AGENDA FOR THE WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
TO BE HELD THURSDAY, May 16, 2013 AT 3:00 P.M.

CITY-COUNTY BUILDING
555 S. 10TH STREET
CITY COUNCIL CHAMBERS ROOM 112
LINCOLN, NE 68508

1. Introductions and Notice of Open Meetings Law Posted by Door (Chair Beutler)

2. Public Comment and Time Limit Notification Announcement (Chair Beutler)

   Individuals from the audience will be given a total of 5 minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record.

3. Approval of the minutes from the JPA meeting held May 3, 2013 (Chair Beutler)
   - (Staff recommendation is for the JPA Board to approve the minutes as presented)

4. Approval of April 2013 Payment Registers (Steve Hubka)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the payment registers)

5. Review of April 2013 Expenditure Reports (Steve Hubka)
   - Public Comment

6. West Haymarket Progress Report (Paula Yancey)
   - Public Comment

7. WH 13-44 Resolution authorizing the Chairperson of the West Haymarket Joint Public Agency, on behalf of the JPA, to enter into a DAS Concession Agreement with Concourse Communications Group LLC to provide a neutral host Distributed Antenna System throughout Pinnacle Bank Arena to support cellular services providers. (Paula Yancey)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

8. WH 13-45 Resolution to approve the Aerial Lifts Equipment Contract with NMC, Inc. to provide for the procurement and delivery of the Articulating Boom Lift, including instruction and training, pursuant to Bid No. 13-109. (Canda Jellenc)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

9. WH 13-46 Resolution to approve the Aerial Lifts Equipment Contract with OER Services, LLC to provide for the procurement and delivery of two aerial lifts, including instruction and training, pursuant to Bid No. 13-109. (Canda Jellenc)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

10. WH 13-47 Resolution to approve the Portable Concession Carts Contract with Carts of Colorado, Inc. to provide for the procurement, delivery and installation of the portable concession carts, pursuant to Bid No. 13-094. (Canda Jellenc)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

11. WH 13-48 Resolution to approve an Allowable Fill Restriction Agreement between the City of Lincoln and the West Haymarket Joint Public Agency to treat the proposed Breslow Ice Center site, the City's 901 Building site and the West Haymarket Parking Lot and Festival Space as a single development area and to define the maximum amount of fill allowed on each site. (Dan Marvin)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

12. WH 13-49 Resolution authorizing the Chairperson of the West Haymarket Joint Public Agency, on behalf of the JPA, to enter into a Storage Space Lease Agreement with TDP Phase One LLC and TDP Phase Two LLC (collectively "TDP") for TDP's lease of Storage Room 104 in the JPA Deck 1 Parking Garage. (Dan Marvin)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

13. Set Next Meeting Date: Friday, June 14, 2013 at 3:00 p.m. in Room 303*

14. Motion to Adjourn

*If conflicting meeting ends early, this meeting will be held in City Council Chambers Room 112

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
May 3, 2013

Meeting Began At: 9:33 A.M.

Meeting Ended At: 10:00 A.M.

Members Present: Chris Beutler, Eugene Carroll, Tim Clare

Item 1 -- Introductions and Notice of Open Meetings Law Posted by Door

Chair Beutler opened the meeting with introduction of the Board members. He advised that the open meetings law posted at the back of the room is in effect.

Item 2 -- Public Comment and Time Limit Notification

Public comment is welcome. Beutler stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 -- Approval of the minutes from the JPA meeting held April 18, 2013

Beutler asked for corrections or changes to the minutes of the April 18, 2013 meeting. Being none, Carroll moved approval of the minutes. Clare seconded the motion. Motion carried 3-0.

Item 4 -- WH 13-41 Resolution to waive the Joint Public Agency's option to extend the commencement date for payment of the District Energy Corporation's Demand Charge -- Facilities Financing under the Energy Services Agreement with District Energy Corporation from September 1, 2013 to September 1, 2014. (Dan Marvin/Michael Rogers)

Dan Marvin, Secretary for West Haymarket JPA, explained that this resolution changed a date. The District Energy Power Plant will provide heating and cooling for the arena, as well as some of the buildings south of the arena. When originally before the District Energy Board a number of years ago, we were asked for an opening date and we gave them September 2013. They built in to the agreement, which we adopted, some flexibility to start service later than that date, which was prudent at the time. Now that we are closer to the opening date of the arena, we propose to amend the original resolution to put the start date at no later than September 1, 2013.

Mike Rogers, Gilmore Bell Bond Council, explained that the Energy Service Agreement contains a provision that provides that the demand charge facilities financing will commence no earlier than September 1, 2013. However, it gives the JPA the option of extending that date to September 1, 2014. Before DEC moves forward with their financing to allow them to begin billing the JPA this September and for stability of their financing, the option to move that date is asked to be waived by the JPA. This will allow certainty as to when the DEC can start imposing the demand charge facilities financing fee as a component of the overall billing for heating and cooling of the arena facility.

Clare asked for clarification on how this affects the financing date. Marvin explained that originally there was flexibility to extend the date by one year. Now that District Energy is prepared to do the final financing for this project, we need to lock in the specific date. This would remove the ability to delay the start date for the arena by just setting it at September 1, 2013. If this were deferred for a year, we would incur approximately $75 million of interest within the financing increasing the overall project cost, plus approximately $600,000 more for the financing on the interest over a 30-year period. So, now that we know when the arena will be open, we want to lock in the date so they can finalize their financing. Continuing in response to Clare, Marvin explained this does not extend the financing and the first payment would be due September 1, 2013. Rogers agreed that facilities financing would be due September 1, which is when the facilities interest will start. This does not extend the debt out another year.

Jane Kinsey, Watchdogs of Lincoln Government, asked if this will affect taxpayer money at any point. Beutler responded that it saves taxpayer money. Marvin concurred stating that by allowing this to be locked in it allows for an opportune time and certainty of what the payments will be. Because of lower interest rates, a firm date, and by creating solid private customers in the Traction Project and Project Oscar; we believe we have created savings above what was expected a year or two ago. The overall project will be less expensive by not rolling the cost of the interest into the building.

Carroll moved approval and Clare seconded the motion. Motion passed 3-0.

Item 5 -- WH 13-42 Resolution to approve the Agreement with Hausmann/Dunn, a joint venture, to provide construction manager at risk preconstruction and construction phase services for Precast Parking Deck Nos. 2 and 3. (Paula Yancey)

Paula Yancey, PC Sports, reported that this resolution was to approve Hausmann Construction and J.E. Dunn Construction to serve as construction manager at risk for Parking Decks 2 and 3. They were selected through the CM at Risk process with the Purchasing Department. Based on proposals, interviews, and how they are performing on the Deck 1 construction Hausmann/Dunn is the recommended selected proposal. The contract follows the Deck 1 contract. The initial preconstruction fee is $31,173. They will work with Davis Design to go through the bid package process in order to develop a GMP (guaranteed maximum price) later this year.

Upon Clare's questioning, Beutler asked for clarification on the numbers assigned to the parking decks within the resolution. Yancey responded they are Deck Nos. 2 and 3. The resolution with WH13-42 incorrectly refers to Deck Nos. 1 and 2. Rod Confer, City Attorney, confirmed the resolution should be amended to correct the numbers to 2 and 3.

Kinsey asked if the amount is the same or larger than for Deck 1. Yancey explained that the only amount being approved today is for the preconstruction services, which is a little higher since it is for two parking decks. Kinsey asked Yancey to provide the difference in the cost to her. Responding to Kinsey's question on the duties, Yancey explained it would be similar to all the duties for construction at risk managers. Those duties would be to construct the parking decks through the CM process where they put out requests for proposals for subcontractors, provide the JPA a GMP for the construction, and then construct the garage. The GMP has not been determined and will be before the Board later. The only cost before the Board today is for preconstruction services for $31,173. Clare clarified there is approximately 940 spaces in Deck 1 and substantially more in these two decks. Yancey confirmed approximately 700 for Deck 2 and 900 for Deck 3. Kinsey asked if this was in the original budget. Yancey responded it was part of the budget for Decks 2 and 3 approved previously by the JPA.

Clare requested a summary of the process. Confer detailed that there is a State statute that allows the City or JPA to enter into a construction manager at risk contract. That is quite detailed as to the requirements. The City has adopted that procedure and, therefore, it applies to the JPA in an administrative regulation that sets for the statutory requirements. Initially, a list is formulated of qualified companies. Then a request for proposals is sent out to those companies. If they choose to participate in the process, they submit responses. Then there is a committee established to review the responses and make a recommendation to the Mayor. The Mayor then selects the most qualified company that fills the requirements of the project. That is the process used for the contract before the Board. There is an opportunity for protests if someone believes there is some impropriety in the process. The protest deadline has passed on this contract.

Beutler asked legal counsel to provide guidance as to the correct process for approval on this resolution. Confer provided a substitute resolution correcting the deck numbers in the original resolution. Beutler stated, without objection, they would substitute the corrected resolution and consider that in the matter before the Board. There were no objections. Clare reviewed the new resolution. It was then projected for public view with Confer pointing out the changes that were made. Rick Peo, City Attorney's office, confirmed for Beutler that the reference to Parking Deck 1 in line 7 was correct. Beutler asked for any additional public comment on the substitute resolution.

Kinsey asked if there was a price listed. Beutler explained there was not a price established for the construction yet.

Carroll moved approval of the substituted resolution. Clare seconded the motion. Motion carried 3-0.

Item 6 -- WH 13-43 Resolution to approve Customer Energy Services Agreement with Project Oscar LLC for the delivery of thermal energy to the Project Oscar LLC premises located on the southwest corner of Canopy Drive and P Streets. (Dan Marvin/Chris Connolly)

Item temporarily held over to a future meeting.

Item 7 -- Set Next Meeting Date

The next meeting date is set for Thursday, May 16, 2013 at 3:00 p.m. in City Council Chambers Room 112.

Item 8 -- Motion to Adjourn

Carroll made a motion to adjourn the meeting. Clare seconded the motion. The meeting adjourned at 10:00 a.m.

