

USE AGREEMENT FOR
Glendale Youth Sports Complex - Concession Operations & Management
City of Glendale Solicitation No. RFP 16-18

This Agreement for Glendale Youth Sports Complex - Concession Operations & Management ("Agreement") is effective and entered into between CITY OF GLENDALE, an Arizona municipal corporation ("City"), and Tactical Service Inc., an Arizona corporation dba Desert Snow, authorized to do business in Arizona, (the "Contractor"), as of the 23 day of February, 2016.

RECITALS

- A. City intends to undertake a project for the benefit of the public and with public funds that is more fully set forth in **Exhibit A**, pursuant to Solicitation No. RFP 16-18 (the "Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project attached hereto;
- C. The Standard Terms and Conditions applicable to all City Requests and Proposals (and located on the City's website), are incorporated by this reference;
- D. City and Contractor desire to memorialize their agreement with this document.

AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

1. Key Personnel; Sub-contractors.

- 1.1 Services. Contractor will provide all services necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors or consultants, retained by City.
- 1.2 Project Team.
 - a. Project Manager.
 - (1) Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's option, complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement;
 - (2) The City must approve the designated Project Manager; and
 - (3) To assure the Project schedule is met, Project Manager may be required to devote no less than a specific amount of time as set out in Exhibit A.
 - b. Project Team.
 - (1) The Project Manager and all other employees assigned to the project by Contractor will comprise the "Project Team."
 - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.

c. Discharge, Reassign, Replacement.

- (1) Contractor acknowledges the Project Team is comprised of the same persons and roles for each as may have been identified in the response to the Project's solicitation.
- (2) Contractor will not discharge, reassign or replace or diminish the responsibilities of any of the employees assigned to the Project who have been approved by City without City's prior written consent unless that person leaves the employment of Contractor, in which event the substitute must first be approved in writing by City.
- (3) Contractor will change any of the members of the Project Team at the City's request if an employee's performance does not equal or exceed the level of competence that the City may reasonably expect of a person performing those duties or if the acts or omissions of that person are detrimental to the development of the Project.

d. Sub-contractors. No subcontractors are allowed under this Use Agreement.

2. **Schedule.** The services will be undertaken in a manner that ensures the Project is completed timely and efficiently in accordance with the Project.

3. **Contractor's Work.**

3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.

3.2 Licensing. Contractor warrants that:

- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
- b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
 - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
 - (2) Contractor must notify City immediately if any Approvals or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default under the Agreement.

3.3 Compliance. Services will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, and other standards and criteria designated by City.

Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

3.4 Coordination; Interaction.

- a. For projects that the City believes requires the coordination of various professional services, Contractor will work in close consultation with City to proactively interact with

any other professionals retained by City on the Project ("Coordinating Project Professionals").

- b. Subject to any limitations expressly stated in the Project Budget, Contractor will meet to review the Project, Schedule, Project Budget, and in-progress work with Coordinating Project Professionals and City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
- c. For projects not involving Coordinating Project Professionals, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.

4. Compensation for the Project.

- 4.1 Compensation. City's compensation for the Project will, at a minimum, be: 27% of gross monthly sales for Year One; 27% of gross monthly sales for Year Two; 30% of gross monthly sales for Year Three; and 33% of gross monthly sales for Years Four and Five, as specifically detailed in EXHIBIT B (the "Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified.
 - a. Adjustments to the Compensation require a written amendment to this Agreement and may require City Council approval.
 - b. Additional services which are outside the scope of the Project contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.
 - c. Notwithstanding the incorporation of the Exhibits to this Agreement by reference, should any conflict arise between the provisions of this Agreement and the provisions found in the Exhibits and accompanying attachments, the provisions of this Agreement shall take priority and govern the conduct of the parties.

5. Payment/Audit/Site Conditions and Maintenance.

- a. Contractor will submit monthly payments to City's authorized representative.
- b. The period covered by each Payment will be one calendar month ending on the last day of the month or as specified in solicitation RFP 16-18.
- c. The City shall have the right to inspect ledgers, books, or records pertaining to the business at reasonable times and places during regular business hours.
- d. All electricity, gas, or water utility service will be delivered via the delivery system in place at the City's facility. The City is not liable or responsible to Contractor for any failure to furnish the utility services set forth above occurring by any reason beyond the City's control, including but not limited to, strikes or other work stoppage, the act of any other government agency or public utility, acts of nature, force majeure, or the breakdown or failure of apparatus, equipment or machinery employed in supplying the services.

City is not responsible or liable to Contractor for any direct or consequential damages incurred by Contractor, including damage to any goods, merchandise, or equipment stored at City's facility as a result of power failure, flood, fire, explosions, or other causes beyond City's control.
- e. Contractor shall provide its own janitorial services, pick-up, clean up, and disposal of all litter for all space assigned or used in its operation. Contractor shall clean and keep concession areas free of debris during events. All food preparation and service areas must be sanitized and kept clean at all times.
- f. The Contractor must, at its sole cost and expense, provide pest control service in all food preparation and service areas. The Contractor must not perform this service on its own or

with its own personnel, but must hire or contract this service to be performed by a professional exterminator licensed under the laws, ordinances and regulation of the City and State of Arizona. The Facility shall receive treatment at least once a month or more as determined by the Facility Manager. The City agrees to provide pest control services for the balance of the facility. Pest control services will be coordinated between the Facility Manager and the Contractor's on-site manager.

- g. Contractor must not allow or commit any waste, injury or damage upon, or to, the Facility or its equipment. At the expiration of the Contractor's agreement, the Contractor must leave the Facility and its equipment in at least the same clean, safe, and like-new condition as they were at the commencement of the agreement, expecting only normal wear and tear.

6. Termination.

6.1 For Convenience. City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 30 days following the date of delivery.

- a. Contractor will be equitably compensated for Goods or Services furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with project closeout and delivery of the required items to the City.

6.2 For Cause. City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages, in accordance with the provision of § 5.
- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages of more than \$1,000,000 or the amount of this Agreement, whichever is greater.

7. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

8. Insurance.

8.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively referred to herein as the "Contractor's Policies"), until each Party's obligations under this Agreement are completed.
- b. General Liability.
 - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate for each property damage and contractual property damage.

- (2) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, XCU hazards if requested by the City, and a separation of insurance provision.
 - (3) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and \$1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
 - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
 - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
 - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- f. Certificates of Insurance.
 - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.
 - (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
 - (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under the Agreement.
- g. Other Contractors or Vendors.
 - (1) Other contractors or vendors that may be contracted with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular contract.
 - (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).
- h. Policies. Except with respect to workers' compensation and employer's liability coverages, City must be named and properly endorsed as additional insureds on all liability policies required by this section.
 - (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.

