN ADDENDUM MUST BE ACKNOWLEDGED BY SIGNING AND RETURNING THE DOCUMENT WITH THE PROPOSAL. Proposers may protest requirements of this RFP by submitting a request for change, in accordance with Section 4 of this RFP. No addendum will be issued less than four days prior to the date of the solicitation closing.

7. FORMAT OF PROPOSAL. Proposals must contain the information specified in Section 8 of this RFP. Proposals must be prepared on the proposal form attached hereto as RFP Exhibit "A." A proposal should provide a concise description of the proposer's ability to satisfy the requirement of this RFP and the trade services contract attached hereto as RFP Exhibit "B", along with the City's Standard Contract Provisions attached as an exhibit to such contract.

8. CONTENT OF PROPOSALS. The proposal should demonstrate that the proposer can furnish the services in a manner that will be most effective for the City. Those proposals which do not contain all information required by this RFP or are otherwise non-responsive, may be rejected immediately, however the City has discretion to accept a proposal that does not

conform with all RFP requirements if the City determines that the non-conformance is not substantial or material. If a proposal is unclear, or appears inadequate, at the City's discretion, the proposer may be given an opportunity to explain how the proposal complies with this RFP. The City also has discretion to permit a proposer to correct a typographical error or other minor mistake or oversight in its proposal.

8.1 The proposal must contain at least the following information:

8.1.1 Proposal Form. The proposal form, substantially in the form of RFP Exhibit "A" must be duly executed by the authorized representative of the proposer, and include the following:

- a.** The proposer's business name, address, telephone number and federal taxpayer identification number;
- b.** The proposer's legal form of entity (sole proprietor, corporation, LLC, etc.) and, if applicable, state of incorporation or organization and main office address;
- c.** Name(s) and title(s) of the person(s) authorized to submit the proposal and to execute the trade services contract; and
- d.** The fees and charges that the proposer will charge for the services rendered based on the format outlined in RFP Exhibit "A".

8.1.2 Qualifications. The Proposers statement of qualifications to perform the contract, including the following:

- a.** A description of the key personnel that will perform the services and their qualifications;
- b.** A description of how the proposer complies with all minimum qualifications set forth in RFP Exhibit "D";
- c.** Special services the proposer can provide in connection with the service required by this RFP and as described in RFP Exhibit "C"; and
- d.** A proposer that has not contracted with the City of Roseburg during the past two calendar years for the type of services required by this RFP must also submit information describing its experience in providing such services to other public entities or other events.

8.1.3 References. A list of all private and public entities for which the proposer has provided similar services within the past two years and the name and phone number of a person within each entity who is knowledgeable of the proposer's performance record.

8.1.4 Additional Information.

- a. Proposer shall provide a sample of menu items to be sold including prices.
- b. Proposer shall provide a detailed explanation (photographs may be included) of the equipment proposer will be providing and utilizing at the site.

8.2 Alternatives. A proposer shall only submit alternative terms and conditions to the terms and conditions the City expressly authorized for negotiation under Section 14 of this RFP.

9. EXECUTION OF CONTRACT. The proposer selected by the City to provide the requested trade services will be expected to deliver its proof of all required insurance, and to enter into a written trade services contract in the form attached hereto as RFP Exhibit "B".

BY SUBMITTING ITS PROPOSAL, THE PROPOSER CERTIFIES THAT IT HAS READ AND ACCEPTS ALL TERMS, CONDITIONS AND REQUIREMENTS OF THIS RFP, INCLUDING THE TERMS AND CONDITIONS OF THE FORM OF CONTRACT IN RFP EXHIBIT "B", AND THAT IF PROPOSER REFUSES TO EXECUTE THE CONTRACT AFTER AWARD, THE CITY WILL BE ENTITLED TO SEEK COMPENSATION FOR ITS DAMAGES, WHICH MAY INCLUDE THE COST OF CONDUCTING A NEW SOLICITATION.

10. DELIVERY OF PROPOSALS. In order to be considered, copies of the sealed proposals must arrive at the City Recorder's Office before the time and date of the solicitation closing as noted in this RFP. Proposers who mail proposals should allow extra mail delivery time to insure timely receipt of their proposals. Proposals received after the solicitation closing will not be considered and will be returned unopened to the proposer. Proposals must be submitted in sealed envelopes clearly marked with the RFP number shown in the caption of this RFP and the time and date of the solicitation closing.