Prepared by: Pam Gadeken, Public Works and Utilities

West Haymarket JPA Meeting

Date 5-3-13

Page 1

Name (Please Print)	Address	Phone/E-Mail
Jane Kinsey - Watchdogs		

West Haymarket Joint Public Agency
Payment Register
4/1/2013 through 4/30/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
76881	Windstream	Billing Number 402-477-6387	06095	W Haymarket O & M	PV	1439921	94.04	04/03/13	490873
98642	Information Services	01/13 Data Processing	06095	W Haymarket O & M	PV	1439107	165.94	04/03/13	490874
36863	General Excavating	#870951,Work of 1/13-3/9/13	870951	WH ITS & Dynamic Message Signs	OV	1438329	56,751.39	04/04/13	60668
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1439505	18.65	04/04/13	60671
53356	Lincoln Electric System	605 N 8th St, Pk Lot Lgh	06095	W Haymarket O & M	PV	1439104	60.04	04/04/13	60682
53356	Lincoln Electric System	605 N 8th St, Pk Lot Lgh	06095	W Haymarket O & M	PV	1439105	63.86	04/04/13	60682
53356	Lincoln Electric System	605 N 8th St, Pk Lot Lgh	06095	W Haymarket O & M	PV	1439919	57.20	04/04/13	60682
98079	Black Hills Energy	510 N St	06095	W Haymarket O & M	PV	1439106	365.39	04/04/13	60713
77921	County/City Property Management	CITY CONTROLLER-JPA	06095	W Haymarket O & M	PV	1441628	147.00	04/10/13	491327
38391	Lincoln Journal Star	Cust#60016059,Bid 13 108	870951	WH ITS & Dynamic Message Signs	PV	1441407	19.22	04/11/13	60810
53356	Lincoln Electric System	200 N 7th, 2/27-3/26/13 serv	870305	WH Core Area Roadway & Utility	PV	1441409	269.30	04/11/13	60819
98079	Black Hills Energy	525 N St, 2/19-3/20/13	870305	WH Core Area Roadway & Utility	PV	1441406	153.82	04/11/13	60871
196867	Terracon Consultants Inc	Inspecting through 3/2/13	870100	WH Arena	OV	1441388	26,888.01	04/11/13	60892
320143	Hawkins Construction	Canopy Renov to 3/31/13	870402	WH Canopy Phase II	OV	1441382	75,786.25	04/11/13	60905
320143	Hawkins Construction	Improvs,3/3-3/16/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1441385	107,164.70	04/11/13	60905
593485	Thought District Inc	Website Management 2013-03	06095	W Haymarket O & M	PV	1441630	2,000.00	04/11/13	60945
594458	Ronco Construction Company Inc	Final on Amtrak Station	870906	WH Amtrak Station	OV	1441387	17,239.03	04/11/13	60949
596579	SMG	Cust#000889,Nov airfare,Beneve	870100	WH Arena	PV	1441404	1,113.40	04/11/13	60954
596579	SMG	Cust#000889,Nov travel,Bene,Ga	870100	WH Arena	PV	1441405	418.25	04/11/13	60954
596579	SMG	Cust#000889,IEBA Conf,Pollstar	870100	WH Arena	PV	1441410	3,158.61	04/11/13	60954
596579	SMG	Nov'12 consulting fee	870100	WH Arena	OV	1441411	5,000.00	04/11/13	60954
596579	SMG	Cust#000889,IMG,PBA,Savor,etc.	870100	WH Arena	PV	1441463	1,024.33	04/11/13	60954
596877	Olsson Associates	Design work,2/3-3/9/13	870307	WH Streetscape	OV	1441399	25,854.63	04/11/13	60956
596877	Olsson Associates	Design work, 2/3-3/9/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1441399	99,182.72	04/11/13	60956
596877	Olsson Associates	Design work,2/3-3/9/13	870000	WH General Coordination	OV	1441399	19,680.92	04/11/13	60956
596877	Olsson Associates	Design work, 2/3-3/9/13	870951	WH ITS & Dynamic Message Signs	OV	1441399	19,603.97	04/11/13	60956
596877	Olsson Associates	Design work,2/3-3/9/13	870202	WH Parking Garage #1	OV	1441399	21,897.25	04/11/13	60956
596877	Olsson Associates	Design work, 2/3-3/9/13	870305	WH Core Area Roadway & Utility	OV	1441399	74,007.32	04/11/13	60956
602078	Hausmann-Dunn, a Joint Venture	Parking Deck 1 to 2/28/13	870202	WH Parking Garage #1	OV	1441383	1,406,375.00	04/11/13	60967
77921	County/City Property Management	March 2013 Amtrak Station	06095	W Haymarket O & M	PV	1442755	344.79	04/17/13	491736
108417	Citizen Information Center	WHJPA Video 3/7/13, 3/22/13	06095	W Haymarket O & M	PV	1442759	112.50	04/17/13	491737
125330	NECO Inc	Apr-Jun 13 Alarm Services	06095	W Haymarket O & M	PV	1442761	102.60	04/17/13	491738
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1442721	18.65	04/18/13	61000
38391	Lincoln Journal Star	Cust 60016059	870100	WH Arena	PV	1442724	15.83	04/18/13	61000
40310	Commonwealth Electric Co of the Midwe	Fiber work to 3/19/13	870951	WH ITS & Dynamic Message Signs	OV	1442774	32,000.00	04/18/13	61002
53356	Lincoln Electric System	510 N St	06095	W Haymarket O & M	PV	1442753	249.02	04/18/13	61007
83037	AmSan LLC	Account 493701 Order 5605084	06095	W Haymarket O & M	PV	1442757	70.20	04/18/13	61026
320143	Hawkins Construction	Parking lot,3/17-3/30/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1442765	707,643.77	04/18/13	61078
320143	Hawkins Construction	Improvments,3/10-3/30/13	870305	WH Core Area Roadway & Utility	OV	1442770	61,469.55	04/18/13	61078
598263	PC Sports LLC	March,2013 Program mgmt	870000	WH General Coordination	OV	1442751	68,050.00	04/18/13	61138
598263	PC Sports LLC	March,2013 Addendum 2 work	870001	WH General Coordination P2	OV	1442751	10,000.00	04/18/13	61138
598263	PC Sports LLC	March'2013 Arena mgmt	870100	WH Arena	OV	1442751	30,450.00	04/18/13	61138
82368	State of Nebraska	Monitoring #0637,Feb,2013	870602	WH Voluntary Clean-up Program	PV	1444963	958.96	04/24/13	492209
97885	Copy Services	Customer 595381	06095	W Haymarket O & M	PV	1444539	23.91	04/24/13	492210
98642	Information Services	02/13 Data Processing	06095	W Haymarket O & M	PV	1444541	165.94	04/24/13	492211
102154	Public Building Commission	Finance- Mark L 04/13	06095	W Haymarket O & M	PV	1444543	52.24	04/24/13	492212
102154	Public Building Commission	Finance- Mark L 04/13	06095	W Haymarket O & M	PV	1444543	204.62	04/24/13	492212
35692	Gregg Electric Company	WESTHA work order 111309	06095	W Haymarket O & M	PV	1444535	637.28	04/25/13	61175
37233	Olsson Associates	Deck#1 testing,2/3-3/9/13	870202	WH Parking Garage #1	OV	1444931	3,610.75	04/25/13	61180
53356	Lincoln Electric System	525 N St, 3/5-4/2/13	870305	WH Core Area Roadway & Utility	PV	1444964	197.30	04/25/13	61195
53356	Lincoln Electric System	601 N St,2,3/5-4/2/13	870305	WH Core Area Roadway & Utility	PV	1444965	58.10	04/25/13	61195
222586	Don Herz	Services for March 2013	06095	W Haymarket O & M	PV	1444546	1,113.75	04/25/13	61259
249308	DLR Group Inc	Feb,2012 Arena services	870100	WH Arena	OV	1444847	112,500.00	04/25/13	61263

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
249308	DLR Group Inc	Feb,2013 WorkArea LNC	870100 WH	Arena	OV	1444849	1,504.60	04/25/13	61263
249308	DLR Group Inc	Feb,2013 Ramp & Elev Plaza	870100 WH	Arena	OV	1444852	2,707.98	04/25/13	61263
249308	DLR Group Inc	Feb,2013 Signage Cattl Lyon	870100 WH	Arena	OV	1444855	5,831.51	04/25/13	61263
249308	DLR Group Inc	Mar,2013 Arena services	870100 WH	Arena	OV	1444857	112,500.00	04/25/13	61263
249308	DLR Group Inc	Mar,2013 Ded Wrk Area LNC	870100 WH	Arena	OV	1444858	1,504.59	04/25/13	61263
249308	DLR Group Inc	Mar,2013 Ramp & Elev Plaza	870100 WH	Arena	OV	1444873	2,707.98	04/25/13	61263
249308	DLR Group Inc	Mar,2013 Signage Cattl Lyon	870100 WH	Arena	OV	1444874	14,421.15	04/25/13	61263
594773	Alfred Benesch & Company		870602 WH	Voluntary Clean-up Program	OV	1445272	12,875.17	04/25/13	61297
594773	Alfred Benesch & Company		870604 WH	Other/Miscellaneous	OV	1445272	11,387.00	04/25/13	61297
594773	Alfred Benesch & Company		870603 WH	Environmental Contngy Pln	OV	1445272	5,959.50	04/25/13	61297
596608	M A Mortenson Company	March 2013 GMP Work	870100 WH	Arena	OV	1445190	7,619,361.00	04/25/13	61302
599315	Legends Sales & Marketing LLC	Mar,2013 retainer + exps	870100 WH	Arena	OV	1444923	20,318.71	04/25/13	61310
Grand total							10,805,689.19		

West Haymarket Joint Public Agency
Public Works Engineering Costs
4/1/2013 through 4/30/2013

Description	Fund	Project	Description	Do Ty	Document Number	Object	Sub	Amount	G/L Date
Design Engineering	00951	870000	WH General Coordination	EU	362526	6153	130	1,514.52	04/04/13
Design Engineering	00951	870201	WH HymktPkLot,FestSp&PedGrdStr	EU	362526	6153	130	233.00	04/04/13
Construction Engineering	00951	870302	WH "M"&"N" St,7th to 10th St	EU	362526	6153	320	197.82	04/04/13
Design Engineering	00951	870302	WH "M"&"N" St,7th to 10th St	EU	362526	6153	130	116.51	04/04/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	362526	6153	130	233.00	04/04/13
Design Engineering	00951	870307	WH Streetscape	EU	362526	6153	130	77.86	04/04/13
Design Engineering	00951	870951	WH ITS & Dynamic Message Signs	EU	362526	6153	130	31.13	04/04/13
Design Engineering	00951	870000	WH General Coordination	EU	363372	6153	130	1,106.77	04/18/13
Design Engineering	00951	870201	WH HymktPkLot,FestSp&PedGrdStr	EU	363372	6153	130	116.51	04/18/13
Design Engineering	00951	870302	WH "M"&"N" St,7th to 10th St	EU	363372	6153	130	320.76	04/18/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	363372	6153	130	233.00	04/18/13
Grand total								4,180.88	

As of April 30, 2013

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
00951 West Haymarket Capital Proj						
70090 West Haymarket Park						
870000 WH General Coordination	6,674,522	5,704,173	866,711	103,638		103,638
70090 West Haymarket Park	6,674,522	5,704,173	866,711	103,638		103,638
70091 Arena						
870100 WH Arena	178,079,903	136,675,500	41,483,636	79,233-		79,233-
870101 WH Arena Contingency	6,643,925			6,643,925		6,643,925
870203 WH Arena Parking Garage	726,438	618,767	107,028	643		643
70091 Arena	185,450,266	137,294,267	41,590,664	6,565,335		6,565,335
70092 Parking						
870201 WH HymktPkLot,FestSp&PedGrdStr	14,983,049	6,357,146	8,459,457	166,446		166,446
870202 WH Parking Garage #1	14,234,442	9,117,173	4,904,559	212,710		212,710
870204 WH Parking Garage #2	207,036	203,219	3,817			
70092 Parking	29,424,527	15,677,538	13,367,833	379,156		379,156
70093 Roads						
870301 WH Charleston Bridge/Roadway	258,985	252,015		6,970		6,970
870302 WH "M"&"N" St,7th to 10th St	3,432,807	3,433,459	5,439	6,091-		6,091-
870303 WH USPS Parking Lot Reconstctn	698,178	696,054		2,124		2,124
870304 WH 10th & Salt Creek Road Impr	3,444,647	3,436,721		7,926		7,926
870305 WH Core Area Roadway & Utility	15,914,406	11,059,377	4,209,214	645,815		645,815
870306 WH Traffic Analysis	78,170	72,009		6,161		6,161
870307 WH Streetscape	425,638	392,143	14,604	18,891		18,891
870308 WH Sun Valley Blvd & West "O"	29,370	23,682	5,689	1-		1-
70093 Roads	24,282,201	19,365,460	4,234,946	681,795		681,795

City of Lincoln, NE
West Haymarket Joint Public Agency
Job Cost Report
As of April 30, 2013

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
00951 West Haymarket Capital Proj						
70094 Pedestrian Ways						
870401 WH Plaza						
870402 WH Canopy Phase II	1,424,060	616,445	740,029	67,586		67,586
70094 Pedestrian Ways	1,424,060	616,445	740,029	67,586		67,586
70095 Utilities						
870501 WH Sanitary Sewer Relocation	1,492,905	1,492,905				
870502 WH Fiber Optic Comm & Other	506,035	506,035				
70095 Utilities	1,998,940	1,998,940				
70096 Environmental						
870601 WH NDEQ T-200	2,413,851	1,599,461	4,942	809,448		809,448
870602 WH Voluntary Clean-up Program	1,157,029	992,321	244,399	79,691-		79,691-
870603 WH Environmental Contngy Pln	2,315,878	1,291,699	54,183	969,996		969,996
870604 WH Other/Miscellaneous	926,292	655,513	33,904	236,875		236,875
870605 WH Canopy Phase I-Lead Abatemt						
70096 Environmental	6,813,050	4,538,994	337,428	1,936,628		1,936,628
70097 Dirt Moving						
870701 WH Stmwtr Mtgtn-Sth&WstOf BNSF						
870703 WH Initial Haymarket Site Prep	6,063,449	6,089,662	6,268	32,481-		32,481-
870704 WH Other Stormwater Mitigation						
70097 Dirt Moving	6,063,449	6,089,662	6,268	32,481-		32,481-
70098 TIF Improvements						
870800 WH TIF Improvements						
70098 TIF Improvements						

As of April 30, 2013

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
70099 Site Purchase						
870901 WH BNSF Land Acquisition	1,060,419	1,060,419				
870902 WH Alter Site Purchase	4,846,286	4,544,813		301,473		301,473
870903 WH Jaylynn Site Purchase	1,700,176	1,700,206		30-		30-
870904 WH UP Site Purchase	1,326,248	1,326,248				
870905 WH BNSF Const, Rehab, Reloc	47,695,867	47,671,699		24,168		24,168
870906 WH Amtrak Station	2,367,186	2,368,862	599	2,275-		2,275-
870907 WH UP Track Mod West of Bridge	1,225,232	1,225,232				
870908 WH Other Private Prop Acqstns	2,264,241	2,214,227		50,014		50,014
70099 Site Purchase	62,485,655	62,111,706	599	373,350		373,350
70100 Other Costs						
870951 WH ITS & Dynamic Message Signs	1,826,827	345,001	198,825	1,283,001		1,283,001
870952 WH Community Space & Civic Art	1,500,000	148,215	235,570	1,116,215		1,116,215
70100 Other Costs	3,326,827	493,216	434,395	2,399,216		2,399,216
70105 Bond Related Costs						
870975 WH Miscellaneous	528,317			528,317		528,317
870976 WH Line of Credit	53,227	53,227				
870977 WH Series 1 JPA Debt	1,535,168	1,535,168				
870978 WH Series 2 JPA Debt	1,221,802	1,221,802				
870979 WH Series 3 JPA Debt	577,661	577,661				
870980 WH Series 4 JPA Debt	1,243,825	1,243,825				
70105 Bond Related Costs	5,160,000	4,631,683		528,317		528,317
00951 West Haymarket Capital Proj	333,103,497	258,522,084	61,578,873	13,002,540		13,002,540

As of April 30, 2013

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
00951 West Haymarket Capital Proj						
70090 West Haymarket Park						
870001 WH General Coordination P2	360,000	30,000	330,000			
70090 West Haymarket Park	360,000	30,000	330,000			
70092 Parking						
870205 WH Parking Garage #2 P2	12,365,000			12,365,000		12,365,000
870206 WH Parking Garage #3 P2	14,570,000	15,334	751,372	13,803,294		13,803,294
70092 Parking	26,935,000	15,334	751,372	26,168,294		26,168,294
70105 Bond Related Costs						
870981 WH Series 5 JPA Debt P2	422,598			422,598		422,598
70105 Bond Related Costs	422,598			422,598		422,598
00951 West Haymarket Capital Proj	27,717,598	45,334	1,081,372	26,590,892		26,590,892

City of Lincoln, NE
West Haymarket Joint Public Agency
Operating Expenditure Report
As of April 30, 2013