- (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and reasonably acceptable to all parties.

8.2 Sub-contractors. Not applicable.

8.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense"; collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or other person or firm employed by Contractor), whether sustained before or after completion of the Project.
- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

9. **Immigration Law Compliance.**

- 9.1 Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 9.2 Any breach of warranty under subsection 9.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 9.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 9.1 above.
- 9.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 9.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 9.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

- 9.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. Notices.

- 10.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:
- a. The Notice is in writing; and
 - b. Delivered in person or by overnight courier service (delivery charges prepaid), certified or registered mail (return receipt requested); and
 - c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
 - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier service on or before 5:00 p.m.; or
 - (2) As of the next business day after receipt, if received after 5:00 p.m.
 - d. The burden of proof of the place and time of delivery is upon the Party giving the Notice; and
 - e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

10.2 Representatives.

- a. Contractor. Contractor's representative (the "Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Tactical Services Inc., dba Desert Snow
c/o John and Lauren Kautman
2202 West Lone Cactus Drive, Suite 1
Phoenix, Arizona 85027

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale
c/o Mike Davis
6210 West Myrtle Avenue
Glendale, Arizona 85301
623-930-2841

With required copy to:

City Manager
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

City Attorney
City of Glendale
5850 West Glendale Avenue
Glendale, Arizona 85301

- c. Concurrent Notices.
 - (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.
 - (2) A notice will not be deemed to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
 - (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

11. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

12. **Entire Agreement; Survival; Counterparts; Signatures.**

12.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. The solicitation, any addendums and the response submitted by the Contractor are incorporated into this Agreement as if attached hereto. Any Contractor response modifies the original solicitation as stated. Inconsistencies between the solicitation, any addendums and the response or any excerpts attached as Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

12.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

12.3 Survival. Except as specifically provided otherwise in this Agreement, each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

12.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval. Electronic signature blocks do not constitute execution.

12.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

12.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be deemed reformed to conform to applicable law.

12.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

13. **Term**. The term of this Agreement commences upon the effective date and continues for a five (5)-year initial period. The City may, at its option and with the approval of the Contractor, extend the term of this Agreement for an additional two (2) one-year terms. Contractor will be notified in writing by the City of its intent to extend the Agreement period at least thirty (30) calendar days prior to the expiration of the original or any renewal Agreement period. Price adjustments will only be reviewed during the Agreement renewal period and will be a determining factor for any renewal. There are no automatic renewals of this Agreement.

14. **Dispute Resolution**. Each claim, controversy and dispute (each a "Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

15. **Exhibits**. The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

- Exhibit A Project
- Exhibit B Compensation
- Exhibit C Dispute Resolution

(Signatures appear on the following page.)

The parties enter into this Agreement as of the effective date shown above.

City of Glendale,
an Arizona municipal corporation



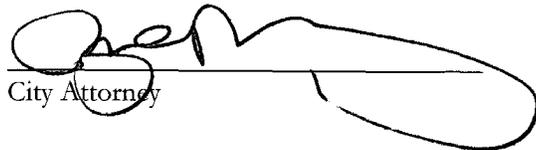
By: Kevin R. Phelps
Its: City Manager

ATTEST:



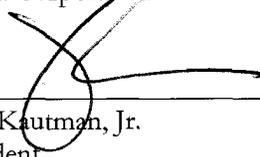
City Clerk (SFAL)

APPROVED AS TO FORM:



City Attorney

Tactical Service Inc., dba Desert Snow,
an Arizona Corporation



By: John Kautman, Jr.
Its: President

EXHIBIT A

Glendale Youth Sports Complex - Concession Operations & Management

City of Glendale Solicitation No. RFP 16-18

PROJECT

[See attached]

EXHIBIT A



CITY OF GLENDALE MATERIALS MANAGEMENT REQUEST FOR PROPOSAL

SOLICITATION NUMBER: RFP 16-18

DESCRIPTION: GLENDALE YOUTH SPORTS COMPLEX -
CONCESSION OPERATIONS & MANAGEMENT

PUBLISHED DATE: NOVEMBER 5, 2015

PROPOSAL DUE DATE AND TIME: DECEMBER 8, 2015, BEFORE 2:00PM (local time)

PRE-PROPOSAL SITE INSPECTION: NOVEMBER 17, 2015 AT 2:00 PM
The pre-proposal site inspection will be held at the
GYSC, 6221 N. 91st Avenue, Glendale, AZ 85305
Attendance is not mandatory.

PROPOSAL SUBMITTAL LOCATION: City of Glendale
Materials Management
5850 West Glendale Avenue, Suite 317
Glendale, Arizona 85301

Proposals must be in the actual possession of Materials Management prior to the time and date, and at the location indicated. Materials Management is located on the third (3rd) floor of the Glendale Municipal Office Complex (City Hall) in the Engineering Department. Proposals are accepted from the hours of 8:00 a.m. - 5:00 p.m., Monday through Friday, unless otherwise indicated for a holiday. All proposals will be received and time/date stamped at the Engineering Department's window. Late proposals will not be considered.

Proposals must be submitted in a sealed envelope with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope. See **Paragraph 2.3** for additional instructions for preparing an offer.

Proposals shall be opened publicly at the time, place and location designated on this page. Only the name of each Offeror shall be publicly read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing Offerors.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

For questions regarding this solicitation contact:

Crista Clevenger, Contract Analyst
(623) 930-2865
CClevenger@Glendaleaz.com



City of Glendale
Solicitation Number: RFP 16-18
GLENDALE YOUTH SPORTS COMPLEX (GYSC) –
CONCESSION OPERATIONS & MANAGEMENT

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

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City of Glendale
Solicitation Number: RFP 16-18
GLENDALE YOUTH SPORTS COMPLEX (GYSC) –
CONCESSION OPERATIONS & MANAGEMENT

CITY OF GLENDALE
Materials Management
5850 West Glendale
Avenue, Suite 317
Glendale, Arizona 85301

1.0 OPERATIONS & MANAGEMENT SPECIFICATIONS

1.1 INTRODUCTION

The City of Glendale (“City”) Glendale Youth Sports Complex (GYSC) is a lighted, multi-use sports facility located at 6221 N. 91st Avenue, Glendale, Arizona 85305. The GYSC has been serving the community since 2006. This 14-acre site encompasses five (5) multi-use soccer/football fields and is home to several youth sports groups for games and practices throughout the year. The GYSC is also adjacent to the Grand Canal Linear Park and Trail and the Glendale Sports and Entertainment District.