11. SUBMISSION AND WITHDRAWAL OF PROPOSALS. Proposers may modify or withdraw their proposals at any time prior to the solicitation closing by providing a written request for modification or withdrawal to the City Manager's office. Requests for withdrawal of proposals will not be accepted after the solicitation closing. A proposer may also withdraw its proposal in person prior to the solicitation closing, upon presentation of appropriate identification and satisfactory evidence of authority to the City Recorder. The City Recorder shall obtain the signature of the person making the withdrawal.

ALL PROPOSALS SHALL BE IRREVOCABLE FOR A PERIOD OF 60 DAYS FROM THE SOLICITATION CLOSING.

12. OPENING OF PROPOSALS. Proposals received in response to this RFP will be opened in public by the City Recorder or designee immediately after the solicitation closing in the City Manager's Office in City Hall located at 900 SE Douglas Street, Roseburg, Oregon. The names and addresses of all proposers will be announced and recorded by the City Recorder. No other information will be made available at that time. A copy of the names and addresses of the proposers may be obtained from the City Recorder.

13. MINIMUM QUALIFICATIONS REQUIRED. Proposals must indicate how the proposer satisfies the minimum qualifications set forth in RFP Exhibit “D”.

14. EVALUATION OF PROPOSALS. The City will evaluate the proposals according to the evaluation criteria and rating scheme set forth in RFP Exhibit “E” and in accordance with the following:

14.1 Interviews/Samples. The City may require interviews with all responsive proposers regardless of the interview schedule in Section 5 of this RFP. In addition, the City may request an interview with one or more proposer, if the City determines that an interview would help the City better evaluate the proposal, provided that no scoring for interview will be made unless all responsible proposers are interviewed. During the evaluation process, the City may also request work samples, demonstrations, inspections or other testing examinations from all responsive proposers, if the City determines that such further evaluation should be added as rated criteria to enable the City to properly evaluate the proposals.

14.2 Use of Competitive Range/Negotiation. At the conclusion of the rated criteria evaluation process and prior to selection, the City may, but shall not be required to, interview, request demonstrations or samples from, or negotiate with the three proposers who have the highest criteria ratings (the “competitive range”). The City may expand or decrease the competitive range if, in the opinion of the City Manager, the number of proposals or the quality of the proposals warrants an increase or decrease in the number of proposers in the competitive range.

If the City determines to make its selection based on interviews, demonstrations, samples or negotiation with proposers in the competitive range, the City shall provide written notice to all proposers, identifying proposers in the competitive range. A proposer that is not within the competitive range may protest the City's evaluation and determination of the competitive range in accordance with the provisions set forth in Section 18.3 of this RFP.

After the protest period, or after the City has provided a final response to any protest, whichever date is later, the City will begin further selection activity with proposers in the competitive range. The City's interviewing or negotiation team shall not favor any particular proposer. However, the City may only negotiate contract price to the extent the proposer would not be excluded from the competitive range based on the City's evaluation criteria set forth in this RFP. The City may only negotiate an alternative term or condition submitted by a proposer if the alternative term or condition is reasonably related to the term or condition that this RFP describes as negotiable.

14.2.1 The matters subject to negotiation shall be limited to the following:

- a. Price;
- b. The manner in which the services are to be performed or the quality or type of materials to be supplied;
- c. The personnel to be committed to the City's contract; and
- d. Contract terms and provisions that the City would like to change.

14.2.2 Nothing in this RFP shall restrict or prohibit the City from canceling the solicitation at any time in accordance with OAR 137-047-0660. If the City begins selection activities under this Section 14.2, the City shall begin such activities with all of the proposers in the competitive range. At any time during the negotiations, the City may:

- a. terminate negotiations with particular proposers and continue negotiating with the remaining competitive range proposer(s); or
- b. conclude negotiations with all competitive range proposers and make its award based on its evaluation of the comparative values achieved during the interview, demonstration, sampling or negotiation process; or
- c. reject all proposals and cancel the solicitation.

If the City does not cancel the solicitation at the conclusion of the City's negotiation with all remaining proposers in the competitive range, the City shall re-score the proposals in the competitive range based upon the evaluation criteria in this RFP.

If the contract is to be awarded based on the negotiations, the City shall provide written notice of intent to award the contract only to all proposers in the competitive range. An unsuccessful proposer may protest the City's evaluation and determination of the award as provided in Section 18.5 of this RFP.