00950 West Haymarket Reven
06095 W Haymarket O & M

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
00950 West Haymarket Revenue						
06095 W Haymarket O & M						
11 Materials & Supplies						
5221 Office Supplies	250			250	92	158
5261 Postage	2,000			2,000	519	1,481
5323 Bldg Maint Supplies	560			560	159	401
11 Materials & Supplies	2,810			2,810	770	2,040
12 Other Services & Charges						
5621 Misc Contractual Services	454,945			454,945	233,284	221,661
5624 Auditing Service	15,500			15,500	16,543	1,043-
5631 Data Processing Service	6,992			6,992	1,328	5,664
5633 Software	1,100			1,100		1,100
5643 Management Services	53,000			53,000	32,000	21,000
5683.04 Snow Removal					2,014	2,014-
5683.05 Fire Alarm Monitor	500			500	308	192
5762 Photocopying	500			500	269	231
5763 Printing	500			500	121	379
5794 Public Officials	27,000			27,000		27,000
5821 Electricity - Bldg & Grnds	4,000			4,000	3,570	430
5825 Natural Gas					1,672	1,672-
5829 Telephone	1,200			1,200	749	451
5830 Water	6,000			6,000	203	5,797
5856 City Share Linc Center Main					1,087	1,087-
5862 Grounds Maintenance					2,367	2,367-
5870 Other Bldg Maintenance	4,000			4,000	3,042	958
5928 Rent of Co/City Bldg Space	2,456			2,456	1,637	819
5931 Parking Rent Bldg Comm	627			627	418	209
5952 Advertising/Media Serv	2,850			2,850	743	2,107
5993 Fees Paid to State of NE					20	20-
12 Other Services & Charges	581,170			581,170	301,375	279,795
06095 W Haymarket O & M	583,980			583,980	302,145	281,835

00950 West Haymarket Reven
195011 JPA 2010A Debt Servi

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
195011 JPA 2010A Debt Servic						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	524			524	524	
6235 Bd Trustee Pmt-Interest	4,651,510			4,651,510	2,325,755	2,325,755
15 Debt Service	4,652,034			4,652,034	2,326,279	2,325,755
195011 JPA 2010A Debt Servic	4,652,034			4,652,034	2,326,279	2,325,755

00950 West Haymarket Reven
195021 JPA 2010B/C Debt Ser

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
195021 JPA 2010B/C Debt Serv						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	1,048			1,048	848	200
6235 Bd Trustee Pmt-Interest	5,874,322			5,874,322	2,937,161	2,937,161
15 Debt Service	5,875,370			5,875,370	2,938,009	2,937,361
195021 JPA 2010B/C Debt Serv	5,875,370			5,875,370	2,938,009	2,937,361

City of Lincoln, NE
West Haymarket Joint Public Agency
Operating Expenditure Report
As of April 30, 2013

00950 West Haymarket Reven
195031 JPA 2011 Debt Servic

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
195031 JPA 2011 Debt Service						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	424			424		424
6235 Bd Trustee Pmt-Interest	4,591,688			4,591,688	2,295,844	2,295,844
15 Debt Service	4,592,112			4,592,112	2,295,844	2,296,268
195031 JPA 2011 Debt Service	4,592,112			4,592,112	2,295,844	2,296,268
00950 West Haymarket Revenue	15,703,496			15,703,496	7,862,277	7,841,219

WH 13-44 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the Chairperson of the Board of Representatives is hereby authorized to execute, on behalf of the West Haymarket Joint Public Agency, a DAS Concession Agreement between the West Haymarket Joint Public Agency and Concourse Communications Group, LLC ("Concourse") substantially in the form attached hereto with such revised exhibits and other minor changes to the Agreement as shall be approved by the Chairperson and Legal Counsel for the West Haymarket Joint Public Agency. The Agreement provides for Concourse to install a neutral host Distributed Antenna System throughout Pinnacle Bank Arena to support cellular services providers.

Adopted this _____ day of _____, 2013.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

DAS CONCESSION AGREEMENT

THIS DAS Concession Agreement (the "**Agreement**") entered into this _____ day of May, 2013, (the "**Effective Date**") by and between the West Haymarket Joint Public Agency, located at 555 South 10th Street, Lincoln, NE 68508, hereinafter called "**Licensor**", and Concourse Communications Group, LLC, a Delaware limited liability company located at 200 West Madison Street, Chicago, Illinois, 60606, hereinafter called "**Concourse**".

WITNESSETH THAT:

WHEREAS, Licensor is the owner of Pinnacle Bank Arena (the "**Arena**") and desires to implement a neutral-host Distributed Antenna System ("**DAS**") throughout the Arena to support cellular service providers;

WHEREAS, Licensor has caused to be prepared, in accordance with law, specifications, plans, Request for Proposals, and other documents for the design, construction, installation, operation and maintenance of the DAS, including DAS head-end equipment, carrier base transceiver station equipment, and other DAS components (collectively the "**System**") to wit:

Neutral Host Distributed Antenna System (DAS)
Bid No. 12-294

WHEREAS, Concourse, through its parent company Boingo Wireless, Inc., in response to such advertisement, has submitted to the Licensor, in the manner and at the time specified, a sealed proposal dated January 9, 2013 in accordance with the terms of said advertisement (the "**Proposal**").

WHEREAS, Licensor, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared Concourse to be the best proposer to design, construct, install, operate and maintain the System and provide DAS Services. The bid opportunity detail, Request for Proposals, specifications, and Addendums 1 – 6 (the "**Bid Documents**"), along with a copy of the Proposal are attached hereto as Exhibit A. Collectively, the Proposal, the Bid Documents and the Other Contract Documents (defined below and attached as Exhibit D) are hereinafter referred to as the "**Contract Documents**".

WHEREAS, Licensor desires Concourse, in accordance with the Contract Documents to design, construct, install, operate and maintain the System throughout the Arena on an exclusive basis, and Concourse is a world-class provider of such services and desires to provide such services to Licensor subject to the provisions of this Agreement;

WHEREAS, in connection with the design and installation of the System, Licensor desires Concourse to install fiber cable to support a Wi-Fi system throughout the Arena, and Concourse desires to provide such services to Licensor subject to the provisions of this Agreement.

WHEREAS, Concourse understands and acknowledges that American Recovery and Reinvestment Act (ARRA) tax-favored bonds will fund all or a portion of the System and therefore this Agreement is subject to the Davis-Bacon Act; and that Concourse is required to comply with the Contract clauses in 29 C.F.R. §5.5(a) which are made part of this Agreement.

WHEREAS, Concourse understands and acknowledges that since future use of the site will be for a building, Concourse is required to pay Davis-Bacon Act prevailing wages in accordance with Building Construction Including Work on Industrial Sites General Wage Decision NE130058 dated 04/19/2013 ("NE58 Wage Decision").

WHEREAS, the NE58 Wage Decision is hereinafter referred to as the "Effective Wage Decision."

WHEREAS, the use of the term "Contracting Officer" in 29 C.F.R. parts 1, 3 and 5 shall be deemed to refer to the Licensor.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges and obligations herein set forth and intending themselves to be legally bound hereby, Licensor and Concourse mutually agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01 DEFINITIONS

Unless otherwise specifically indicated in this Agreement, the following words and phrases shall be defined as follows:

a) "**Assigned Areas**" shall mean the area or areas within the Arena and designated by this Agreement, including all equipment rooms, communications closets or portions thereof, cable trays, conduit, or enclosures, etc., that may be required to provide the DAS Services and operate the System in accordance with the terms of this Agreement. The Assigned Areas are described more fully in Exhibit B.
b) "**Carrier Agreement**" shall mean an agreement between a Licensed Wireless Service provider and Concourse for providing DAS Services at the Arena.
c) "**Commencement Date**" means the date the System is commissioned for service (i.e. providing DAS Services) after acceptance by Licensor in accordance with this Agreement (which acceptance shall not be unreasonably delayed or withheld). If Licensor has not denied acceptance of the System in writing within fifteen (15) days of submission by Concourse to Licensor of written notice that installation and testing of the System is complete, then acceptance shall be deemed to have been made as of the date Concourse provided such notice of completion of installation and testing.
d) "**Coverage Area**" shall mean all areas of the Arena within the building envelope, and may include limited spill over coverage to the parking deck space and rooftop areas.
e) "**DAS Services**" shall mean the provision of distributed antenna system services via the System in the Coverage Area to the customers of Licensed Wireless Services providers in accordance with this Agreement.
f) "**Environmental Requirements**" shall mean all laws relating to environmental matters, including, without limitation, those relating to fines, orders, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from the release or threatened release of Hazardous Materials and to the generation, use, storage, transportation, or disposal of Hazardous Materials.
g) "**Gross Revenue**" shall mean all cash fees received by Concourse for DAS Services. Gross Revenue shall not include: (a) capital contributions received from a Licensed Wireless Service provider for the installation or construction of the System, (b) loan proceeds, (c) capital cost reimbursements, (d) any sales tax or excise tax stated separately and collected from the customer for remittance to the taxing authority, or (e) refunds and rebates. In addition, Gross Revenue shall be reduced by any property taxes attributable to the System which are paid by Concourse.
h) "**Licensed Wireless Services**" means wireless services operating in frequency bands for which a license from the Federal Communications Commission (FCC) is required.
i) "**Percentage Fee**" shall mean the portion of Gross Revenue due to Licensor from Concourse based upon the revenue sharing percentages agreed to in Section 4.01 during the Term.
j) '**Minimum Fee**" shall mean the sum of $16,800 per year per active Carrier Agreement (i.e. has not been expired or terminated) due to Licensor from Concourse.

SECTION 1.02 INCONSISTENCY WITH ANY OTHER DOCUMENT

In the event of any inconsistency between this Agreement, the Contract Documents, and any other document heretofore published or provided to any party by the other party, the terms of this Agreement shall control. In the event of any inconsistency between the Bid Documents and the Proposal, the Proposal shall control.

ARTICLE 2
TERM, TERMINATION AND LICENSES

SECTION 2.01 TERM

A. The term of this Agreement shall commence upon the Effective Date and shall terminate ten (10) years after the Commencement Date (the "**Initial Term**"), subject to such earlier termination as provided for elsewhere herein. Thereafter, this Agreement may be extended upon the same terms and conditions for two (2) additional five (5) years at Licensor's sole option, with written notice to be provided by Licensor to

Concourse, prior to the expiration of the Initial Term (the "**Renewal Term**"). Together, the Initial Term and Renewal Term(s) (if any) constitute the "**Term**" of this Agreement. Notwithstanding the foregoing, if the total duration of the Term of this Agreement is less than fifteen (15) years, except for early termination pursuant to Section 2.02 below, then Licensor shall be required to pay to Licensee, the pro-rated amount of the total capital investments that all Licensed Wireless Carriers made pursuant to Carrier Agreements (on a straight line basis over 15 years).

B. If Concourse remains in the Assigned Areas after the end of the Term hereof without the permission of Licensor or after the effective date of a notice to terminate from Licensor, such holding over shall not be considered a renewal or extension of the Agreement but shall create only a tenancy at will from month to month, at the option of Licensor, which may be terminated at any time by Licensor upon thirty (30) days written notice. All of the obligations of Concourse and all rights of Licensor applicable during the Term shall be equally applicable during such holdover period until such time as Concourse vacates the Assigned Areas.

SECTION 2.02 <u>TERMINATION</u>

A. Upon the occurrence of any one of the following events during the Term, or at any time during the continuance thereof, Licensor may, at its option upon 30 day written notice, terminate this Agreement: (i) if Concourse shall fail to make payment when due of any sum required to be made to Licensor pursuant to this Agreement, (ii) if Concourse shall become a corporation in dissolution, or (iii) if Concourse is in default of any other material provision of this Agreement.

B. It is understood and agreed that Concourse may cure any and all defaults under this Agreement within a thirty (30) day period from receipt of written notice by Licensor and that Licensor is required hereby to notify Concourse in writing of any default condition it observes. The cure period shall be extended for an additional thirty (30) days if Concourse commences such cure within the original thirty (30) day period and is diligently pursuing completion thereof.

C. In addition, if during the Term, the Arena or Assigned Areas shall be damaged or destroyed by fire, the elements, accident or other casualty outside of the control of either party and through no fault of Licensor to such an extent that allows all or substantially all of the Arena or Assigned Areas to be rendered unusable ("Casualty"), the either party may, in its discretion (within 60 days from the date of such casualty), terminate this Agreement by written notice to the other of such termination. If such notice is given, the rights and obligations of the parties (including but not limited to payment of the Minimum Fee) shall cease as of the date of such notice. In no event shall the Licensor have any obligation to make any repairs or perform any restoration work as a result of damage or destruction affecting all or substantially all of the Arena or Assigned Areas. The Licensor shall not be liable or responsible for any losses of any kind whatsoever, including, without limitation, any inconvenience or loss by Concourse of business or profit resulting from such damage or any incidental, actual, consequential or special damages.

SECTION 2.03 <u>LICENSES</u>

A. Licensor hereby grants to Concourse during the Term an exclusive license to provide DAS Services in the Coverage Areas and install and operate the System in the Assigned Areas. The right to use the Assigned Areas for the installation of the System and the provision of the DAS Services hereby granted shall include the right to install and maintain related equipment in those areas specified within the Assigned Areas.

B. Concourse hereby agrees to assume the obligation to design, construct, install, operate and maintain the DAS System and to provide the DAS Services in the Coverage Area during the Term and any additional areas outside of the Arena that the parties may agree upon from time to time. Concourse shall have no obligation to design, construct, install, operate and/or maintain the System and/or provide the DAS Services until a design for the System specifications has been approved by both Licensor and a Licensed Wireless Services provider. Notwithstanding the above, Concourse shall use its best efforts to install all underground raceways, conduits, or other telecommunication pathways on or before May 20, 2013. Licensor shall not itself, nor shall it appoint any other persons or concerns to provide DAS Services in the Arena.

C. Licensor grants Concourse a limited, non-exclusive, royalty-free and fully paid-up, non-transferable, worldwide license, only for the Term, to use the Arena's name and identification (the "**Name**") solely in connection with Concourse's marketing of and entering a contract or contracts with Licensed Wireless Services providers to use its DAS services available to Licensed Wireless Services providers in the Arena. In connection with said marketing, either party may issue a press release announcing execution of this Agreement with the prior written consent of the other, which consent shall not be unreasonably withheld, conditioned, or delayed. Concourse agrees not to alter such Name without Licensor's approval, and Concourse will use commercially reasonable efforts to avoid taking any action that diminishes the value of the Name.