1.2 PURPOSE

The City of Glendale is soliciting proposals from an experienced Concessionaire to lease, manage, operate and maintain the existing concession stand at the GYSC located at the address provided above. A concession stand is essential for customer satisfaction along with the many scheduled sports events and activities held at the GYSC. Approximately 2000 players and spectators pass through the complex gates on a weekly basis during the spring season and over 3000 weekly during the fall season.

SPRING SCHEDULE

DATES	DAYS	HOURS	ACTIVITIES	ATTENDANCE	FIELDS IN PLAY
JAN.-JUNE	MONDAY-THURSDAY	5PM - 9PM	FOOTBALL & SOCCER PRACTICE	200+ PER NIGHT	2 - 3
JAN.-JUNE	FRIDAY	-	NO ACTIVITIES	-	-
JAN.-JUNE	SATURDAY	8AM-4PM	FOOTBALL GAMES	1000-1500	2 - 3
JAN.-JUNE	SUNDAY	CLOSED	CLOSED	CLOSED	CLOSED

FALL SCHEDULE

AUG.-DEC.	MONDAY-THURSDAY	5PM-9PM	FOOTBALL & SOCCER PRACTICE	350+ PER NIGHT	3 - 5
AUG.-DEC.	FRIDAY	5:30 PM–8 PM	OCCASIONAL FOOTBALL	100+	1
AUG.-DEC.	SATURDAY	8AM-6PM	FOOTBALL GAMES	1500-2000	2 - 3
AUG.-DEC.	SUNDAY	CLOSED	CLOSED	CLOSED	CLOSED

1.3 SCOPE OF SERVICES

1.3.1 GYSC Concession Lessee (Concessionaire)

Operate and maintain the concession in accordance with quality standards, which shall be determined at the sole discretion of the City in conformance with generally accepted professional standards (Exhibit A). Concessionaire shall maintain and make all

 <p>GLENDALE</p>	<p>City of Glendale Solicitation Number: RFP 16-18 GLENDALE YOUTH SPORTS COMPLEX (GYSC) – CONCESSION OPERATIONS & MANAGEMENT</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
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improvements—structural and nonstructural—during the term of the lease; operate the concession stand in a professional, clean and efficient manner in compliance with all applicable Maricopa County Environmental Health guidelines, as well as the standards of the City; provide adequate, trained staff to manage the operation and serve patrons during programming times; provide courteous and efficient service emphasizing customer satisfaction; complete improvements to the satisfaction of the City and Maricopa County Health Services guidelines; clean all cooking and non-cooking appliances, and the entire interior of the concession stand.

1.3.2 Pouring Rights – (Food Concession)

Concessionaire shall have sole and exclusive rights to all concession sales at the GYSC concession. Pricing of concession items shall be in accordance with similar facilities within the Phoenix metropolitan area. The Concessionaire shall have sole authority to establish prices, but shall submit any changes to the City within thirty (30) days of their proposed change. If applicable, an A1 or Gold rating from the Maricopa County Health Department will be required at all times. This shall also include products sold in vending machines.

1.3.3 Sale of Alcohol and Tobacco Products

The Concessionaire shall not sell any alcohol or tobacco products and shall be grounds for termination of this lease agreement if not strictly adhered to.

1.3.4 Credit Cards

The Concessionaire may accept one or more major credit cards for fees charged. All charges related to the acceptance of such cards shall be borne at the expense of the Concessionaire.

1.3.5 Hours and Days of Operation

The available hours of operation for the concession stand are Monday-Friday 4pm-10pm, and Saturday 7am-8pm, Closed Sunday, and shall be open based on a schedule mutually agreed upon by both parties. Changes to the operating schedule can be made only with the prior written notification to the City at least thirty (30) days in advance of any change. The City reserves the right to approve or deny any proposed changes to the operating schedule. The Foothills complex is closed for maintenance from the last Monday in June through July 31st. Concessions will not be needed during this timeframe.

1.3.6 Utilities

The City guarantees monthly payment of all electric, water, sanitation, and sewer charges, which may or may not be required to operate the concession. The cost of any other utilities (i.e. telephone, cable) are to be at the sole expense of the Concessionaire.

1.3.7 Site Maintenance

Daily and routine maintenance and upkeep may include, but is not limited to, roofs, exterior walls, electrical, heating, air conditioning or plumbing. The Concessionaire will be responsible for the repair and maintenance of all appliances and other items related the concession stand.

The Concessionaire shall keep the entire facility clean and properly maintained. The facility is subject to inspection by the City or designee with or without notice.



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The Concessionaire shall keep the exterior of the facility, within a 60' radius, mess free, including, but not limited to, paper, trash, packaging and spills.

The Concessionaire will not make alterations, additions or improvements to the facility without prior written consent by the City. All alterations, additions and improvements shall be deemed to be the property of the City at the termination of the Contract.

1.3.8 Good Stature

All offerors must be of good moral character and must not have been convicted of a felony or crime involving moral turpitude in the last ten (10) years. All offerors must agree to submit to background checks as deemed necessary by the City.

Offerors shall fully comply with all laws, ordinances, rules and regulations of the United States, State of Arizona, County of Maricopa and the City of Glendale, including specific City regulations related to building permits and fees, zoning, use permit stipulations and regulations regarding alcoholic beverages, nuisance abatement, immoral conduct, smoking/non-smoking, privilege, and use excise taxes.

Concessionaire shall maintain a one hundred (100%) percent rating with the Maricopa County Health Department. Less than 100% rating defects shall be remedied within fourteen (14) days. All inspection reports will be retained on site.

In addition to license payments required under the Concession License Agreement, transaction privilege taxes, at the rate provided by law, shall be paid by the concessionaire. Questions pertaining to the applicability of taxes should be directed to the City's Tax & License Division at (623) 930-2210.

1.3.9 Use Fees

The Concessionaire will pay to the City "Use Fees" to be determined by this process. Use Fees, in the form of lease and/or a percentage of gross sales is/are to be paid to the City by the Concessionaire on a monthly basis. Payment will be due by the 10th day of each month during each year of the lease. Any payment not received within seven (7) business days of the due date will be assessed with a 1.5% per day administration fee. The administration fee assessed shall be included in the monthly payment as the total amount due.

1.3.9 Cross Marketing

The Concessionaire shall agree to promote other City activities, facilities and concessions by prominently displaying related brochures, schedules or other such parks and recreation literature. The City will provide to the Concessionaire all necessary material.