14.3 Evaluation Record. A record will be made of all criteria evaluation ratings and all other grounds upon which selection of the contractor is made.

15. SELECTION PROCESS AND NOTICE OF AWARD. The City will select the proposals deemed most beneficial to the City based on its evaluation of the proposals. The apparent successful proposer and all other persons who submitted proposals will be notified of the City's selection, but if the City decides to use a competitive range process, notice of the identity of those in the competitive range will be given to all proposers, but notice of the intent to award will only be given to proposers in the competitive range. Unless award of a contract is delayed by the City, written notice of award, specifying the date of selection, will be made not later than the first business day following the date of selection. Final award will depend upon the execution of an acceptable contract and delivery of evidence of insurance, if required, and may be withdrawn by the City at any time prior to execution of the contract by the City.

16. PUBLIC RECORDS. This RFP and each original proposal received in response to it, together with copies of documents pertaining to the award of a contract shall be kept on file as a public record by the City.

17. RECORDS REVIEW; CONFIDENTIALITY. After opening, all proposals shall be available for public inspection except for those portions of a proposal that the proposer designates in its proposal as trade secrets or as confidential proprietary data in accordance with applicable state law. If the City determines such designation is not in accordance with applicable law, the City shall make those portions available for public inspection. The proposer shall separate information designated as confidential from other non-confidential information at the

time of submitting its proposal. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment are not confidential, and shall be publicly available regardless of a proposer's designation to the contrary.

18. PROTEST OF CONTRACTOR SELECTION, CONTRACT AWARD.

18.1 Purpose. An adversely affected or aggrieved proposer must exhaust all avenues of administrative review and relief before seeking judicial review of the City's contractor selection or contract award decision.

18.2 Notice of Competitive Range. If the City decides to negotiate with proposers in the competitive range, the City will provide written notice to all proposers of the identity of the proposers included in the competitive range. The City's notice of the proposers included in the competitive range shall not be final until the later of the following: (1) seven business days after the date of the notice; or (2) until the City provides a written response to all timely-filed protests. The City may increase or decrease the competitive range to respond to the number and quality of proposals. A business day is any day on which the City's offices are open.

18.3 Right to Protest Competitive Range.

18.3.1 An adversely affected or aggrieved proposer may submit to the City a written protest of the City's decision to exclude the proposer from the competitive range within seven business days after issuance of the notice of the competitive range.

18.3.2 The proposer's protest shall be in writing and must specify the grounds upon which the protest is based.

18.3.3 A proposer is adversely affected only if the proposer is responsible and submitted a responsive proposal and is eligible for inclusion in the competitive range i.e., the protesting proposer must claim it is eligible for inclusion in the competitive range if all ineligible higher-scoring proposers are removed from consideration, and that those ineligible proposers are ineligible for inclusion in the competitive range because:

- a. Their proposals were not responsive; or
- b. The City committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule, and the protesting proposer was unfairly evaluated and would have, but for such substantial violation, been included in the competitive range.

18.3.4 The City shall not consider a protest submitted after the time period provided in this RFP. A proposer may not protest the City's decision to not increase the competitive range above the competitive range set forth in this RFP.

18.4 Notice of Intent to Award Contract. The City will provide written notice to all proposers of the City's intent to award the contract, unless the contract is awarded following the declaration and notice of a competitive range, in which case notice of award

will be provided to all proposers in the competitive range. The City's award shall not be final until the later of the following:

- a. 7 Days after the date of the notice; or
- b. The City provides a written response to all timely-filed protests that denies the protest and affirms the award.

18.5 Right to Protest Award.

18.5.1 An adversely affected or aggrieved proposer may submit to the City a written protest of the City's intent to award within seven days after issuance of the notice of intent to award the contract.

18.5.2 The proposer's protest shall be in writing and must specify the grounds upon which the protest is based.

18.5.3 A proposer is adversely affected or aggrieved only if the proposer is eligible for award of the contract as the responsible proposer submitting the best responsive proposal and is next in line for award, i.e., the protesting proposer must claim that all higher-scored proposers are ineligible for award:

- a. because their proposals were non-responsive; or
- b. the City committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule, and the protestor was unfairly evaluated and would have, but for such substantial violation, been the responsible proposer offering the highest-ranked proposal.

18.5.4 The City shall not consider a protest submitted after the time period provided in this RFP.

18.6 Authority to Resolve Protests. The City Manager has the authority to settle or resolve a written protest submitted in accordance with the requirements of this RFP.