D. Concourse agrees that any contract with a Licensed Wireless Services provider will not include any right similar to those granted or licensed by the Licensor to IMG under the Letter of Agreement between Licensor and IMG which is included as part of the other Contract Documents attached hereto as Exhibit D. It is recognized and agreed by and between Concourse and Licensor that Licensor has conveyed to IMG College LLC exclusive advertising/sponsorship opportunities related to the Arena, including but not limited to the Arena's DAS System, subject to IMG's agreement with the University of Nebraska. The parties acknowledge and agree that the entering into of this Agreement shall not be considered a violation of any such rights, and shall not be used as a means to claim breach of this Agreement against the other party.

E. Concourse is not granted the right to advertise or offer for sale any merchandise, products, or services, or engage in any other business or commercial activity in the Arena premises that is not specifically granted under this Agreement.

ARTICLE 3
ASSIGNED AREAS

SECTION 3.01 ASSIGNED AREAS

A. Licensor will provide the Assigned Areas to Concourse for the operation of the System and installation and operation of related equipment. The Assigned Areas may be shared spaces serving multiple functions and may not be exclusively used by Concourse.

B. Concourse shall not make any alteration, addition or improvement to the Assigned Areas without the prior written consent of Licensor.

C. Licensor and its authorized representative may enter the Assigned Areas at any time without the consent of Concourse in case of emergency or for security purposes.

D. Licensor reserves the right to require the relocation of all or any portion of the Assigned Areas in which Concourse is granted the privilege to conduct its business at the Arena if required to facilitate operations at the Arena. Any relocation requests shall be provided to Concourse in writing from Licensor at least sixty (60) days in advance of such needed action, and Concourse shall be provided with alternate space sufficient to provide the DAS Services and meet its obligations under this Agreement. The costs of any relocation performed pursuant to this Section shall be borne by Licensor, and shall include all direct relocation costs plus technical and engineering costs.

SECTION 3.02 INGRESS AND EGRESS

Concourse shall have the right of ingress to and egress from the Assigned Areas, subject, however, to all rules and regulations from time to time enacted or established by Licensor. The right of ingress and egress shall be used jointly with other concessionaires and patrons of the Arena. Concourse shall not interfere with the rights and privileges of any other persons or entities using the Arena. Licensor shall provide access to Concourse-owned equipment, fixtures and wiring at all times for the proper maintenance and operation of the System.

SECTION 3.03 PARKING

During the Term, Concourse and its respective employees, agents, vendors, and suppliers shall have the non-exclusive, non-reserved right to use of the nearest parking lot servicing the Arena, subject to all parking rules and regulations applicable thereto including, but not limited to, payment of monthly and/or hourly parking fees.

SECTION 3.04 DESIGN AND INSTALLATION OF THE DAS SYSTEM

A. **Design and Installation.** Concourse takes the Arena premises "As Is" and agrees at Concourse's sole cost and expense to design, construct, install, operate and maintain the System and provide DAS Services in accordance with this Agreement.

B. **Performance of Work.** Concourse agrees to (1) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories and services; (2) furnish all materials, supplies, and equipment specified to be incorporated into and form a part of the complete System; (3) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with this Agreement.

C. **System Plans and Specifications**. Before Concourse installs or constructs the System, or any part thereof, Concourse shall comply with the following requirements:

1. Construction of System. Concourse may not construct or install the System in whole or in part, or materially modify any improvements or infrastructure on the Assigned Areas without the prior written consent of Licensor and until all necessary permits, licenses, and approvals have been obtained. Concourse shall design, build, install, operate and maintain the System and provide DAS

Services in accordance with this Agreement and all applicable laws and regulations. The System shall accommodate all interested Licensed Wireless Service providers on a non-discriminatory basis up to the design capacity of the System.

2. Performance and Payment Bond. Concourse shall require each of its contractors and suppliers of construction materials to furnish Performance Bonds, Payment Bonds and/or Letters of Credit each in the full amount of any contract in a form acceptable to the Licensor. Copies of the bonds shall be given to the Licensor for approval before work begins. Any sum(s) derived from said Performance and Payment Bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.
3. Design/Construction Review. To obtain the consent of Licensor to construct or install the System, or the modification of the Assigned Areas, Concourse shall submit plans and specifications for such work in advance to Licensor for Licensor's approval. If Licensor approves Concourse's preliminary plans and specifications, Concourse may proceed to finalizing the design, consistent with such approved plans and specifications. Licensor shall reasonably consider plans and specifications submitted by Concourse and shall respond in writing as soon as possible. If Licensor has not denied approval of the plans and specifications in writing within fifteen (15) days of submission by Concourse to Licensor of such plans and specifications, then the plans and specifications shall be deemed to have been approved by Licensor as of the date of submission of the plans and specifications.

D. **Completion Date**. Concourse agrees that the design and construction of the System shall begin as soon as is necessary for Concourse to complete the System and obtain Licensor's acceptance prior to August 1, 2013. To facilitate this process, the parties will use best efforts to obtain approval of final System specifications by both Licensor and a Licensed Wireless Services provider within fifteen (15) days following the Effective Date of this Agreement. In addition, Concourse shall use its best efforts to install the underground raceways, conduits, or other telecommunication pathways no later than May 20, 2013.

E. **As Built Plans**. Within ninety (90) days following completion of construction of the System, Concourse shall furnish Licensor with a complete set of as-built drawings.

F. **Construction Standards**. Construction or modification of improvements to the Assigned Areas shall be constructed in a good and workmanlike manner, utilizing good industry practice for the type of work in question, and in compliance in all material respects with all applicable laws, including applicable building, electric and construction codes. Concourse shall exercise reasonable caution in performing the activities covered by this Agreement to avoid damage to the Arena, its fixtures and equipment, high level finishes and any other property located therein. Should any damage occur which is caused by Concourse or any Licensed Wireless Services provider operating under a Carrier Agreement with Concourse in the construction, operation, or maintenance of the System, Concourse shall be liable to reimburse the Licensor for any reasonable direct or indirect costs incurred to repair or replace any such property. Reimbursement shall be paid to Licensor within thirty (30) days following receipt of an invoice for such payment along with reasonable supporting documentation of such costs.

G. **Title to the System.** Title to the System, shall remain the sole property of Concourse through the Term of this Agreement (or, if this Agreement is terminated prior to the expiration of the Term, through the termination date of this Agreement). Concourse shall pay any and all property taxes associated with the System and equipment (and shall be entitled to deduct any such amounts from Gross Revenue) and procure and maintain insurance coverage on the System and related equipment to cover the replacement value of the System, conduits, fiber cable and equipment. Title to the System shall vest in Licensor on the expiration of the Term or if this Agreement is terminated prior to expiration of the Term, on the date of termination, subject to the reimbursement of the pro-rated capital investments provided for under Section 2.01 of this Agreement.

H. **Additional Taxes**. Concourse shall be responsible for paying all sales taxes, occupation taxes, and any other taxes attributable to the System or the providing of DAS Services.

I. **Modifications**. Licensor shall not, on behalf of itself, its agents or contractors, change, connect, move, or in any way modify any part of Concourse's fiber cable without Concourse's prior written consent. If during any such use or modification the fiber cable is damaged (regardless of whether Licensor is at fault for such damage), then Licensor shall repair (or reimburse Concourse for the cost of repair for) the fiber cable.

SECTION 3.05 **[INSTALLATION OF THE WI-FI FIBER CABLE]** Intentionally Omitted.

SECTION 3.06 [INSTALLATION AND OPERATION OF WI-FI SYSTEM] Intentionally Omitted.

ARTICLE 4
PAYMENTS AND RECORDS

SECTION 4.01 PAYMENTS BY CONCOURSE

A. Concourse agrees to pay to Licensor, beginning on the Commencement Date on a quarterly basis, a Percentage Fee of Forty Percent (40%) or the pro-rated quarterly Minimum Fee, whichever is greater, during the Term. Payments shall be made quarterly in arrears beginning with end of the first calendar quarter after commencement of the contract's Term. Concourse shall make payment within 45 days of the end of each calendar quarter and shall send with each payment a remittance advice which shows the Gross Revenue and Percentage Fee or Carrier Agreements upon which such payment was based. Such remittance advice shall be certified as accurate by an officer of Concourse. Payments shall continue on a quarterly basis during the remainder of the Term and any lawful extensions thereof.
B. Concourse shall, in its sole determination, set the prices for access to the DAS Services.
C. All payments are to be made by check payable to the West Haymarket Joint Public Agency and delivered or mailed, postage prepaid, to:

Finance Director
City of Lincoln, Nebraska
555 South 10th Street, Suite 103
Lincoln, NE 68508

SECTION 4.02 AUDIT REPORT OF GROSS RECEIPTS

Concourse shall submit an audit report of Gross Receipts within one hundred twenty (120) days following the conclusion of each Contract Year. These audit reports shall be prepared by Boingo's accounting staff. The audit reports shall at a minimum certify the accuracy of (i) reported total accumulated Gross Receipts; (ii) a calculation of total fees due the Licensor for the entire Contract Year; and (iii) schedule showing the total of actual payments to the Licensor during the Contract Year. The audit reports shall also state an opinion as to the correctness of the computation of Gross Receipts without exception.

If, upon completion of such audit report (including the resolution of disputes thereof), it is established that additional fees are due Licensor, Concourse shall pay such additional fees to Licensor not later than fifteen (15) days after completion of such statement and receipt of written notice from the Licensor. If it is established that Concourse has overpaid Licensor, then such overpayment from Concourse shall be credited to the fees and charges next thereafter due from Concourse or paid to Concourse after the last Contract Year. Concourse shall immediately notify Licensor of the results of any audit conducted by Federal, State or local authorities.

SECTION 4.03 INSPECTION AND AUDIT OF RECORDS

A. Concourse shall, during the Term and for one (1) year thereafter, permit, upon ten (10) days written notice to Concourse, inspections and audits by Licensor, through its employees, and/or representatives, of all records and books of account, related to the provision of DAS Services under this Agreement. Any such inspection and audit shall be conducted during the normal business hours of Concourse.
B. In the event that any inspection or audit made by or on behalf of Licensor discloses any discrepancy in the amount of any sums of money owed, Concourse shall, within thirty (30) days of the completion of the audit, pay the sum of money owed to Licensor or convey any dispute with the audit results in writing to Licensor. Further, in the event any of the aforesaid audit or inspections discloses discrepancies, which result in an additional amount due Licensor in excess of ten percent (10%) of the amount previously paid by Concourse to Licensor for the audit period, Concourse shall forthwith pay to Licensor the reasonable cost of the audit and/or inspection.

SECTION 4.04 CONCOURSE PERFORMANCE AND PAYMENT BOND

Concourse agrees to furnish a Performance and Payment Bond in a form acceptable to Licensor in the principal amount equal to Twenty Five Thousand Dollars ($25,000.00) prior to installation of the System. Such bond or other form of security agreed to by the Licensor, shall remain in full force and effect throughout the Term and shall extend

at least one hundred eighty (180) days following the expiration or early termination of this Agreement. In the event that said bond should expire prior to expiration or early termination of this Agreement, Concourse covenants and agrees to provide Licensor a renewal bond sixty (60) days prior to expiration date of the expiring bond. Such bond shall guarantee the payment of all fees and performance of all other terms, covenants, conditions, and obligations of this Agreement. The Performance and Payment Bond shall be in the form of standard commercial guaranty bond running to Licensor, written by a surety company and having a "Best" key rating of not less than A and having an "underwriting limitation" of at least the amount of the penal sum of the bond. The bond shall be kept in full force and effect during the Term.

ARTICLE 5
OPERATION OF THE SYSTEM AND PROVISION OF DAS SERVICES

SECTION 5.01 OBLIGATIONS OF CONCOURSE

A. Concourse shall assume full responsibility for the design, construction, installation, operation, and maintenance of the System. All costs for the design, construction, installation, operation, maintenance and possible future expansion of the System will be borne by Concourse, pursuant to its obligations herein.
B. Concourse will measure and document System coverage upon completion of installation, and shall be responsible for ensuring that coverage does not materially degrade during the term of the Agreement. A copy of final as-built design documentation, including system configuration and coverage patterns, must be provided to the Licensor within thirty (30) days of Licensor's acceptance of the System.
C. Concourse is solely responsible for the management, operation, maintenance and ongoing support of the System, and will provide high quality, secure, reliable, and easy to use DAS Services.
D. Concourse will provide all services commercially reasonably necessary to ensure optimal System performance and uptime and a high quality user experience.

SECTION 5.02 OPERATION OF THE SYSTEM

A. Licensor shall provide copies of existing Arena drawings that include accurate detailed information regarding the cable plant, cable trays, equipment rooms, power sources, fiber routes, and any other technical information required by Concourse for the installation, maintenance and operation of the System for the provision of DAS Services.
B. Concourse shall operate the System twenty-four (24) hours per day, seven days per week, with the exception of routine shutdowns for maintenance purposes which shall take place only between the hours of 12:00 a.m. and 5:00 a.m.
C. Concourse shall provide all necessary equipment, tools and supplies required by its staff for the operation of the System. Licensor will in no way be responsible for any loss of such equipment due to hazards, vandalism or theft.
D. Concourse shall provide, at its own cost and expense, all necessary utilities for the System, meter the same, and pay the expense of all utility charges for utility consumption and service to the Assigned Areas and the System, including fiber optic cables, electricity and HVAC services. Licensor shall repair and maintain all utility lines located outside the Assigned Areas except those installed by Concourse and shall repair the central heating, ventilation and air conditioning system as may be necessary. Concourse shall repair, maintain and replace all utility lines located within the Assigned Areas which were installed by Concourse.
E. Licensor shall provide access to suitable cable trays and/or conduits necessary to accommodate the installation and operation of the System.
F. Concourse shall provide the DAS Services at 99% availability over 95% of the required Coverage Area. Scheduled maintenance periods in accordance with Section 5.01(B) above and any system downtime caused by parties outside of Concourse's control (including but not limited to any other users of the fiber cable) shall not be considered when determining availability of the DAS Services.
G. Concourse will establish Carrier Agreements and associated fees with Licensed Wireless Service providers on a neutral-host basis and otherwise manage access to the DAS under fair and consistent terms. Licensor, upon request to Concourse, shall be provided with a copy of each Carrier Agreement within fifteen (15) days following such notice.