1.3.10 Signs

The Concessionaire shall not place any permanent signage or advertisement upon any property of the City under any contract or agreement which may result from this proposal without written approval by the City. Notification to the City shall occur within at least sixty (60) days in advance of the sign or advertisement installation and after securing all appropriate and required permits, as applicable. Concessionaire is responsible for all associated costs. Temporary directional signage or event-related banners may be placed on the property as needed.



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1.3.11 Audit

The Concessionaire shall furnish the City with an annual audited financial report, as well as a statement of gross revenue. If percentage of gross sales is the determined Use Fee, a monthly sales report shall be submitted with payment detailing the calculation of such Use Fee.

1.4 SUBMITTAL REQUIREMENTS

Offeror's should provide written, narrative responses for each item requested within the criteria below. *Unnecessarily elaborate responses beyond that sufficient to present a complete and effective response to this solicitation are not desired. Do not provide general answers or reference to sales literature.* When applicable, supporting documents should be attached and reference the appropriate criterion. Offeror's, at a minimum must submit the following information:

1.4.1 Executive Summary of Understanding

Describe your understanding to the services requested in this solicitation and how it will meet the needs of the City. Include an introduction to the company and an explanation as to why you are the most qualified to operate and maintain the GYSC concession stand.

1.4.2 Organization Background and Experience

This section must contain all pertinent information relating to Concessionaire's organizational background, personnel experience, and other experience that would substantiate its qualifications and capabilities to perform the services required in this solicitation. At a minimum, this section shall contain the following information:

- 1.4.2.1 A list of key personnel to be assigned to the operation and their functions;
- 1.4.2.2 A staffing plan that includes an organizational chart with position titles, number of employees and their relevant responsibilities;
- 1.4.2.3 A description of qualifications of key personnel and their professional backgrounds;
- 1.4.2.4 Complete information on who will manage the GYSC concession stand on a daily basis;
- 1.4.2.5 Documentation that clearly demonstrates the Concessionaire's experience in management and operation of the food and beverage concession;
- 1.4.2.6 Proof of the ability to obtain and maintain insurance coverage as required per this solicitation;
- 1.4.2.7 A copy of the most recent audited financial statement.

1.4.3 Business Plan & Method of Approach

This section shall describe the Concessionaire's method of approach and plan for operating the GYSC concession. These plans and approaches should be described in sufficient detail to permit the City to evaluate them fairly in relation to all other proposals and with a minimum of possible misinterpretation. Further, the Concessionaire should describe the effort and skills necessary to operate the concession. This plan shall include, but is not be limited to, the following:

- 1.4.3.1 Plan for operating and maintaining the concession;
- 1.4.3.2 Recruitment, training and supervision programs for staff;
- 1.4.3.3 Plan for adequate staffing levels;

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- 1.4.3.4 Cash and inventory internal control procedures;
- 1.4.3.5 Proposed hours of operation;
- 1.4.3.6 A complete listing of all fees to be charged during the initial term of the contract;
- 1.4.3.7 Marketing and promotion plan.

1.4.4 Lease Proposal

The Offeror shall completely fill out the Lease Proposal Sheet (Section 5) relating to its proposed monthly Use Fee. The afore guaranteed Use Fee shall be payable in monthly installments, which the Offeror agrees to pay to the City as consideration for the lease to operate the GYSC concession. The Offeror may also indicate a percentage, if any, of gross revenue that would be paid to the City in addition to, or in lieu of, rent.

1.4.5 References

Offeror shall provide three (3) letters of reference from companies or organizations in good standing with whom you have provided similar products/services in the last thirty-six (36) months. Include company name, address, phone number, contact person, length of service and a description of the scope of services provided. References should provide a clear representation of the type of service performed.

1.5 SAFETY STANDARDS

1.5.1 Material Safety Data Records

The Concessionaire shall provide Material Safety Data Sheets (MSDS) for each chemical or material used in the performance of work, or stored at the facility, as required by applicable law. The disposal and storage of all chemicals shall comply with the regulations of the Environmental Protection Agency (EPA), state and local laws and regulations. Materials used should be selected from the safest, most current and most effective materials available to the landscape industry.

1.5.2 Incident Reporting

The Concessionaire shall immediately report all accidents and safety incidents by telephone and/or email to the City Contract Administrator. In addition, the Concessionaire shall report all accidents and safety incidents in writing to the City Contract Administrator within twenty-four (24) hours of constructive knowledge of said accidents or incidents arising out of, or in connection with, operational management of the facility which results in injuries or property damage, giving full details and statements of witnesses.

If death, serious injuries or damages are caused, the same shall be reported immediately by telephone to the City Contract Administrator. The report shall include a complete description of the accident or safety incident, including an explanation of what occurred, the probable cause, the actions taken by all parties and proposed follow-up action to minimize recurrence of the accident or incident. The Concessionaire shall also make its employees available to be interviewed by investigators of the accident or incident and to testify in any legal proceedings.

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2. SPECIAL INSTRUCTIONS

2.1 PRE-PROPOSAL SITE INSPECTION

2.1.1 A Pre-Proposal Site Inspection will be held on, November 17, 2015, 2:00 P.M, Local Time, located at the Attendance is not mandatory. Copies of the Request for Proposal (RFP) will NOT be available.

2.1.2 The purpose of the site inspection is to give potential offerors an opportunity to become familiar with any conditions which may affect performance and pricing and to prevent any misunderstanding of the City of Glendale’s position. Submission of an offer will be prima facie that the offeror did, in fact, make a site inspection and is aware of all conditions.

2.2 **RETURN OF OFFER** The Offeror shall submit three (3) hardcopies AND shall submit a complete proposal on a CD or flash drive as one file folder. The folder shall be identified as “RFP 16-18 – *Original - Name of Offeror.*” (For example: RFP 16-18 – Original - ABC Company.)

The proposal responses shall be submitted in a bound format (i.e. three (3) ring loose-leaf binders, spiral and/or report covers). Proposals should be divided by tab sections according to items listed in the **Preparation of Proposal Package** Instructions section 2.3. This will assist the evaluation panel in identifying items and information submitted within the proposal. Offerors may reproduce the forms and recreate information, but all of the required information must be presented in the order requested.

The Offeror shall complete all sections of the solicitation in the format given in the space provided. If additional space is needed than what is given, enter “See attachment for detail.” Proposals that do not conform to the above format may be rejected.

The Offeror shall bear all costs associated with submitting the proposal, including proposal preparation, site visitation or any travel connected with submission of the proposal. The City shall have no liability whatsoever for such costs.