18.7 Decision. If a protest is not settled, the City Manager, or the City Manager's designee, shall promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

CITY OF ROSEBURG

Sheila R. Cox, City Recorder

RFP EXHIBIT "A"
RFP NO: PW-10-02

PROPOSAL FORM

Legal Business Name: _____

Form and State of Organization: _____

Registered dba, if any: _____

Main Office Address: _____

Telephone Number: _____ **FAX Number:** _____

Tax Identification Number: _____

Representation, Covenant and Warranty of Undersigned and Proposer:

By signing this proposal, the undersigned makes the following representations and warranties:

1. That it is the duly authorized representative of the proposer for all purposes relative to the submission of this proposal.
2. That this proposal constitutes the proposer's offer to enter into a trade services contract with the City and, if accepted by the City, will be binding and enforceable against the proposer.

By causing this proposal to be executed by the undersigned and delivered to the City Recorder, the proposer makes the following representations and warranties:

1. Proposer has read and understands the terms and conditions contained in the RFP, it has had the opportunity to protest any term or condition that it finds unacceptable and to seek clarification of any term or condition that it does not understand, and it accepts and agrees to be bound by the terms and conditions of the RFP, including, but not limited to the contract conditions.
2. Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.
3. Proposer has not been listed by the Oregon Contractor's Board or the Oregon Department of Administrative Services as a person disqualified or ineligible to bid on or perform work under public contracts.
4. Proposer agrees to meet all requirements contained in this RFP if it is selected as the contractor to provide the services requested by this RFP.

FEE:

The Proposer hereby offers to perform the services described in this RFP according to the fee structure described below. The fee structure should include all charges that the proposer will require, including the manner in which the proposer will seek payment for all equipment and materials supplied, if any, and all labor and expenses. No expense will be reimbursed for more than its actual cost to the proposer. The fee structure for the services outlined in the trade services contract included as RFP Exhibit "B" must be based on the following:

1. At time of execution of the contract, Proposer shall pay to the City a flat fee of \$100.00 for the contract period of June 4 through July 9, 2010.

Authorized Signature: _____

Print Name and Title: _____

Date of Signature: _____

RFP EXHIBIT "B"
RFP NO: PW-10-02

FOOD CONCESSION SERVICES CONTRACT
AND STANDARD CONTRACT PROVISIONS

This contract is made and entered into this ____ day of _____, 2010, by and between the CITY OF ROSEBURG, an Oregon municipal corporation, hereinafter called "CITY", and **(Contractor's Business Name)**, an independent contractor, hereinafter called "CONTRACTOR".

SECTION 1. CONTRACTOR AGREES:

1.1 Term. Beginning upon execution of this contract and continuing thereafter until July 9, 2010, CONTRACTOR shall perform the services required by the contract.

1.2 Activities. CONTRACTOR shall provide concessions for the 2010 season of Movies in the Park under the following parameters:

- A. CONTRACTOR shall keep concessions open for each of the six Friday dates of Movies in the Park for the 2010 season from June 4th through July 9th. Concessions may begin set-up at 5:00 pm; however, sales may not begin before 6:00 pm, and must begin no later than 7:00 pm. CONTRACTOR shall cease operations at 9:30 pm on each Movies in the Park date.
- B. CONTRACTOR shall assure concession area is adequately staffed during the above agreed upon hours. CONTRACTOR shall assure all County Health Department requirements are met.
- C. CONTRACTOR shall serve prepared and packaged food and beverage items to park users. Sales of alcohol and non-food items are prohibited.
- D. CONTRACTOR shall maintain a level of quality in both food products and services commensurate with that expected of any commercial business establishment and shall maintain sufficient quantity selection to provide a satisfactory level of service.
- E. CONTRACTOR shall furnish all equipment and supplies necessary for the safe operation of the concession. Electrical connections from the power supply to the concession equipment are responsibility of CONTRACTOR. Hose connections from the water source to the concession equipment are responsibility of CONTRACTOR. Gas-operated generators are prohibited. The Stewart Park concession area is not equipped to meet health department regulations for a cooking establishment.
- F. CONTRACTOR shall be at a specific designated location – "roving" (i.e., moving throughout the park) shall not be allowed.
- G. CONTRACTOR shall be responsible for keeping the concession area in a clean and sanitary condition at all times. Garbage disposal will be CONTRACTOR's responsibility.