SECTION 5.03 LICENSED WIRELESS SERVICE PROVIDERS

Licensor and Concourse acknowledge that, in connection with the build-out of the System, the Licensed Wireless Service providers will be required to expend substantial sums for capital expenditures and other costs necessary to

provide DAS Services through the System. Accordingly, if for any reason (i) Licensor terminates this Agreement prior to expiration of its stated term, (ii) Licensor takes any other action under this Agreement which makes it economically impracticable for Concourse to continue to operate the DAS Services (whether by exercising a right to terminate the Agreement, requiring the relocation of the System, or otherwise), or (iii) the Term of a Carrier Agreement exceeds the term of this Agreement, then, and notwithstanding any other provision of this Agreement or any rights at law or in equity that Concourse may have, Licensor expressly acknowledges and agrees that it will upon any such termination or expiration of the Term, at the request of Concourse and any Licensed Wireless Service provider which is a party to a Carrier Agreement between Concourse and such Licensed Wireless Service provider for the providing of Licensed Wireless Services at the Arena, (a) confirm to each applicable Licensed Wireless Service provider that its Carrier Agreement for use of the DAS at the Arena will continue in full force and effect notwithstanding any termination or expiration of the Agreement, and (b) enter into an assignment and assumption agreement with Concourse wherein Licensor shall assume the rights and obligations of Concourse under such Carrier Agreement or Carrier Agreements as the case may be; provided that the remaining Gross Revenue to be received by Concourse from the Licensed Wireless provider under such Carrier Agreement is not less than the minimum fee due to Licensor from Concourse under this Agreement.

SECTION 5.04 PERMITS AND LICENSES

Concourse shall procure its own permits and licenses, pay all charges and fees, and give all notices necessary and incident to its proper and lawful prosecution of this Agreement. If, after using commercially reasonable efforts, Concourse is unable to procure the necessary permits and licenses upon commercially reasonable terms, then, notwithstanding anything to the contrary in this Agreement, Concourse may terminate this Agreement without any further obligation to Licensor.

SECTION 5.05 GOVERNMENTAL COMPLIANCE

Concourse, its officers, agents, servants, employees, invitees, concessionaires, and any other persons over which Concourse has control or right of control, shall comply with all present and future laws, ordinances, orders, directives, rules, and regulations of the United States of America, state and local governments, and the respective agencies, departments or authorities of the foregoing, applicable to or affecting directly or indirectly Concourse or its operations and activities on or in connection with the provision of the DAS Services.

ARTICLE 6
INSURANCE AND INDEMNIFICATION

SECTION 6.01 INSURANCE

Concourse shall at all times during the term of this Agreement use commercially reasonable efforts to purchase and maintain in place all applicable insurance coverage as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Attached Contract Documents attached hereto as Exhibit D, except that general liability coverage is reduced to $1 Million per occurrence and $2 Million aggregate.

SECTION 6.02 INDEMNIFICATION

A. Indemnification of Licensor. The following provision is in lieu of the Indemnification required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Contract Documents attached hereto as Exhibit D.

Concourse shall indemnify, defend, protect and hold harmless Licensor and its officers, directors, employees, agents, representatives, successors and assigns ("**Concourse Indemnified Parties**"), of, from and against any and all suits, actions, claims, losses, damages, liabilities, costs and expenses, including, but not limited to, those in connection with loss of life, bodily and personal injury or loss, damage or destruction of property (real or personal, and regardless of ownership), which the Concourse Indemnified Parties or any of them may sustain, incur or suffer, which may be asserted against any of them, or to which any of them may become subject, arising out of, resulting from, or causally related to the performance of this Contract to the extent caused by the negligent acts, errors, omissions or willful misconduct of Concourse, its officers, directors, employees or agents (the "**Indemnifying Parties**"). Concourse's obligations are subject to the following conditions and obligations of Licensor: (i) Licensor must notify Concourse promptly in writing upon knowledge of any claim for which it may be entitled to indemnification under this Agreement; (ii) Licensor

must permit Concourse to have the sole right to control the defense and settlement of any such lawsuit, provided that Licensor reserves and does not waive any statutory or governmental immunity and neither Concourse, nor Concourse's counsel, whether employed by Concourse or by an insurer, shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity without the express written consent of Licensor; (iii) Licensor must provide reasonable assistance to Concourse, at Concourse's expense, in the defense of such lawsuit; and (iv) Licensor must not enter into any settlement agreement or otherwise settle any such claim or lawsuit without Concourse's express prior consent or request.

B. Indemnification of Concourse.

Licensor shall indemnify, defend and hold harmless Concourse and its subsidiaries, affiliates, officers, directors, employees, agents, representatives, successors and assigns ("**Licensor Indemnified Parties**"), from and against any and all suits, actions, claims, losses, damages, liabilities, costs and expenses, including, but not limited to, those in connection with loss of life, bodily and personal injury or loss, damage or destruction of property (real or personal, and regardless of ownership), which the Licensor Indemnified Parties or any of them may sustain, incur or suffer, which may be asserted against any of them, or to which any of them may become subject, arising out of the performance of this Contract to the extent caused by the negligent acts, errors, omissions or willful misconduct of Licensor, its officers, directors, employees or agents (the "**Licensor Indemnifying Parties**"). Licensor's obligations are subject to the following conditions and obligations of Concourse: (1) Concourse must notify Licensor promptly in writing upon knowledge of any claim for which it may be entitled to indemnification under this Agreement; (ii) Concourse must permit Licensor to have the sole right to control the defense and settlement of any such lawsuit; (iii) Concourse must provide reasonable assistance to Licensor, at Licensor's expense, in the defense of such lawsuit; and (iv) Concourse must not enter into any settlement agreement or otherwise settle any such claim or lawsuit without Licensor's express prior consent or request. Notwithstanding any provision above to the contrary, the JPA reserves and does not waive any statutory or governmental immunity.

SECTION 6.03 LIMITATION OF LIABILITY

NEITHER PARTY NOR ANY OF THEIR LICENSORS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, RELATING TO ANY ERRORS, OMISSIONS OR DEFECTS IN THE SYSTEM; LOSSES FROM INTERRUPTION, TERMINATION OR FAILED OPERATOIN OF THE SYSTEM; OR ANY BREACHES OF SECURITY WITH RESPECT TO ANY LICENSOR INFORMATION.

ARTICLE 7
GENERAL PROVISIONS

SECTION 7.01 ASSIGNABILITY

This Agreement and the rights and obligations arising hereunder will be binding upon and inure to the benefit of the parties and to their respective successors and assigns. Neither party will transfer or assign any of its rights or obligations hereunder without the prior written consent of the other party, which consent will not be unreasonably withheld, provided that this Agreement may be transferred or assigned in its entirety in connection with a merger, acquisition, the sale of all or substantially all of the assets of either party or similar transaction or by operation of law. Any unauthorized assignment will be null and void. Except as otherwise provided, this Agreement shall bind and inure to the benefit of the parties and their respective successors, representatives, heirs, and assigns.

SECTION 7.02 CONCOURSE INDEPENDENT CONTRACTOR

It is understood and agreed that nothing herein contained is intended or shall be construed to in any way create or establish the relationship of co-partners between Licensor and Concourse or as constituting Concourse, the representative or agent of Licensor for any purpose whatsoever.

SECTION 7.03 FORCE MAJEURE

Neither party hereto shall be liable to the other for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type whether affecting the parties, their

contractors, or subcontractors. Neither party hereto shall be liable to the other for any failures delay, or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including without limitation thereto, fire, flood, explosion, war, strike, embargo, government requirement, civil or military authorities, acts of God or by the public enemy, acts or omissions of common carriers, or other causes beyond the control of either party.

SECTION 7.04 SEVERABILITY

Licensor and Concourse agree that if any Section or provision of this Agreement or any portion of any Section or provision shall for any reason be held to be void, illegal or otherwise enforceable, all other portions of this Agreement shall nevertheless remain in full force and effect.

SECTION 7.05 NOTICES

Except as expressly set forth herein to the contrary, any consents, requests, demands, communications, and other notices permitted or required to be given hereunder will be in writing and be deemed validly given (a) upon delivery, if personally delivered with service fees prepaid, (b) upon delivery, if delivered, with fees prepaid, by reputable overnight courier that provides proof of delivery, or (c) three (3) business days following deposit in the United States mail, first class, postage prepaid, certified or registered, and return receipt requested. The foregoing will be the only permitted mechanism for delivery of such communications, and the addresses set forth below will be the proper addresses for notices provided hereunder. Either party, by means of a notice properly given hereunder, may change its address for purposes of receiving future notices hereunder. For purposes of clarity, any notice properly sent to a party's address identified below (or such other address as a party may give notice of hereunder) will be deemed validly given under this Agreement for all purposes until such time as notification of a different address for notice purposes hereunder has been given.

To Concourse: To Licensor:

Concourse Communications Group, LLC
c/o Boingo Wireless, Inc.
10960 Wilshire Boulevard Suite 800
Los Angeles, CA 90025
ATTN: VP Business Development
with a copy to: Legal Department (same address)

SECTION 7.06 DISPUTE RESOLUTION

The parties will attempt in good faith to resolve any and all controversies of every kind and nature between the parties to this Agreement arising out of or in connection with the existence, construction, validity, interpretation, meaning, performance, non-performance, enforcement, operation, breach, continuance or termination of this Agreement (each, a "**Dispute**") promptly by negotiations between senior executives of the parties who have authority to settle the Dispute. The disputing party shall give the other party written notice (the "**Notice**") of the Dispute. Within ten (10) days after receipt of the Notice, the receiving party shall submit to the other a written response (the "**Response**"). The Notice and Response shall each include (a) a statement of the composing party's position and a summary of the evidence and arguments supporting its position, and (b) the name and title of the executive who will represent that party. The executives shall meet at a mutually acceptable time and place within twenty (20) days of the date of the disputing party's Notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the Dispute.

SECTION 7.07 DAVIS-BACON ACT

Concourse agrees to comply with the Davis-Bacon Act. Concourse further agrees to comply with contract clauses set forth in 29 C.F.R. §5.5(a) included as part of the Other Attached Contract Documents (Exhibit D) which provide in part that Concourse shall:

- On a weekly basis pay all laborers and mechanics not less than the federal prevailing wages listed in the wage determinations included in the contract;
- Submit weekly certified payroll records to the JPA; and
- Post the applicable Davis-Bacon wage determinations with the Davis Bacon poster (WH-1321) on the job site in a prominent and accessible place where they can be easily seen by the Contractor's workers.

Concourse further agrees to pay the prevailing wages set forth in the Effective Wage Decision. Said Effective Wage Decision is included in the Other Attached Contract Documents (Exhibit D). Concourse agrees to attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any subcontract in connection with the design and installation of the System. Concourse shall also include a clause in any subcontract that the subcontractor shall attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any lower tier subcontract. Concourse shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 C.F.R. §5.5(a) and payment of prevailing wages in accordance with the Effective Wage Decision.

SECTION 7.08 NEB. REV. STAT. § 77-1323 CERTIFIED STATEMENT

Concourse, pursuant to the requirements of Neb. Rev. Stat. § 77-1323, has executed the Certified Statement attached hereto as part of Exhibit D certifying that all equipment to be used in performance of the design and installation of the System, except that acquired since the assessment date has been assessed for the current year. Concourse understands and acknowledges that under Neb. Rev. Stat. §77-1324, any person, partnership, limited liability company, association, or corporation falsifying any statement required by Neb. Rev. Stat. § 77-1323 shall be guilty of a Class IV misdemeanor.

SECTION 7.09 CONTRACT DOCUMENTS

The Contract Documents comprise part of the Agreement, and consist of the following, whether or not attached hereto:

1. Bid Documents and Proposal (Exhibit A).
2. Exhibit B – Assigned Areas
3. Exhibit C – Intentionally Omitted.
4. Other Attached Contract Documents (Exhibit D).
   a. Letter of Agreement between IMG and West Haymarket Joint Public Agency.
   b. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012).
   c. Executive Order No 83319.
   d. 29 C.F.R. § 5.5(a) Contract Provisions.
   e. Effective Wage Decision.
   f. Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323
5. Other Non-Attached Contract Documents.
   a. City of Lincoln Standard Specifications for Municipal Construction (2011 Edition). References to City in the Standard Specifications shall mean JPA, references to City Project Manager shall mean PC Sports. Notwithstanding any provisions to the contrary in the Standard Specifications, Change Orders shall be approved in accordance with the JPA's Change Order Process adopted by JPA Resolution No. WH00195.
   b. Lincoln Standard Plans 2010.
   c. Arena Plans.
   d. PBA Garage Arch. Plans
   e. PBA Garage Elec. Plans
   f. Project Schedule
   g. Requirements in 29 C.F.R. parts 1, 3 and 5.
   h. Any Contract Documents and/or attachments listed in the Bid Opportunity Detail portion of the Contract Documents not attached as part of Exhibit A.

This Agreement, together with the Contract Documents herein above mentioned, form this Agreement and they are as fully a part of the Agreement as if hereto attached or herein repeated.

Concourse and Licensor hereby agree that all the terms and conditions of this Agreement shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

SECTION 7.10 NEBRASKA LAW

This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, this Agreement is duly executed on the Effective Date, by the parties hereto, intending themselves to be legally bound hereby.

CONCOURSE COMMUNICATIONS GROUP, LLC

By : _____

Title: _____

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____

Title: _____

EXHIBIT A

Bid Documents and Proposal

CITY OF LINCOLN NEBRASKA

LANCASTER COUNTY NEBRASKA

Return to Login • Supplier Registration

Bid Opportunity Detail

Bid Number 12-294 Addendum 6 (RFP Distributed Antenna System (DAS))
Close Date & Time 1/9/2013 12:00:00 PM Central
Bid Duration 1 month 5 days

Bid Information

Bid Type	RFP
Issue Date & Time	12/4/2012 7:46:39 AM Central
Close Date & Time	1/9/2013 12:00:00 PM Central
Bid Status	Unsealed
Bid Notes	There will be a pre-bid on Monday December 10, 2012 at 1:00 p.m. at the Offices of PC Sports located at 311 N. 8th Street, Suite 102, Lincoln NE 68508 All interested contractors are strongly encouraged to attend.