2.3 **PREPARATION OF PROPOSAL PACKAGE** The following items shall be completed and returned including the written narrative responses required in section 1.4 Submission Requirements. Failure to include all the items may result in an offer being rejected. Offer packages shall be submitted in the following order:

- 2.3.1 **COVER SHEET**
- 2.3.2 **OFFER SHEET, Section 4.0**
- 2.3.3 **LEASE PROPOSAL SHEET, Section 5.0**
- 2.3.4 **SUB-LESSEE LIST, Section 6.0**
- 2.3.5 **ADDENDUM, Return all addenda (if applicable).**
- 2.3.6 **SUBMISSION REQUIREMENTS, Section 1.4 (written narrative)**

2.4 **EVALUATION CRITERIA** The evaluation criteria is weighted in accordance with the Submission Requirements, section 1.4.



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2.4.1	Executive Summary of Understanding	20%
2.4.2	Organizational Background & Experience	20%
2.4.3	Business Plan & Method of Approach	30%
2.4.4	Lease Proposal	20%
2.4.5	References	10%

2.5 ALTERNATE OFFERS/EXCEPTIONS

Offers submitted as alternates, or on the basis of exceptions to specific conditions of purchase and/or required specifications, must be submitted as an attachment referencing the specific paragraph number(s) and adequately defining the alternate or exception submitted. Detailed product brochures and/or technical literature, suitable for evaluation, must be submitted with the Offer. If no exceptions are taken, City will expect and require complete compliance with the specifications and all conditions of purchase.

2.6 INQUIRIES Any question related to the Request for Proposal shall be directed to the Contract Analyst whose name appears on the Notice page. An Offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Analyst may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, no later than **five days** prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such; otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.

2.7 EVALUATION PANEL Offeror submittals will be evaluated by an evaluation panel. Award shall be made to the responsive, responsible Offeror whose proposal is determined to be the most advantageous to the City.

2.8 PANEL CONTACT Offerors shall have no exclusive meetings, conversations or communications with an individual evaluation panel member on any aspect of the RFP, after submittal.

2.9 INTERVIEWS The City reserves the right to conduct interviews with some or all of the Offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the Offeror for the costs associated with the interview process.

2.10 ADDITIONAL INVESTIGATIONS The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any Offeror submitting a proposal.

2.11 DISCUSSIONS AND REVISIONS TO PROPOSAL Discussions may be conducted with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award; and may obtain pertinent information for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Should the City elect to call for 'best and final' offers, Offerors shall be accorded fair and equal treatment



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with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors. The purposes of such discussions shall be to:

- 2.11.1 Determine in greater detail such Offeror's qualifications, and
- 2.11.2 Explore with the scope and nature of the project, the Offeror's proposed method of performance, and the relative utility of alternate methods of approach;
- 2.11.3 Determining that the Offeror will make available the necessary personnel and facilities to perform within the required time;
- 2.11.4 Agreeing upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.

2.12 **BEST AND FINAL OFFERS (BAFO)** The City may request best and final offers if deemed necessary, and will determine the scope and subject of any best and final request.

2.13 **PROPOSAL EVALUATION** The City reserves the right to secure additional information from the Offeror in various forms and or to award based on submitted information.

2.14 **NOTICE OF INTENT TO AWARD AND PROTEST PERIOD** Information about the recommended award for this solicitation will be posted on the Internet. The notice will be available for review on the City's Materials Management Internet home page www.glendaleaz.com/purchasing immediately after the City has completed its evaluation process of the offers received. If you have any questions, or would like further information about an intended award, contact the contract analyst immediately. Any protest must be submitted to the Materials Manager no later than seven (7) calendar days from the date of posting on the Internet.

Please go to: <http://www.glendaleaz.com/Purchasing/doingbusinesswithglendale.cfm> for information and instructions on how to file a protest with the City of Glendale.

2.15 **WITHDRAWAL OF PROPOSAL** At any time prior to the specified solicitation due date and time, an Offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

2.16 **OFFER ERRORS OMISSIONS AND CORRECTIONS** The City will not be responsible for any offeror errors or omissions. All prices and notations shall be written in ink or typed. Changes or corrections made on the offer form must be initialed in ink by the individual signing the offer. No corrections will be permitted after the offers have been opened.

2.17 **COMPETITIVE NEGOTIATIONS** Exclusive or concurrent negotiations may be conducted with responsible Offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful Offeror. In the event the City deems that negotiations are not progressing, the City may

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formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified offeror(s).

- 2.18 NO CONTACT, NO INFLUENCE DURING THE RFP PROCESS** The City is conducting a competitive RFP process for the contract, free from improper influence or lobbying. There shall be no contact concerning this RFP from Offerors submitting a Proposal with any member of the City Council, RFP Evaluation Committee Members, or anyone connected with the process for or on behalf of the City. Contact includes direct or indirect contact by the Offeror, its employees, attorneys, lobbyists, surrogates, etc. in an attempt to influence the RFP process.

From the time the RFP is issued until the expiration of the protest period or the resolution of any protest, whichever is later (the “Black-Out Period”), Offerors, directly or indirectly through others, are restricted from attempting to influence in any manner the decision making process through, including but not limited to, the use of paid media; contacting or lobbying the City Council or City Manager or any other City employee (other than Material Management employees); the use of any media for the purpose of influencing the outcome; or in any other way that could be construed to influence any part of the decision-making process about this RFP. This provision shall not prohibit an Offeror from petitioning an elected official or engaging in any other protected first amendment activity after the protest period has run or any protest has been resolved, whichever is later.

Violation of this provision will cause the proposal or offer of the Offeror to be found in violation and to be rejected.

- 2.19 PROPRIETARY INFORMATION** An Offeror shall clearly mark any proprietary information contained in its bid with the words “Proprietary Information.” Offeror shall not mark any Solicitation Form as proprietary. Pricing data shall not be considered proprietary. Marking all, or nearly all, of a bid as proprietary may result in rejection of the bid.

Offeror’s acknowledge that the City is required by law to make certain records available for public inspection. In the event that the City receives a request for disclosure of Proprietary Information by any person, court, agency or administrative body, or otherwise has a reasonable belief that it is obligated to disclose the Proprietary Information to any such person or authority, the City will provide Offeror with prompt written notice so that Offeror may seek a protective order or other appropriate remedy. The Offeror, by submission of materials marked Proprietary Information, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Offeror in the event that the City must legally disclose the Proprietary Information.