H. All products sold must be approved by the City of Roseburg.

1.3 Fees. At time of execution of this contract, CONTRACTOR shall pay to CITY a flat fee of \$100.00 for the contract period of June 4 through July 9, 2010.

1.4 Expenditures. Extraordinary unbudgeted expenditures, from contracted funds, outside the scope of the work program may be made by CONTRACTOR only with the prior written approval of CITY's City Manager. CONTRACTOR shall promptly pay all expenses it incurs as a result of this contract and shall comply with all provisions of state law applicable to this contract.

1.5 Insurance Requirements. At all times during the term of this contract, at the sole expense of the CONTRACTOR, CONTRACTOR shall maintain continuously in effect the insurance policies described herein. Each policy shall be written as a primary policy, not contributing with or in excess of any coverage the City may carry. A copy of each policy or a certificate, and copies of additional insured endorsements, satisfactory to the City shall be delivered to the City prior to commencement of any work or services provided under this contract. The certificates shall specify and document all insurance-related provisions within this Contract. A renewal certificate will be sent to the City 10 days prior to coverage expiration. Unless specified, each policy shall be written on an "occurrence" form. Policies must be underwritten by an insurance company deemed acceptable to the City and admitted to do business in Oregon, or, in the alternative, rated A- or better by AM Best. The City reserves the right to reject any insurance carrier with an unacceptable financial rating. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. The 30-day notice of cancellation provision must be physically endorsed on the policy. In the event the statutory limit of liability of a public body for claims arising out of a single accident or occurrence is increased above the combined single limits specified in this contract, City shall have the right to require CONTRACTOR to increase the CONTRACTOR's coverage by an amount equal to the increase in the statutory limit for such claims and to increase the aggregate coverage by twice the amount of the increase in the statutory limit. Failure to maintain any insurance coverage required by this Contract shall be cause for immediate termination of the Contract by the City, but termination shall not relieve CONTRACTOR of its obligation to provide and maintain such coverage, and City shall be entitled to enforce all liability and indemnity provisions of this Contract following such termination. In addition, all requirements concerning insurance and indemnity shall survive the termination of this Contract.

1.5.1 Commercial General Liability. Throughout the term of this Contract, CONTRACTOR shall maintain continuously in a broad commercial general liability insurance policy with coverage of not less than \$1,000,000 combined single limit per occurrence, with an aggregate of \$2 million, for bodily injury, personal injury or property damage. The policy shall also contain an endorsement naming the City as an additional insured, on a form satisfactory to City, and expressly provide that the interest of the City shall not be affected by CONTRACTOR's breach of policy provisions. Such policy must be maintained in full force and effect for the duration of this contract, failure to do so shall be cause for immediate termination of this Contract by City. Any additional insured requirements included in this Contract shall both provide completed operations coverage after job completion and coverage that is primary and non-contributory. Claims Made policies will not be accepted.

1.5.2 Automobile Liability Insurance. At all times during the term of this Contract, and at the sole expense of CONTRACTOR, CONTRACTOR shall maintain "Symbol 1" automobile liability coverage including coverage for all owned, hired and non-owned vehicles, equivalent to a combined single limit per occurrence on not less than \$1,000,000 for bodily injury or property damage.

1.6 Books and Records. CONTRACTOR shall keep complete and proper books, records and accounts of all transactions performed as part of this contract and the approved invoices and work program. The books, records and accounts shall be open to inspection by CITY or its designee during normal business hours, and shall remain open to CITY for such inspection for three months following termination of this contract.

1.7 Availability. CONTRACTOR shall be available for meetings, discussions and program reviews with sufficient notice.

1.8 Assignment. The responsibility for performing CONTRACTOR's services under the terms of this contract shall not be assigned, transferred, delegated or otherwise referred by CONTRACTOR to a third person without the prior written consent of CITY.

1.9 Compliance with Law and Standard Contract Provisions. CONTRACTOR shall comply with all federal, state and local laws, including Roseburg Municipal Code Regulations relating to business registration, and with all Standard City Contract Provisions for Trade Service Contracts as outlined in the attached Exhibit "A".

1.10 Health Hazard Notification. Contractors who are hired to perform work for the City involving the need to control hazardous energy or enter confined spaces will be informed of our programs and the associated hazards that City staff is aware of. The notification is not designed to take over the contractor's safety responsibilities to his or her employees but to provide appropriate notification under the Oregon OSHA rules.