Contact Information

Contact Name	Vince Mejer Purchasing Agent
Address	Purchasing 440 S. 8th St. Lincoln, NE 68516 USA
Department	Purchasing
Floor/Room	Suite 200
Contact Phone	1 (402) 441-8314
Contact Fax	1 (402) 441-6513
Contact Email	vmejer@lincoln.ne.gov

Bid Documents

Document	Format	Description
Invitation Document	Adobe (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Supplier Spreadsheet

Bid Attachments

Location	File Name	Description
Header	12-294 Adv.pdf (32KB)	Request for Proposals
Header	INS,_Bond_and_29_CFR[1].pdf (1.76MB)	Insurance, Sample Bond and 29 CFR
Header	12-294_DB.pdf (13KB)	Davis-Bacon Wage Rates
Header	Empl_Class_Act_EO.pdf (288KB)	Employee Classification Act, Executive Order 83319
Header	Empl_Class_Act_Aff.pdf (52KB)	Employee Classification Act Affidavit
Header	12-294_spec.pdf (29KB)	Specfications
Header	12-294_ftp.pdf (127KB)	Arena Plans
Header	12-294ad1.wpd (6KB)	Addendum No. 1
Header	12-294ad2.pdf (6KB)	Addendum No. 2
Header	12-294_con.pdf (66KB)	Sample contract (per Addendum No. 2)
Header	12-294ad3.pdf (21KB)	Addendum No. 3
Header	PBA - Project Schedule 11-29-12.pdf (4.05MB)	Project Schedule (per Addendum No. 3)
Header	12-294ad4.pdf (6KB)	Addendum No. 4
Header	12-294ad5.pdf (494KB)	Addendum No. 5
Header	12-294ad6.pdf (18KB)	Addendum 6
Header	12-294ad6 PBA Garage Arch Plans.pdf (1.64MB)	PBA Garage Arch Plans (Per Addedum 6)
Header	12-294ad 6 PBA Garage Elec Plans.pdf (1.98MB)	PBA Garage Elec Plans (Per Addendum 6)

Event Activities

Activity Date	Title	Description
12/10/2012 1:00:00 PM CST	Pre-Bid	There will be a pre-bid on Monday December 10, 2012 at 1:00 p.m. at the Offices of PC Sports located at 311 N. 8th Street, Suite 102, Lincoln NE 68508 All interested contractors are strongly encouraged to attend.

EXHIBIT A

Advertise 1 time
Tuesday, December 4, 2012

City of Lincoln/Lancaster County
Purchasing Division
Request for Proposals
Bid No. 12-294

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska **BY ELECTRONIC BID PROCESS** until: **12:00 pm, Friday, December 28, 2012** for providing the following:

Neutral Host Distributed Antenna System
Bid No. 12-294

A Pre-bid meeting will be held Monday, December 10, 2012 at 3:00 p.m., at PC Sports Office, located at 311 N. 8th Street, Suite 102, Lincoln, Ne. All interested Vendors are strongly encouraged to attend, but not mandatory.

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration")

Upon e-mail notification of registration approval, you may go to the E-Bid site to respond to this bid. Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-8314 or (402) 441-7410 or *vmejer@lincoln.ne.gov*

EXHIBIT A

SPECIFICATIONS
FOR
NEUTRAL HOST DISTRIBUTED ANTENNA SYSTEM
RFP 12-294

1. NEUTRAL HOST DISTRIBUTED ANTENNA SYSTEM

1.1 The West Haymarket Joint Public Agency (JPA) is soliciting requests for proposals (hereinafter "RFP") from qualified, commercial cellular carriers interested in designing, constructing, installing, operating and maintaining a neutral host distributed antenna system ("DAS") at the Pinnacle Bank Arena(hereinafter "Arena") located at 600 "N" Street, Lincoln, NE 68508

1.2 The Arena is one of the largest capital construction project in the City's history and is a major investment in Lincoln's economic future.

1.3 This investment is expected to generate returns for the City by creating jobs and enhancing the local economy.

1.4 The Lincoln voters to approve the construction project in January 2010.

1.5 Now under construction, the Arena is slated to open September 2013.

1.6 Additional information about the building can be found at www.Haymarketnow.com.

1.7 Owner: West Haymarket JPA (Joint Public Agency)

1.8 Food & Beverage Management: SMG Management / SAVOR

1.9 JPA Program Manager: PC Sports

1.10 Project Architect: DLR Group

1.11 Contractor: Mortenson Construction

1.12 Project location:

Pinnacle Bank Arena
Lincoln, NE 68508

1.13 The project consist of a 16,000 seat arena of approximately five levels to include Event Level, Main Concourse, Premium Suite Level, Upper Concourse and the catwalk level.

1.14 The attached garage is approximately 280 spaces and is a three-level precaststructure.

2. SCOPE OF WORK

2.1 The qualified firm's (the "Contractor") professional scope of work includes, but may not be limited to the following:

2.1.1 Design, construct, install, operate and maintain a protocol-neutral solution to support RF–based telecommunications applications to a multi-tenant distributed antenna system and connect to the Arena.

2.2 Provide wireless voice and data telecommunications service providers and/or other users with access to the DAS for receiving and transmitting radio frequency signals to portable wireless devices used by the Arena, exhibitors and customers at the Arena.

2.3 The JPA prefers the following carriers, at a minimum, be included: AT&T, Verizon, T-Mobile and Sprint.

2.4 Be responsible for all DAS operations including all spectrums that cellular carriers are currently authorized by the FCC to implement, as well as spectrum that will likely be implemented for cellular service in the near future, the negotiation of multiple carrier agreements, carrier installation and access supervision, DAS monitoring and maintenance and radio frequency interference management.

2.5 Incorporate expansion options for the Arena into the overall growth strategy working in coordination with the Arena's project management and design teams.

2.6 This contract will be awarded for a term of five (5) years with one (1) option to renew for five (5) years at the sole election of the Joint Public Agency (JPA).

3. TECHNICAL REQUIREMENTS

3.1 The DAS system shall provide total coverage for the Arena including administrative offices, loading docks, and parking garage.

3.2 The DAS system shall be carrier format neutral and support every cellular carrier, independent of wireless frequencies and format used.

3.3 The DAS system and all its subsystems shall be designed to operate twenty-four (24) hours a day and 365 days a year.

3.4 The DAS system must be compatible with current (EVDO/EVDV and UMTS) and new technologies, (for example 4G) as well as current re-banding efforts.

3.5 The DAS system must be compliant with the City's local Public safety (Police and Fire) frequencies - (800 MHz and 700 MHz).

3.6 The DAS system must be maintained as technologies evolve and be able to expand the DAS system to accommodate additional interested carriers at later intervals.

3.7 The DAS system design must use modular architecture.

3.8 Prior to any installation, all antenna mounting locations are to be approved by the City.

4. SIGNAL COVERAGE AND RELIABILITY

4.1 Active Signal Handling: The DAS system will have active (powered) elements that filter and amplify signals to consistently deliver wireless services at the appropriate power levels.

4.1.1 The solution will support all requested services to insure that each service (or carrier) has the ability to adjust and control power levels without disturbing other services.

4.2 RF Signal Coverage: At a minimum, for cellular and PCS coverage, the DAS system must deliver signal strength of - 85 dBm to -89 dBm (3 Bars) to 95% of the facility.

4.3 Fiber Optic Transport: The DAS system may utilize fiber optics to distribute signals within the vertical risers.

4.4 Broadband Distribution: The DAS system will use Cat6 or coax cable in the horizontal runs to remote antenna units or directly to passive broadband antennas in the distribution area

4.5 Coverage Selectability: The DAS system will use a point-to-multipoint distribution architecture to provide different services and power levels across the facility.

5. MANAGEABILITY

5.1 SNMP Integration: The DAS system shall be SNMP compliant.

5.2 Centralized Management System: In the absence of an SNMP-based NMS system, the DAS system must provide a centralized management system that provides a system-wide view of the in-building deployment.

5.3 End-to-End Visibility:

5.3.1 The DAS system will provide end-to-end status information from the BDA/BTS to the remote-end including the antennas.

6. CONSTRUCTION REQUIREMENTS

6.1 Constructions Standards and Arena Facility Information.

6.2 All JPA construction standards shall be followed.

6.3 An extensive approval process is required prior to any installations.

6.4 The selected contractor is responsible for all permits, licenses, certificates, and authorizations for construction activities.

6.5 Construction activity may be dictated by the Arena event and construction activity calendar and must not impede current construction activity.

7. MANDATORY MINIMUM CODE COMPLIANCE

7.1 National Electric Safety Code (National Bureau of Standards);
7.2 National Electrical Code (National Bureau of Fire Underwriters); and
7.3 Applicable FCC and other applicable federal, state and local regulations and ordinances.
7.4 The installation, operation or maintenance of the system shall not endanger or interfere with the safety of persons or property located at the Arena.
7.5 A good design will minimize the equipment that would be placed or mounted internally on building structures and in any publicly visible location.

8. AESTHETICS

8.1 Use of stealth antennas and antennas that blend into Arena building architecture.
8.2 Indoor antennas shall be low profile, flush-mount types suitable for suspended ceilings or walls and shall be of a multi-band configuration.
8.3 It is acceptable to surface mount antennas in an open ceiling environment and to install surface mount antennas to walls, near ceiling height.
8.3.1 Prior to any installation, all antenna mounting locations are to be approved by the Authority.

9. DEMARCATION

9.1 The JPA will establish a clearly labeled point of demarcation.
9.2 The contractor is responsible for getting service into the designated room and extending from DEMARC to head-end equipment room.
9.3 Fixtures will not be placed in locations that will interfere with gas, electric, steam, fixtures, water or other fixtures the JPA deems as having priority.

10. ACCESS

10.1 Contractor will be dependent on Arena Contractor and the JPA's Program Manager for facility access during initial construction.
10.2 The arena maintains 24/7 on-call personnel and public safety personnel security.
10.3 Once the arena is open access will be coordinated withSMG

11. RENOVATIONS

11.1 When building improvements which affect the DAS system, the operator will direct Contractor to remove or relocate its wires, conduits, cables and other property located on the Arena.
11.2 Contractor is responsible for daily clean up and trash removal during the initial installation and any subsequent work performed by contractor or other carriers.
11.3 All safety guidelines set by owner and the Arena Construction Manager at Risk shall be adhered to.

12. PREPARATION AND FURNISHING

12.1 As Is Condition of Premises.
12.2 The Licensed Premises and the Dedicated Areas are undefined based on requested and agreed upon space utilization.
12.3 The Premises are expected to be licensed and the Contractor will accept the Licensed Premises and Dedicated Areas AS IS.
12.4 Improvements to Arena Dedicated Areas.
12.5 The JPA shall have design review rights of the improvements proposed by Contractor and as such, the Contractor shall submit the following information for approval by the JPA:
12.5.1 Schematic plans;
12.5.2 Cost estimate and budget for the proposed installation of the DAS system; and
12.5.3 Schedule for the proposed build-out of the Dedicated Areas.

13. CONTRACTOR'S RESPONSIBILITIES DURING CONSTRUCTION

13.1 Design, construction, materials and methods will be approved by the JPA before the construction is bid and awarded.

13.2 Contractor's construction schedule will be coordinated with the JPA and approved before any construction shall begin.

14. EQUIPMENT FURNISHED BY CONTRACTOR

14.1 Contractor shall furnish at its own expense all equipment necessary to install, operate and maintain a DAS system, and as more fully detailed in Contractor's proposal and specifically work plan.

14.2 Contractor is also responsible generally for any and all specific equipment necessary or convenient to the conduct of the Contractor's DAS services for a world-class operation at the Arena.

14.2.1 Contractor acknowledges that the JPA will not furnish any equipment or items.

14.3 Any fixed infrastructure existing and installed must remain in place and in good condition at the conclusion of the contract.

14.4 The Contractor shall be responsible for the repair, alteration and replacement of all the Contractor's equipment and furnishings during the entire contractual period.

14.5 The Contractor in consultation with the JPA, shall provide a detailed equipment schedule and maintain a comprehensive preventive maintenance program with respect to any equipment or other property owned by the Contractor and used in the conduct of its operations at the Arena.

14.6 If the Contractor wishes to provide equipment in addition to that provided by the contract, any such equipment shall be approved in writing, previous to purchase and installation.

14.7 Should early contract termination take place, the additional equipment shall be removable by the Contractor from the Licensed Premises in a way that causes no physical harm or damage to said facilities and that such removal does not detrimentally affect, in the sole discretion of the JPA.

14.8 Contractor shall repair any damage to said facilities or any other areas in the Arena caused by the removal of said equipment and shall restore such facilities or other areas in the said facilities to their original condition.

15. CONTRACTOR'S TRADE FIXTURES

15.1 Provided that the Contractor shall not at such time be in default of any terms or covenants of the contract, which default is not cured within any applicable grace period after written notice thereof has been given to the Contractor, all trade fixtures which are owned by the Contractor and installed in the Dedicated Areas shall remain the property of the Contractor and shall be removable by the Contractor upon the expiration or sooner termination of the contract; provided that the Contractor shall repair any damage to said facilities or any other areas in the Arena caused by the removal of said fixtures and shall restore such facilities or other areas in the said facilities to their condition prior to the installation of such fixtures and equipment.

15.2 If the Contractor is in default, the Contractor shall not remove or permit the removal of such property until all defaults have been cured. In the case of early termination of the contract, the JPA shall have the right, but not the obligation, to purchase from Contractor any or all said trade fixtures at their unamortized cost as determined by an agreement of the parties, but if no such agreement can be reached, as determined by an audit.