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3.0 SPECIAL TERMS AND CONDITIONS

- 3.1 TERM OF AGREEMENT** The initial term of the agreement shall be for a five (5) year period upon approval by the City Council.
- 3.2 OPTION TO EXTEND** The City may, at its option and with the approval of the Concessionaire, extend the term of this agreement two (2) additional five (5) year increments based on satisfactory performance. Concessionaire shall be notified in writing by the City Materials Manager of the City's intention to extend the contract period at least sixty (60) calendar days prior to the expiration of the original contract period. Use Fee adjustments will only be reviewed during contract renewal.
- 3.3 USE FEE ADJUSTMENTS** The Concessionaire and the City shall discuss Use Fee adjustments a minimum of sixty (60) days prior to the contract renewal date. The request shall be in writing and include supportive justification for the proposed change. Any Use Fee change shall only be considered at the time of contract extension. The Use Fee adjustment, if approved, shall be effective and executed via a contract amendment.
- 3.4 INCORPORATION BY REFERENCE** All responses shall incorporate by reference the Scope/Specifications, terms and conditions, general instructions and conditions and any attachments or exhibits. The Standard Terms and Conditions applicable to this solicitation are posted on the Internet. They are available for review and download at the City's Materials Management Internet home page, www.glendaleaz.com/purchasing. Offerors are advised to review all provisions of the General Instructions and Conditions for this solicitation.
- 3.5 INSURANCE** 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.
- 3.5.1 MINIMUM SCOPE AND LIMIT OF INSURANCE**
Coverage shall be at least as broad as:
- 3.5.2 Commercial General Liability (CGL):** Insurance covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence, \$2,000,000 aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- 3.5.3 Automobile Liability:** Insurance covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- 3.5.4 Workers' Compensation:** as required by the State of Arizona, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.



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Other Insurance Provisions The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status The City, its officers, officials, employees, and volunteers are to be covered as additional insured's on the CGL policy 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.

Primary Coverage For any claims related to this contract, 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.

Notice of Cancellation Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

Waiver of Subrogation Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received by the Contract Administrator and approved by the City before work commences. **DO NOT SEND CERTIFICATES TO RISK MANAGEMENT.** However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

3.6 INDEMNIFICATION CLAUSE:

To the extent allowed by law, Contractor shall defend, indemnify, and hold harmless the City of Glendale, and its departments, boards, commissions, officers, officials, agents, employees and volunteers (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of



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the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City of Glendale, its officers, officials, agents, employees and volunteers for losses arising from the work performed by the Contractor for the City of Glendale.

- 3.7 CONFLICT OF INTEREST** Contractor shall disclose the following: 1) the name(s) and position(s) of each Contractor's employee or subcontractor that participated in the preparation of the submittal or who will be involved, directly or indirectly, with performing the contract, if awarded; 2) the name(s) of any City of Glendale employee who is a relative of persons identified pursuant to No. 1; 3) the name(s) and position(s) of Contractor's personnel that have a financial or proprietary interest in the contract; 4) the name(s) of any City of Glendale employee who is a relative of persons identified pursuant to No. 3.

Providing such disclosure will not necessarily disqualify a Contractor. Failure to disclose the requested information or any potential conflict of interest pursuant to A.R.S. § 38-501 et seq. may result in rejection of the proposal or bid or any contract being void or terminated.

For purposes of this provision, the following definitions apply:

"Employee" means all persons who are employed on a full-time, part-time or contract basis by the City of Glendale.

"Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

- 3.8 ESTIMATED QUANTITIES** The Quantities listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement as determined by actual needs and availability of appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirements for the contract period, except that the estimated quantity shown for each proposal item shall not be exceeded by 100% without the express written approval of the Materials Manager. Any demand or order made by any employee or officer of the City, other than the Materials Manager, for quantities in the excess of the estimated quantities shall be void if the written approval of the Materials Manager was not received prior to the Contractor's performance.

- 3.9 COOPERATIVE USE OF CONTRACT** This agreement may be extended for use by other governmental agencies and political subdivisions of the State, including all members of SAVE (Strategic Alliance for Volume Expenditures). Any such usage by other entities must be in accord with the ordinances, charter, rules and regulations of the respective entity and the approval of the Contractor and City. For a list of SAVE members, click on the following link: <http://www.maricopa.gov/Materials/save.aspx>.

- 3.10 PUBLIC RECORD** Contractor acknowledges that the City is a public agency and must comply with all Public Records laws. All proposals submitted in response to the Solicitation shall become the property of the City and, subsequent to award recommendation, become a matter of public record available for review pursuant to Arizona Public Records Law.

If a Contractor believes that a specific section of its Proposal response is confidential, that should be withheld from the public record, Contractor shall isolate the pages and mark each

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page confidential in a specific and clearly labeled section of its Proposal response. The Contractor shall include a written statement as to the basis for considering the marked pages confidential including the specific harm or prejudice if disclosed.

The City Materials Management Division will review the material and make a determination as to the confidentiality of any of the information and/or material contained within the Submittal. In the event of a public records request for documents Contractor deems confidential, the City will notify Contractor of the request and if Contractor claims such documents are confidential, it shall be the Contractor's sole responsibility, including sole cost, to take appropriate action, including legal action, to protect such documents. Price is not confidential and will not be withheld.

3.11 PERMITS AND LICENSES The Contractor and Subcontractors shall be responsible for determining and securing, at his/her expense, any and all licenses and permits that are required by any statute, ordinance, rule or regulation of any regulatory body having jurisdiction in any manner connected with providing operations and maintenance of the facility. Such fees shall be included in and are part of the total proposal cost. During the term of the contract, the Contractor shall notify the City in writing, within two (2) working days, of any suspension, revocation or renewal.

3.12 CERTIFICATION By signature on the Offer/Bid page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Contractor certifies:

The submission of the offer did not involve collusion, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition or other anti-competitive practices. The Contractor shall not discriminate against any employee or applicant for employment in violation of Federal or State law. The Contractor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer. The Contractor hereby certifies that the individual signing the submittal is an authorized agent for the Contractor and has the authority to bind the Contractor to the Contract.

3.13 KEY PERSONNEL Contractor shall assign specific individuals to the key positions in support of the Contract. Once assigned to work under the Contract, key personnel shall not be removed or replaced without the prior written approval of the City. Upon the replacement of any key personnel, Contractor shall submit the name(s) and qualifications of any new key personnel to the City Contract Administrator or Designee. With the concurrence of the Contract Administrator or Designee, the City shall amend the Contract to reflect the name(s) of any replacement key personnel. Upon any unplanned departure of key personnel, Contractor shall immediately notify the Contract Administrator or Designee.