SECTION 2. CITY AGREES:

2.1 CITY shall allow CONTRACTOR to retain 100% of the sales proceeds from the concessions.

2.2 CITY shall provide utilities to the concession area. Electrical connections from the power supply to the concession equipment are responsibility of CONTRACTOR. Hose connections from the water source to the concession equipment are responsibility of CONTRACTOR.

2.3 CITY shall provide suitable dumpster for trash removal.

2.4 CITY shall maintain nearby restrooms, attached pavilion and all remaining facilities at Stewart Park.

SECTION 3. BOTH PARTIES AGREE:

3.1 Budget and Work Plan Approval. All approved invoices and work programs shall be in writing.

3.2 Independent Contractor. CONTRACTOR is an independent contractor. CONTRACTOR shall control the manner in which it performs the services herein; however, the nature of the services and the results to be achieved shall be specified by CITY. CONTRACTOR is not to be deemed an employee or agent of CITY and has no authority to make any binding commitments on behalf of CITY except as expressly approved by CITY's City Manager.

3.3 Indemnification. Each party shall indemnify, hold harmless and defend the other, its officials, agents and employees, from and against any and all claims, damages, losses and expenses, including attorney fees, arising in or from its performance of, or failure to perform, this contract. The extent of the CITY's obligation under this subsection is limited to the CITY's obligation under the Oregon Constitution and ORS 30.260 through 30.300.

3.4 Arbitration. Any controversy regarding the language or performance of this contract shall be submitted to arbitration. Either party may request arbitration by written notice to the other. If the parties cannot agree on a single arbitrator within 15 days from the giving of notice, each party shall within five days select a person to represent the party and the two representatives shall immediately select an impartial third person to complete a three-member arbitration panel. If either party fails to select its representative, the other party may petition the Chief Judge of the Circuit Court of Douglas County for designation of the representative. The arbitration shall be conducted in accordance with ORS 36.300 through 36.365 or the provisions of any such future law. The arbitrator(s) shall assess all or part of the costs of arbitration, including attorney fees, to either or both parties.

3.5 Attorney Fees. If any arbitration, administrative proceeding, action, or appeal thereon, is instituted in connection with any controversy arising out of this contract, performance of this contract or failure to perform this contract, the prevailing party shall be entitled to recover, in addition to costs and disbursements, such sum as the court may adjudge reasonable as attorney fees.

3.6 Ownership and Use of Documents. In whatever form they may be produced or stored, any documents prepared in performance of this contract and any supporting and investigative information that is gathered in the performance of this contract, upon completion of the work, or upon termination of this contract, shall be and remain the property of CITY and shall be subject to copyright by CITY at its sole discretion. CONTRACTOR shall be permitted to retain copies, including reproducible copies, of such documents. CONTRACTOR shall treat such documents as if CITY had secured a copyright thereon, and thus will not use the documents in a manner that would constitute copyright infringement. CITY may use the documents prepared hereunder for any purpose, however CONTRACTOR shall have no liability with regard to such documents to the extent they are used or applied outside of the scope of the work unless CONTRACTOR is consulted and offers a professional opinion that the use contemplated is appropriate.

3.7 Termination. Notwithstanding any other provision of this contract to the contrary, CITY may terminate this contract at any time by giving written notice to CONTRACTOR at least ten days in advance of such termination. Written notice shall be effective upon the date the written notice is actually given to CONTRACTOR. In the event of such termination, compensation shall be based on the services actually performed by CONTRACTOR to the date of termination. If compensation is a total sum, the amount shall be prorated based on the tasks actually performed as of the date of termination.

3.8 Notices. Any notice required to be given under this contract, or required by law, shall be in writing and delivered to the parties at the following addresses:

**CITY OF ROSEBURG
City Manager
900 SE Douglas Avenue
Roseburg, OR 97470**

***Contractor's Name and
Mailing Address***

3.9 Applicable Laws. The laws of the State of Oregon shall be used in construing this contract and enforcing the rights and remedies of the parties.

3.10 Merger. There are no other undertakings, promises or agreements, either oral or in writing, other than that which is contained in this contract. Any amendments to this contract shall be in writing and executed by both parties.