16. IMPLEMENTATION AND PROJECT PLAN

16.1 Contractor will coordinate all activity and hardware installation that affects the use of fiber, conduit, and cable tray with the JPA.

16.2 Implementation & Project plans must include:

16.2.1 Timeline to include:

16.2.1.1 Planning, installation, testing and other major milestones associated with the project; and

16.2.1.2 Milestones at which the JPA must be engaged to provide support, the type of support required, and the length of time estimated will be required of JPA resources.

16.2.2 Project plan to include:

16.2.2.1 Design drawings; and

16.2.2.2 Additional surveys to develop the design must be obtained at Contractor's expense.

16.3 Contractor will provide a map of a layout of the network design.

16.4 Should such final design, in JPA's judgment, deviate from the bid in a manner that constitutes any hardship for the City, the Cityreserves the right to terminate without cost or cause any contract resulting from this procurement.

16.5 Installation acceptance

16.5.1 The DAS system will be tested and accepted by the JPA within one week of Contractor's notification for completion

16.5.2 Final 'as-built' drawings are to be submitted to JPA within one (1) month of completion and acceptance.

16.6 Project Team

16.6.1 Contact information for Project Manager and/or Account Manager to include: Office Phone, Cell Phone, Fax Number, email address, street address for hard copy correspondence.

16.6.2 Project Manger will:

16.6.2.1 Serve as a single point of contact for communication with the City.

16.6.2.2 Act as liaison between JPA and Contractor's employees and subcontractors.

16.6.2.3 Attend on-site meetings, both scheduled and unanticipated.

16.6.2.3.1 Be on-site to oversee sub-contractor work and keep project on schedule.

16.6.2.4 Update the project status and report same to the JPA's Project Manager.

16.7 Contractor will promptly notify the JPA of all delays known or anticipated in the construction, rebuild, or extension of the system.

16.8 The parties may extend the construction timetable in the event the Contractor, acting in good faith, experiences delays by reason of circumstances beyond its control.

17. ACCEPTANCE AND TEST PLAN

17.1 Contractor and the JPA are responsible for the mutually agreed development of acceptance test specifications for the installed DAS systems.

17.2 The exact scope, methodologies, procedures, and acceptance criteria for executing the acceptance tests require JPA approval.

17.2.1 Said test plans must incorporate, at minimum, the following:

17.2.1.1 Test equipment to verify that all components of the system are functioning per specified criteria;

17.2.1.2 Test and acceptance plan must clearly demonstrate system functionality and compliance with the specified criteria and design requirements of wireless carriers;

17.2.1.3 Factory-authorized service representatives must supervise the field assembly and connection of components, the pre-testing, testing, and adjustment of the system;

17.3 Upon completing the installation of the system, all integrated subsystems will be aligned, adjusted and balanced as part of the pretest plan.

17.4 Any deficiencies observed in pre-testing will be corrected within 10 (ten) days

17.5 Any malfunctioning or damaged items will be replaced with new and tested until satisfactory performance and conditions are achieved;

17.5.1 Upon completion of pre-tests, the JPA will be notified a minimum of three (3) days in advance of acceptance test performance.

17.6 Background system pretests may be conducted with representatives from the JPA in attendance;

17.6.1 Upon the satisfactory completion of system pre-tests, operational system testing will commence to ensure system conformance to requirements and specifications.

17.6.2 The operational tests will include demonstration of system features and functionality, and coverage performance;

17.7 The JPA will inspect the system to verify that subsystems, units and controls are properly labeled and interconnecting wires and terminals are identified;

17.8 Any observed deficiencies indicated by tests or by JPA inspection will be rectified and completely retested within 10 (ten) days.

17.8.1 Work and materials required to correct deficiencies will be made at no expense to the City; and

17.9 Contractor will provide copies of all zone tests and their results to the City, including a detailed diagram of the proposed in-building distribution system superimposed on the building floor plans.

18. MAINTENANCE

18.1 Contractor shall bear all costs for maintenance, repair and ongoing operating costs.

19. TROUBLE REPORTING/EMERGENCY SERVICE

19.1 Contractor shall provide a single telephone number that will be staffed continuously (24 hours per day, 7 days per week, 365 days per year);

19.2 Contractor will provide a two (2) hour response time for major outages;

19.3 Contractor will provide 24-hour maintenance and repair services; and

19.4 Contractor will provide an Emergency Service execution plan to be distributed to all project participants and others as identified as appropriate by the City.

20. REPLACEMENT PARTS

20.1 Contractor shall retain sufficient inventory of replacement parts to replace faulty system components in a timely manner over the period of the contract from the date the system is commissioned.

20.2 No cost shall be charged to the JPA at any time for repair parts, labor or maintenance of the DAS service.

20.3 Contractor will resolve inter-system interference within twenty-four (24) hours at the RF level, the digital signaling levels, or in mechanical or electrical connections.

20.4 Contractor will provide a statement of interference resolution for RF interference, electrical/ mechanical interference, digital and optical interference.

21. BUSINESS MODEL

21.1 The entire cost of this project will be borne by Contractor.

21.1.1 This includes, but is not limited to, design, planning, implementation, management, installation, utility placements and supporting infrastructure (electric meter loops, electrical conduit, building and fire code fees, any penetrations and patching, etc.), monitoring and maintenance, continual upgrading, and marketing.

21.2 Contractor will be awarded the sole right to market the cell service to cellular carriers.
21.3 In addition, Contractor will have the sole right to market the Arena to cellular carriers for placement of cell sites that are to be integrated into the Contractor's system.
21.4 The JPA will refer any inquiries received from cellular carriers for the placement of cell sites or fiber-based micro-cellular (distributed antenna) systems to the Contractor and will use best efforts to encourage carriers to utilize the DAS solution.
21.5 Contractor will be responsible for negotiating and drafting agreements for the use by a carrier on the JPA's behalf, whereas the selected contractor, being the benefactor, shall receive the rent directly from the carriers or a portion or split of construction, installation and maintenance costs.

22. QUALITY OF SERVICE

22.1 Contractor shall maintain the highest standards of service with respect to this project.
22.2 The DAS system must be compatible with current and new technologies.
22.3 The JPA shall have the right to make service audits with or without notice as frequently as it deems necessary in any reasonable manner and at any time.
22.4 Questions or complaints regarding service, whether raised by patrons, exhibitors, the JPA or otherwise, may be submitted to Contractor and shall be promptly and fully responded to.
22.5 Contractor shall review with the JPA pathe results of service audits and promptly correct any deficiencies called to the Contractor's attention.
22.5.1 Failure of Contractor to provide service commensurate with the reasonable expectations of the JPA regarding the highest quality of service, if recurring, shall be grounds, at the discretion of the JPA for termination of the contract by the JPA after applicable notice and reasonable cure periods and pursuant to the provisions relating to remedies available to the City.
22.6 Contractor shall design, construct and operate the system in a manner that insures that it is accessible to all carriers on an equal basis.

23. RFP SUBMITTAL REQUIREMENTS/GENERAL STATEMENT OF QUALIFICATIONS

23.1 Please provide an overview of your business model.
23.1.1 Include contract terms and a sample contract you would offer PINNACLE BANK ARENA.
23.1.2 Include a copy of your standard contract that carriers are given to sign-up for service.
23.2 Provide contacts and references for similar sites that have a carrier-neutral DAS installed and a list of carriers and services for each site listed, along with the approximate start date of when carriers were added including healthcare and higher education sites.
23.3 Provide an overview of the process and potential timeline it will take once a contract is signed with the building owner.
23.3.1 Please include carrier negotiations through first installation.
23.4 Please list the system vendors you work with as business partners.
23.5 Would you be willing to host First Responder/Public Safety services on the DAS and how would this be handled?
23.5.1 Would you be willing to accommodate Pinnacle Bank Arena's two-way radio services on DAS?
23.6 How do you negotiate with the building owner for requests of services that are not revenue generating from a carrier, please cite examples?
23.7 How do you handle building owner requests for additional services after installation is complete, please cite examples?
23.8 What is the acceptance process between your company and the building owner?
23.9 Can you guarantee that certain carriers will participate?
23.9.1 Specifically, AT & T, Verizon, T-Mobile and potentially Sprint are highly desired.

23.10 What are your typical rent expectations for Pinnacle Bank Arena?
  23.10.1 What is your estimate of a proforma rent for Pinnacle Bank Arena?
23.11 What is the base requirements needed in order for your company to take on an installation?
23.12 What is the largest installation you have completed to date and when completed?
23.13 How many carrier neutral DAS installations do you have?
23.14 What is the largest installation you have currently under construction?
23.15 What SLAs do you typically have in place with the carriers when there is an outage?
23.16 Please give detail on support procedures for post installation.
23.17 Do you directly manage the installation or do you contract that to the equipment vendor?
  23.17.1 If you contract the project management, what oversight do you provide?
23.18 What mechanisms are in place to protect SMG LINCOLN property during installation?
  23.18.1 How are you insured, please cite levels of insurance and COI?
23.19 Do you require separate, locked space for the DAS electronics?
23.20 Do you have a local site that currently employs your services we could visit?
23.21 In addition to the DAS headend equipment, how do you propose facilitation service provider DAS equipment?
  23.21.1 What are your thoughts regarding within Pinnacle Bank Arena or at service provider location?
23.22 What is your carrier to noise RF design goal by class of service area?
23.23 If required, how do you propose to manage Wi-Fi issues for cellular service providers?
  23.23.1 If as a shared system with Pinnacle Bank Arena, what ratio of bandwidth do you predict for service providers versus Pinnacle Bank Arena?
23.24 If required, what is your Wi-Fi deployment strategy regarding the wired LAN?
  23.24.1 Will this be an independent overlayment or a shared approach with Pinnacle Bank Arena's wired LAN?
  23.24.2 If shared, how do you propose managing any LAN upgrades?
23.25 What is your experience with service based Wi-Fi?
23.26 What is your experience with Wi-Fi Offloading?
23.27 What is your usage with Multiple In and Multiple Out Systems (MIMO)?
23.28 What is your usage with Hotspot 2.0?

24. SUBMISSION DEADLINE

24.1 Proposals must arrive at the address listed not later than **Friday December 28, 2012 at 12:00 noon CST.**

24.2 Proposals must be submitted in a sealed envelope.
  24.2.1 Indicate the RFP number and Firm Name on the outside of the sealed proposal.

24.3 Proposers must also complete and submit the electronic portion (Attributes and Line Item sections) of this proposal on the E-bid system.
  24.3.1 The electronic response of this proposal will include information such as proposal requirements and addendum acknowledgments.

24.4 No submission will be accepted after the deadline.

25. SUBMISSION INSTRUCTIONS

25.1 The following projected timetable should be used as a working guide for planning purposes.

25.2 The JPA reserve the right to adjust this timetable as required during the course of this RFP process and the overall schedule for the Arena.

Event	Date
RFP Released	Tuesday, December 4, 2012
Pre-Proposal Meeting/Tour	Monday, December 10, 2012
Final RFP Inquiries	Thursday, December 20, 2012
RFP Due	Friday, December 28, 2012
Secure Professional Contractor	TBD
Design/Install DAS	TBD

26. RFP SUBMITTAL

26.1 Submit seven (7) copies of your proposal on or before the date and time established for receiving proposals.

26.1 Contractor shall submit the RFP documents and all supporting material to the following:

Vince M. Mejer
Purchasing Agent
440 S. 8th Street, Suite 200
Lincoln, Nebraska 68508

26.2 All inquiries regarding the DAS shall be directed via e-mail or faxed request to Vince M. Mejer, Purchasing Agent (vmejer@lincoln.ne.gov) or Fax: (402) 441-6513.

26.2.1 These inquiries and/or responses shall be distributed to prospective Vendor electronically as addenda.

26.2.2 The Purchasing Office shall only reply to written inquiries received within seven (7) calendar days of bid closing.

26.3 No direct contact is allowed between Contractor and other City, JPA or SMG Staff through the bid process.

26.3.1 Failure to comply with this directive may result in the Contractor bid being rejected.

27. SAFETY MEASURES

27.1 All persons must wear safety helmets, eye wear, appropriate gloves and comply with the arena contractor's safety requirements.

27.2 The Vendor is to comply with all applicable sections of governing federal, state and all local city authorities, unless otherwise specified.

27.3 In the event of conflict between any of the provisions of municipal by-laws, state acts or federal codes, the most restrictive shall apply.

28. USE OF WORK AREA

28.1 Delivery of supplies, equipment and/or materials to the site shall be along routes designated by the Arena Contractor or his representative.

28.2 The Vendor must obtain prior approval from the Owner or his representative of areas proposed for temporary storage, stockpiling, equipment, maintenance or operations.

28.3 Working areas shall be chosen by the Owner or his representative in cooperation with the Arena Contractor.

28.4 The Vendor shall be responsible for repairing, at no cost to the Owner, all damages caused by the work of the Contract.

29. CO-OPERATION, CONSTRUCTION AND INTERFACING WITH OTHER CONTRACTORS

29.1 Insure that all trades co-operate with each other to insure that work will be carried out xpeditiously and will be satisfactory in all respects at completion.

29.2 Insure that all examine the Plans and Specifications covering the work of all other sections.

29.3 This Vendor shall coordinate his work with the work of other Contractors at the site and shall not commit or permit any act which will interfere with the performance of the work of other Contractors.

29.3.1 Where this Vendor's work adjoins that of other Contractors, he shall confer with them as required and so arrange his work that there shall be no discrepancies when the whole work is completed.

29.3.2 If this Vendor fails to cooperate with or coordinate his work with the work of other contractors, he shall not make any claim founded on delays which have resulted from such failure and he shall save the Owner harmless from all claims made by other Contractors which are founded on delays caused by such failure.

29.4 If any part of the work depends on its proper execution or results upon the work of other contractors, this Vendor shall report promptly advise the Owner in writing any defects in the work of such other Contractors that interfere with the proper execution of the work.

29.5 Should the Vendor fail to inspect and report, he shall have no claim against the Owner by reason of defective or unfinished work of any other Contractor except as to latent defects no reasonably observable at the time of the commencement of the Vendor's work.