For this purpose, a primary and secondary emergency contact name and phone number are required from the Contractor. It is critical to the City that the contractor's emergency contact information remains current. The Materials Management staff member, identified on page 1, is to be contacted by E-mail with any change to a contact name or phone number.

All products or services provided to meet an emergency phone request are to be supplied as per the contract prices, terms and conditions. The Contractor may provide the fee (pricing)

	<p>City of Glendale Solicitation Number: RFP 16-18 GLENDALE YOUTH SPORTS COMPLEX (GYSC) – CONCESSION OPERATIONS & MANAGEMENT</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
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for an after-hours emergency opening of the business separate from the Price Sheet. In general, the order will be placed using a City Procurement Card. The billing is to include the emergency opening fee, if applicable.

3.14 ADDITIONS OF PRODUCTS OR SERVICES The City reserves the right to add additional products or services to this contract when deemed necessary by the City. If this occurs, the Contractor will be requested to submit a negotiable quotation for the additions. Upon approval and authorization by the Materials Manager such additions will be added to and become a part of the contract through properly executed forms.

3.15 NON-DISCRIMINATION By submitting this Offer, Contractor agrees not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.



City of Glendale
Solicitation Number: RFP 16-18
GLENDALE YOUTH SPORTS COMPLEX (GYSC) -
CONCESSION OPERATIONS & MANAGEMENT

CITY OF GLENDALE
 Materials Management
 5850 West Glendale
 Avenue, Suite 317
 Glendale, Arizona 85301

4.0 OFFER SHEET

4.1 OFFER Offeror certifies that they have read, understand, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror also certifies that the prices offered were independently developed without consultation with any of the other Offerors or potential Offerors.

Lauren Kautman
 Authorized Signature

Tactical Service Inc.
 Company's Legal Name

Lauren Kautman
 Printed Name Address

2202 W Lone Cactus Dr. Ste 1

Vice President
 Title

Phoenix, AZ 85027
 City, State & Zip Code

(623) 810-9465
 Telephone Number

N/A
 FAX Number

lauren.kautman@desertsnowshavedice.com
 Authorized Signature Email Address

12/3/15
 Date

For questions regarding this offer: (If different from above)

John or Lauren Kautman
 Contact Name

(623) 810-9465
 Phone Number

Fax Number

john.kautman@desertsnowshavedice.com
 Email Address

FEDERAL TAXPAYER ID NUMBER: 45-442887

Arizona Sales Tax No. [REDACTED]

Tax Rate 6.3%

Offeror certifies it is a: Proprietorship Partnership Corporation

Minority or woman owned business: Yes No

	<p>City of Glendale Solicitation Number: RFP 16-18 GLENDALE YOUTH SPORTS COMPLEX (GYSC) – CONCESSION OPERATIONS & MANAGEMENT</p>	<p>CITY OF GLENDALE Materials Management 5850 West Glendale Avenue, Suite 317 Glendale, Arizona 85301</p>
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EXHIBIT A

Essential Functions

- Prepare and serve food according to health department and standard food handling guidelines.
- Operate, clean and maintain equipment for food preparation (popcorn popper, hot dog cooker, microwave oven, soda fountain, etc...) using proper methods.
 - Interact with customers and fellow staff in a professional and customer service oriented manner.
 - Proper cash handling procedures during transactions.
 - Maintain a clean and neat work area.
 - Maintain a professional and clean appearance at all times.
 - Receive and inventory stock as needed.
 - Provide information related to parks and recreation administration, recreation programs and other City services.

Concession Stand Health Department Help

Meeting and maintaining local health standards for the concession a major part of the day to day procedures. For this reason we have included much of that information as operating guidelines.

The exact requirements for a concession will vary based on the type of food and beverage that is served. It is the responsibility of the concessionaire operator to become familiar with all Maricopa County Health Codes as they relate to concession vending.

If unsure of the guidelines required to operate a concession, please contact <http://www.maricopa.gov/envsvc/>



ADDENDUM NUMBER ONE

SOLICITATION: RFP 16-18

Page 1 of 2

Solicitation Due Date: December 8, 2015 before 2:00 PM

CITY OF GLENDALE
Materials Management
5850 W. Glendale Ave. Ste. 317
Glendale, AZ 85301
Phone: (623) 930-2865

RFP 16-18

GLENDALE YOUTH SPORTS COMPLEX – CONCESSION OPERATIONS & MANAGEMENT

As a result of the pre-proposal site visit held on November 17, 2015, the following additions and clarifications have been made to Request for Proposals No. 16-18:

1.3 SCOPE OF SERVICES

ADD:

1.3.12 The concessionaire will be responsible for the cleaning and maintenance of all appliances and other items related to the concession stand. Major repairs and/or replacements will be addressed by the City of Glendale ("City). The City shall inspect concession inventory and guarantee all appliances and other items are in working order prior to concessionaire assuming responsibility. The City will remove any unwanted inventory, per the request of the awarded concessionaire, prior to occupancy. (Exhibit A):

1.3.13 The equipment left behind shall remain the property of the City once the contract has expired. The contractor shall ensure the building is left in proper working order with all equipment and facilities working properly at the end of the contract.

CLARIFICATIONS:

1. Question: Which schedule prevails for hours and days of operation, Section 1.2 or Section 1.3.5?

Answer: These are reference hours and days only. Section 1.2 is the scheduled events hours and days. Section 1.3.5 is the maximum hours the Park is open.

2. Question: Section 1.3.7 Site Maintenance – states daily & routine maintenance & upkeep may include, but is not limited to roofs, exterior walls, electrical, heating, air conditioning or plumbing. Does this mean that if the A/C goes out, the lessee is responsible for replacement of the HVAC or does it mean that the lessee must replace air filters to maintain the good working order of the HVAC? Also, if a tree falls on the roof is the lessee responsible for repair/replacement of the roof? If the building is damaged in some way at any time during the lease (tagged, windows broken, etc by vandals) then lessee is responsible for repair of that damage?

Answer: The lessee shall be responsible for day to day cleanup and repairs for any damage that is determined to be the fault of the lessee. The City shall be responsible for routine maintenance including HVAC.

3. Question: Section 1.3.7 Site Maintenance – Is the lessee responsible for emptying trashcans within 60' of the concession stand into the dumpsters and is the lessee responsible for the full size dumpster fees.

Answer: The lessee is not responsible for the dumpster fee and Park staff will empty the trashcans. The lessee is authorized to empty cans before park staff arrival if trash is overflowing and unsightly.

4. Question: Section 1.3.7 Site Maintenance – Is it a common issue for University of Phoenix traffic to fill the trashcans on Sunday games making it necessary for lessee staff to care for facility on Sunday's when the stand is closed?