CITY OF ROSEBURG

(Contractor's Name)

**P. Eric Swanson
City Manager
Date: _____**

(Name of Person Signing Contract)
Date: _____

ATTEST:

Tax Identification Number

Sheila R. Cox, City Recorder

TRADE SERVICES CONTRACT EXHIBIT "A" STANDARD CITY CONTRACT PROVISIONS

The following provisions, if applicable, are hereby included in and made a part of the attached Contract for services between the City and the Contractor named therein as provided for in the Roseburg Municipal Code, the Oregon Revised Statutes and Federal laws, rules, regulations and guidelines:

1. DISCRIMINATION IN SUBCONTRACTING PROHIBITED; REMEDIES - ORS 279A.110:

1.1 The Contractor may not discriminate against a Subcontractor in the awarding of a subcontract because the Subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055.

1.2 By entering into the contract, the Contractor certifies it has not discriminated and will not discriminate, in violation of Subsection 1.1 against any minority, women or emerging small business enterprise in obtaining any required subcontract.

1.3 If the Contractor violates the nondiscrimination certification made under Subsection 1.2, the City may regard the violation as a breach of contract that permits the City to terminate the contract or exercise any remedies for breach permitted under the contract.

2. NONRESIDENT CONTRACTOR REPORT TO DEPARTMENT OF REVENUE - ORS 279A.120:

2.1 As used in this Section, "nonresident contractor" means a contractor that:

- (a)** Has not paid unemployment taxes or income taxes in the State of Oregon during the 12 calendar months immediately preceding submission of the bid or proposal for the contract;
- (b)** Does not have a business address in this state; and
- (c)** Stated in the bid or proposal for the contract that it was not a "resident bidder" under ORS 279A.120.

2.2 If the Contractor is a nonresident contractor and the public contract price exceeds \$10,000, the Contractor shall promptly report to the Department of Revenue, on forms to be provided by the Department, the total contract price, terms of payment, length of contract and such other information as the Department may require before the Contractor may receive final payment on the contract. The City shall satisfy itself that the requirement of this Section has been complied with before it issues a final payment on the public contract.

3. PREFERENCE FOR RECYCLED MATERIALS - ORS 279A.125:

3.1 Notwithstanding provisions of law requiring the City to award a contract to the lowest responsible bidder or best proposer or provider of a quotation and subject to

Section 3.2, when procuring goods for any public use, the City shall give preference to the procurement of goods manufactured from recycled materials.

3.2 The City shall give preference to goods that are considered to be made from recycled materials if:

- (a) The recycled product is available;
- (b) The recycled product meets applicable standards;
- (c) The recycled product can be substituted for a comparable nonrecycled product; and
- (d) The recycled product's cost does not exceed the cost of a comparable nonrecycled product by more than five percent, or a higher percentage if a written determination is made by the City.

4. PAYMENT OF LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES - ORS 279B.220(1): The Contractor shall:

4.1 Make payment promptly, as due, to all persons supplying to such Contractor, labor or material for the performance of the work provided for in the contract.

4.2 Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the contract.

4.3 Not permit any lien or claim to be filed or prosecuted against the City or any subdivision, agency or employee thereof on account of any labor or material furnished.

4.4 Pay to the Department of Revenue, all sums withheld from employees pursuant to ORS 316.167.

5. SALVAGING, RECYCLING, COMPOSTING OR MULCHING YARD WASTE MATERIAL - ORS 279B.225: If the contract will include lawn and landscape maintenance the Contractor shall salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

6. PAYMENT FOR MEDICAL CARE AND ATTENTION TO EMPLOYEES - ORS 279B.230:

6.1 Contractor shall promptly as due, make payment to any person, co-partnership association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

6.2 The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under the Contract who are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers.

Out-of-state employers must provide workers' compensation coverage that complies with ORS 656.126 for their workers. Employers' Liability Insurance with coverage limits of not less than \$500,000 each accident shall be included.

7. HOURS OF LABOR - ORS 279B.235: This Section does not apply to public contracts for goods or personal property.

7.1 No person shall be employed for more than ten hours in any one day or forty hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except for contracts for personal services, the employee shall be paid at least time and a half pay for:

(a) All overtime in excess of eight hours a day or forty hours in any one week, when the work week consists of five consecutive days, Monday through Friday; or

(b) All overtime in excess of ten hours a day or forty hours in any one week, when the work week is four consecutive days, Monday through Friday; and

(c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020, or all holidays specified in a collective bargaining agreement.

7.2 For personal services contracts, employees shall be paid at least time and a half pay for all overtime worked in excess of 40 hours in any one week, except for individuals under personal service contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

7.3 The Contractor must give notice to employees who perform work on this Contract, in writing, either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees, the number of hours per day and days per week that the employees may be required to work.

8. EXCLUSION OF RECYCLED OILS PROHIBITED - ORS 279B.240. Lubricating oil and industrial oil may include recycled oils or oils that are not manufactured from virgin materials.

9. COMPLIANCE WITH LAWS: Contractor shall comply with all federal, state and local laws, rules, ordinances and regulations at all times and in performance of this contract.

RFP EXHIBIT "C"
RFP NO: PW-10-02

DESCRIPTION OF TRADE SERVICES

The intent of this Request for Proposal is to identify three to four vendors to provide economical choices for food, beverages, and snacks during the Movies in the Park event. Movies in the Park is a series of six family oriented outdoor movies that is free and open to the public. The event is sponsored by the City of Roseburg and U.S. Cellular.

The successful proposer granted a contract with the City pursuant to this RFP will provide:

Services and Guidelines

CONTRACTOR shall keep concessions open for each of the six Friday dates of Movies in the Park for the 2010 season from June 4th through July 9th. Concessions may begin set-up at 5:00 pm; however, sales may not begin before 6:00 pm, and must begin no later than 7:00 pm. CONTRACTOR shall cease operations at 9:30 pm on each Movies in the Park date.

CONTRACTOR shall assure concession area is adequately staffed during the above agreed upon hours. CONTRACTOR shall assure all County Health Department requirements are met.

CONTRACTOR shall serve prepared and packaged food and beverage items to park users. Sales of alcohol and non-food items are prohibited.

CONTRACTOR shall maintain a level of quality in both food products and services commensurate with that expected of any commercial business establishment and shall maintain sufficient quantity selection to provide a satisfactory level of service.

CONTRACTOR shall furnish all equipment and supplies necessary for the safe operation of the concession. Electrical connections from the power supply to the concession equipment are responsibility of CONTRACTOR. Hose connections from the water source to the concession equipment are responsibility of CONTRACTOR. Gas-operated generators are prohibited. The Stewart Park concession area is not equipped to meet health department regulations for a cooking establishment.

CONTRACTOR shall be at a specific designated location – "roving" (i.e., moving throughout the park) shall not be allowed.

CONTRACTOR shall be responsible for keeping the concession area in a clean and sanitary condition at all times. Garbage disposal will be CONTRACTOR's responsibility.

All products sold must be approved by the City of Roseburg.

RFP EXHIBIT "D"
RFP NO: PW-10-02

MINIMUM QUALIFICATIONS

1. Contractor must be licensed pursuant to state law, and registered to do business in the City of Roseburg.
2. Contractor must not be disqualified by the City, the Department of Administrative Services or the State Contractor's Board from bidding on public contracts.
3. Contractor must have the ability to meet all requirements set forth in City's Trade Services Contract and related Standard Contract Conditions included as Exhibit "B" of this RFP.

FAILURE TO MEET THE FOREGOING MINIMUM QUALIFICATIONS CONSTITUTES A SUBSTANTIAL NON-CONFORMANCE AND WILL PREVENT THE PROPOSAL FROM RECEIVING FURTHER CONSIDERATION.

RFP EXHIBIT "E"
RFP NO: PW-10-02

EVALUATION CRITERIA

Responsive proposals will be evaluated under the criteria set forth below. For each criterion, the proposal will receive a number of points within the available range for that criterion. Unless negotiations are conducted as provided in Section 14 of this RFP, the contract will be awarded to the proposer(s) with the highest overall score.

1. Proposal Substantially Complies with all RFP requirements. Yes ____ No ____

If no, indicate the manner in which the proposal is non-conforming. Non-conforming proposals will not be considered for award:

- | | | |
|----|--|---------------|
| 2. | Meets or Exceeds Minimum Qualifications | 0 - 15 Points |
| 3. | Interview/Understanding of the City's Requirements | 0 - 15 Points |
| 4. | References / Experience | 0 - 15 Points |
| 5. | Sufficient personnel to provide services | 0 - 15 Points |
| 6. | Variety and Quality of food and/or beverage item(s) to be sold | 0 - 20 Points |
| 7. | Sale prices of product(s) | 0 - 20 Points |

Total Points Possible = 100

Total Points Earned = _____