Answer: City park staff is responsible for cleanup after Sunday games.



ADDENDUM NUMBER ONE

SOLICITATION: RFP 16-18 Page 2 of 2
Solicitation Due Date: December 8, 2015 before 2:00 PM

CITY OF GLENDALE
Materials Management
5850 W. Glendale Ave. Ste. 317
Glendale, AZ 85301
Phone: (623) 930-2865

5. Question: Section 1.3.8 Health Inspection – Is the concession stand currently in good standing?

Answer: Yes, the concession stand has been inspected, is up to code, and is in good standing.

6. Question: Section 1.3.11 & 1.4.2.7 Audited Financials – Is this information public after award of bid and during contract period?

Answer: Refer to RFP Section 2.19 PROPRIETARY INFORMATION

EXHIBIT A – INVENTORY LIST

- Multiple compartment food warmer (hotdogs, hamburger patties etc.)
- Up right single door Freezer (17 cubic inch industrial)
- 6 compartment Soda dispenser (for box soda syrup)
- Pretzel warmer
- Nacho cheese warmer/dispenser
- Double coffee machine (two pot machine)
- Pop Corn machine
- Double drawer warmer
- Double door refrigerator (industrial)
- 2 six foot prep tables
- Single toaster oven
- 2 double slot Slush E machines
- Bread rack
- Storage rack
- 2 cash registers
- Ice Machine (outside of concession building)

The balance of the specifications and instructions shall remain the same. The Offeror must acknowledge receipt and acceptance of this addendum by returning the entire addendum with the proposal submittal.

Name of Company: _____

Address: _____

Authorized Signature: _____

Print Name and Title: _____

EXHIBIT B

Glendale Youth Sports Complex - Concession Operations & Management

City of Glendale Solicitation No. RFP 16-18

COMPENSATION

METHOD AND AMOUNT OF COMPENSATION

City's compensation for the Project will, at a minimum, be: 27% of gross monthly sales for Year One; 27% of gross monthly sales for Year Two; 30% of gross monthly sales for Year Three; and 33% of gross monthly sales for Years Four and Five. .

DETAILED PROJECT COMPENSATION

The authorized representative for the Contractor, Tactical Service Inc., dba Desert Snow, shall submit monthly gross sales receipts to the City's representative reflecting the calculation of the percentage to be paid to the City as set forth in RFP 16-18.

EXHIBIT B



BEST AND FINAL OFFER (BAFO)

SOLICITATION NUMBER: RFP 16-18

DESCRIPTION: GLENDALE YOUTH SPORTS COMPLEX –
CONCESSION OPERATIONS & MANAGEMENT

BAFO DUE DATE AND TIME: December 29, 2015 @ 2:00 PM (Local Time)

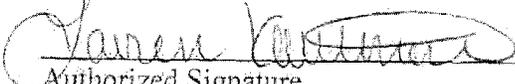
Best and Final Offers must be submitted in a sealed envelope with the Solicitation Number, Description and the Due Date clearly labeled, as cited above. Also included shall be the Offeror's name and address clearly indicated on the envelope. For the purposes of this solicitation, Best and Final Offers may be submitted via email in a pdf (ADOBE) format. Please label the file as "RFP 16-18 – 'Name of Offeror' – BAFO GYSC – Concession O & M". Please submit your response to: **Crista Clevenger at CClevenger@glendaleaz.com**

Best and Final Offers must be in the actual possession of Materials Management on or prior to the time and date, either at the location indicated or via email. Materials Management is located on the third (3rd) floor of the Glendale Municipal Office Complex (City Hall), 5850 West Glendale Avenue, Suite 317, Glendale, Arizona, 85301.

Best and Final Offers are accepted at the Engineering Department's front counter between the hours of 8:00 AM and 5:00 PM, Monday through Friday unless otherwise indicated for a Holiday. The Best and Final Offer submittals will be time stamped at the Engineering Department's front counter.

The City of Glendale is closed in honor of Christmas Day, Thursday, December 24 after noon and Friday, December 25, 2015.

BEST AND FINAL OFFEROR INFORMATION:

 Authorized Signature	<u>Tactical Service Inc.</u> Company's Legal Name
<u>Lauren Kautman</u> Printed Name	<u>2202 W Lone Cactus Dr. Suite 1</u> Address
<u>Vice President</u> Title	<u>Phoenix, AZ 85027</u> City, State & Zip Code
<u>623.810.3287</u> Telephone Number	 FAX Number
<u>12-21-2015</u> Date	<u>lauren.kautman@desertsnow</u> E-mail Address <u>shavedice.com</u>

December 21, 2015

BEST AND FINAL OFFER (BAFO)

The City of Glendale evaluation committee has evaluated your proposal in response to **RFP 16-18 Glendale Youth Sports Complex – Concession Operations and Management**. This is to inform you that we have selected your company as one of the Offeror's to proceed to the "Best and Final Offer" phase of the evaluation process.

The City of Glendale ("City") is asking that Offeror's provide (no later than the due date and time indicated) a response to the following request. The BAFO will be evaluated as an adjustment to the Offeror's scores on their original proposal response. If an Offeror does not submit a Best and Final Offer, its previous offer will be considered as its Best and Final Offer.

BAFO LEASE PROPOSAL

Offeror shall enter their **BEST AND FINAL LEASE PROPOSAL** based on all items defined in the Scope of Services. Please complete and return the following.

5.0 LEASE PROPOSAL/USE FEE SHEET

5.1 MONTHLY LEASE PAYMENT (optional)

Year One: \$ _____

Year Two: \$ _____

Year Three: \$ _____

Year Four: \$ _____

Year Five: \$ _____

5.2 MONTHLY PERCENTAGE OF GROSS SALES RECEIPTS (optional)

PLEASE PROVIDE ANTICIPATED GROSS ANNUAL REVENUE FOR CALCULATION PURPOSES ONLY \$ 40,000

Year One: 27 %

Year Two: 27 %

Year Three: 30 %

Year Four: 33 %

Year Five: 33 %

OFFEROR NAME: Tactical Service Inc.

EXHIBIT C

Glendale Youth Sports Complex - Concession Operations & Management

City of Glendale Solicitation No. RFP 16-18

DISPUTE RESOLUTION

1. Disputes.

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
 - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
 - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
 - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

2. Arbitration.

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the Dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - b. The arbitrator selected must be an attorney with at least 10 years experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.

2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.

2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions.**

4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third-party who is not obligated by contract to arbitrate disputes with City and Contractor.

4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.

4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.