29.6 The Vendor shall be responsible for any and all damages caused by his or her negligence or failure to coordinate his work with that of other Contractors and any additional expenses arising there from.

29.7 There may be other Contractors or forces of the Owner working in the same area where work under this Contract will be performed.

29.7.1 The Owner or his designated representative will use his or her best efforts to assist with coordination of work of all Contractors so as to minimize interference with or suspension of work of any other Contractor.

29.7.2 These coordination efforts shall be consistent with orderly and expeditious performance and completion of the project as a whole.

29.8 The Vendor must anticipate that this work may be interfered with or suspended from time to time on account of concurrent performance of the work by other contractors.

29.8.1 This Contractor shall, if requested by the Owner of his designated representative, arrange his work under the Contract with the work being performed by other Contractors.

29.8.2 Furthermore, the Owner or his designated representative may direct that certain facilities be used mutually by the Contractor and other persons.

29.9 Prior to the commencement of the work, the Vendor accompanied by the Owner or his designated representative, shall inspect all previous works executed by other trades and shall report his approval promptly in writing.

29.10 If any part of the work executed is unsatisfactory, this Vendor shall so report in writing to the Owner or his designated representative prior to the commencement of his work.

29.11 If the necessity for corrective work is established, the Owner or his designated representative will proceed with these corrections.

29.12 Should the Vendor fail so to inspect and report as mentioned above, he will become responsible for all uncorrected works executed by other trades, and he shall have no claim against the Owner by reason of defective or unfinished work of any other Contractor, and he shall correct the work as required at this own expense.

29.13 All Scope of Work for this Package will need to be coordinated with the main arena contractor's schedule (Mortenson).

Addendum #1
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

The pre-bid time has been changed to 1:00 p.m. on Monday, December 10, 2012.

All other terms and conditions shall remain unchanged.

Dated this 5th day of December, 2012.

Vince M. Mejer
Purchasing Agent

EXHIBIT A

Addendum #2
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Added Sample Contract to the Attachment Section of the Bid.

All other terms and conditions shall remain unchanged.

Dated this 6th day of December, 2012.

Vince M. Mejer
Purchasing Agent

VMM:dw

EXHIBIT A

Addendum #3
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

The project schedule is attached.

Below is the information for the drawings.

The DAS drawings have been uploaded to a FTP site.
They are in a separate folder titled “DAS Drawings”.

To access your FTP site via your *Web browser (IE, Chrome, Mozilla):

https://ftp.dlrprojects.com
Username: PinnacleBankArena
Password: 10-10124-00

*Note: To move multiple files and folders, after logging into the site, click on the "Enable Web Client Pro" link in the upper right corner next to "Log Out" . Java is required for this function at www.java.com

Alternatively, You can access this FTP site using a FTP Client like FTP_Pro or Filezilla use the connection information below.

Server Name: ftp://ftp.dlrprojects.com
Username: PinnacleBankArena
Password: 10-10124-00

All other terms and conditions shall remain unchanged.

Dated this 17th day of December.

Vince M. Mejer
Purchasing Agent
12/17/12

EXHIBIT A

Addendum #4
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

The closing date has been extended to Wednesday, January 9, 2013.

All other terms and conditions shall remain unchanged.

Dated this 17th day of December, 2012.

Vince M. Mejer
Purchasing Agent

EXHIBIT A

Addendum #5
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question 1 **Is it the JPA's goal to have a cellular carrier own, operate, and/or lease the system to other carriers as it is written? Will the JPA entertain proposals from 3rd party infrastructure owners like American Tower?**

A. Yes the JPA is looking for bids from 3rd party infrastructure owners.

Question 2 **Will a response for a minimum term of ten (10) years be considered?**

A. We have asked all bidders to respond to the (5) years with one (1) option to renew for five (5) years at the sole election of the Joint Public Agency (JPA). We also told bidders to include additional contract terms that they would prefer and provide reasons that this would be a better contract term for the JPA.

Questions 3 **Is it the JPA's goal to own this network? ATC owns the networks we deploy and pay rent as a tenant in the building we occupy. Will JPA entertain proposals that utilize this structure?**

A. The JPA does not want to own this network. We want a partner that will own and manage the equipment.

The Pre-Bid Sign-In sheet has been attached to this Addendum.

All other terms and conditions shall remain unchanged.

Dated this 18th day of December.

Vince M. Mejer
Purchasing Agent

EXHIBIT A

Addendum #6
Neutral Host Distributed Antenna System
Pinnacle Bank Arena
Joint Public Agency
Bid No. 12-294

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

1. The PBA Garage Arch and Electrical plans have been attached.

All other terms and conditions shall remain unchanged.

Dated this 24th day of December, 2012.

Vince M. Mejer
Purchasing Agent

EXHIBIT A

boingo

Boingo Wireless
10960 Wilshire Blvd., Suite 800
Los Angeles, CA 90024
(310) 386-6868

January 9, 2013

Vince Mejer
Purchasing
440 S. 8th St.
Lincoln, NE 68516

Re: Pinnacle Bank Arena Distributed Antenna System (DAS)

On behalf of Boingo Wireless, Inc. ("Boingo"), I am pleased to submit the following proposal to The West Haymarket Joint Public Agency (JPA) for the design, installation, operation and maintenance of a state-of-the-art, centralized, open-architecture, expandable, neutral-host Distributed Antenna System (DAS) for cellular users at Pinnacle Bank Arena as cited in the Request for Proposal Number RFP-12-294.

Our vision for Pinnacle Bank Arena is to deliver a progressive DAS that provides an exceptional guest experience while maximizing the wireless-services revenue potential for the Pinnacle Bank Arena **at absolutely no cost** to the owner. In addition, the Boingo solution offers the following unique advantages:

- Proven and expandable DAS wireless system supporting all frequencies of the cellular service providers that maximize user choice for access;
- Current and emerging RF-based services that enhance the user experience for fans and guests, as well as the operations of the arena;
- Single-solution, easy-to-scale, fiber-based DAS for licensed cellular carriers to enable service throughout the arena, and since we are also Wi-Fi experts, Boingo can assist the arena with Wi-Fi planning and implementation at the appropriate time;
- Mission-critical availability of 99.9% for all core components;
- Bandwidth management to ensure optimum response time for all users;
- Wireless-industry best practices for ongoing operation, maintenance, monitoring, support and communication with the arena and all wireless partners;
- World-class customer service designed to respond to the unique needs of a public environment.

Boingo proposes a ten-year agreement with an option to be exercised by the JPA for one additional five-year period. Boingo also proposes a **40% share of DAS revenue** generated in in Pinnacle Bank Arena. A revenue share arrangement will **align both parties' interests**, provide the JPA and arena with **full transparency, ensure a fair and equitable deal**, and ensure **the JPA and arena will maximize its revenue** potential over the life of the contract.

EXHIBIT A

Why Choose Boingo?

As an industry-leading public and private wireless services provider with **over 12 years of experience** deploying neutral-host networks, Boingo approaches wireless initiatives from a project lifecycle methodology and orchestrates the efforts and demands of all constituents and stakeholders to ensure business objectives are met at every stage from concept to completion. We have an unmatched track record in designing, installing, operating, maintaining and marketing neutral-host wireless networks for Wi-Fi, cellular, and other applications in **complex, large-scale, densely populated venues**. Leveraging our worldwide DAS and Wi-Fi expertise and our strong relationships with all major cellular carriers, Boingo manages wireless networks in 400+ venues, including five stadiums, more than 60 airports and 40 other large public venues. As evidence of our deep and long-standing relationships with the cellular carriers, we currently **average 3.5 carriers per DAS**, enabling us to serve over 1.5 billion consumers annually through these networks.

Closing Statement

Thank you for considering Boingo for your wireless needs. We are looking forward to working with the JPA on delivering a first-class wireless experience for Pinnacle Bank Arena's guests. We are prepared to work diligently and expeditiously to complete the scope of work outlined in the attached proposal. Please feel free to contact us should you have any questions.

Sincerely,

Joseph J. DeStasio
Boingo Wireless, Inc.

EXHIBIT A

boingo

Pinnacle Bank Arena

Proposal for
Neutral Host Distributed Antenna System (DAS)

Request For Proposal Number - RFP-21-294

January 9, 2013

EXHIBIT A

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EXHIBIT A

1.0 Introduction and Executive Summary

Boingo Wireless, Inc. ("Boingo") is pleased to present this proposal to The West Haymarket Joint Public Agency (JPA) for the design, installation, operation and maintenance of a state-of-the-art, centralized, open-architecture, expandable, neutral-host Distributed Antenna System (DAS) for the Pinnacle Bank Arena as designated in the request for proposal number RFP-21-294.

An industry-leading public and private wireless services provider with **over 12 years of experience** deploying neutral-host networks, Boingo approaches wireless initiatives from a project lifecycle methodology and orchestrates the efforts and demands of all constituents and stakeholders to ensure business objectives are met at every stage from concept to completion. We have an unmatched track record in designing, installing, operating, maintaining, and marketing neutral-host wireless networks for cellular, Wi-Fi, and other applications in **complex, large-scale, densely populated venues**. Leveraging our worldwide DAS and Wi-Fi expertise and our strong relationships with all major cellular carriers, Boingo manages wireless networks in 400+ venues, including five stadiums, more than 60 airports and 40 other large public venues. As evidence of our deep and long-standing relationships with the cellular carriers, we currently **average 3.5 carriers per DAS**, enabling us to serve over 1.5 billion consumers annually through these networks.

Our vision for Pinnacle Bank Arena is to deliver a progressive DAS that provides an exceptional wireless experience while maximizing the wireless-services revenue potential **at absolutely no cost to the JPA or the arena** via a **40% share of DAS revenue** generated on Boingo-deployed networks during the proposed ten-year agreement. A revenue share arrangement will **align both parties' interests**, provide the arena with **full transparency, ensure a fair and equitable deal**, and ensure **the arena will maximize its revenue** potential over the life of the contract. In addition, the Boingo solution offers the following unique advantages: 3.5 carrier

- Proven and expandable DAS wireless system supporting all frequencies of the cellular service providers that maximize user choice for access;
- Current and emerging RF-based services that enhance the user experience for fans and guests, as well as the operations of the arena;
- Single-solution, easy-to-scale, fiber-based DAS for licensed cellular carriers to enable service throughout the arena, and since we are also Wi-Fi experts, Boingo can assist with Wi-Fi planning and implementation;
- Mission-critical availability of 99.9% for all core components;
- Bandwidth management to ensure optimum response time for all users;
- Wireless-industry best practices for ongoing operation, maintenance, monitoring, support and communication with the arena and all wireless partners;
- World-class customer service designed to respond to the unique needs of a public environment.

Neutral-host and advanced wireless technology for future services

Boingo will deploy an equal-access, single-solution, multi-service DAS providing homogeneous coverage and sufficient capacity for the cellular carriers that provide coverage in all required areas of the arena. This system will eliminate the inherent issues of operating independent, single-carrier/service antenna systems. Additionally, if the JPA selects Boingo as its partner, Boingo can ensure the DAS system is designed and prepared for a Wi-Fi implementation. This would include assistance with planning, design and deployment of shared infrastructure. This approach would

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provide the arena significant cost savings should a Wi-Fi network be deployed at any point in the future.

DAS products and services

As a neutral host and neutral designer with substantial experience in numerous large-scale venues, Boingo is not tied to one specific vendor's product line for DAS solutions. We have experience with all of the major DAS product lines and tailor each design to the specific requirements of the arena and its fans and guests. Through design review meetings with the various service providers and in coordination with the arena's technical representatives, the most technically practical DAS product vendor for this project will be determined. The optimum DAS vendor for the project will be determined following the Award Notification from the JPA and a comprehensive design review process with the wireless carriers.

Global network and customer level support

Boingo has extensive experience in providing world-class customer service and specializes in providing this support to our venue partners and its wireless users. The customer service process is designed to respond to the unique needs of a public environment. Boingo currently handles more than 20,000 calls per month on various support issues related to both public and internal mission-critical venue services. Arena will staff have priority access to senior technical support. Boingo maintains at least 99.9% availability of core components and service.

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2.0 Corporate Information

2.1 Corporate Experience

Headquartered in Los Angeles, Boingo is a leader in the design, deployment, operation and marketing of wireless neutral-host networks, including DAS and Wi-Fi in complex, large-scale, densely populated venues spanning stadiums, arenas, shopping centers and airports.

In 1999, Concourse Communications Group, a subsidiary of Boingo Wireless, Inc., pioneered the wireless neutral-host concept in a partnership with the Port Authority of NY and NJ for three New York City area commercial airports (i.e. - JFK, LGA, EWR), road tunnels, and subway stations. We have 12 years of experience in the design, installation, operation, maintenance and marketing of neutral-host DAS cellular and Wi-Fi networks in over 400 global locations reaching 1.5 billion consumers annually. This includes more than 60 airports and 40 other large-scale venues across North America, UK, Italy, Portugal, Switzerland, China, Japan and Thailand. Boingo maintains deep and long-standing relationships with all of the major cellular carriers and, as a result, we currently average 3.5 carriers per DAS, and we continue to enjoy tremendous growth, aggressively adding additional venues to the network. The following are the entities with which we currently have DAS agreements and with whom we share in the DAS revenue:

Exhibit 1 - Boingo DAS Locations (Wi-Fi Networks shown where applicable)

	Location	Annual Visitors	Cellular DAS	Wi-Fi
Stadiums & Arenas	Citizens Business Bank Arena	500,000		Y
	Home Depot Center	1,000,000		Y
	Soldier Field	1,500,000	Y	Y
	Staples Center	4,000,000		Y
	US Cellular Field	2,000,000		Y
Airports	Austin-Bergstrom International Airport	9,100,000	Y	Y
	Baltimore-Washington International Airport	22,400,000	Y	
	Detroit Metro Airport, Terminals & Road Tunnels	32,400,000	Y	Y
	John F. Kennedy International Airport	47,700,000	Y	Y
	LaGuardia Airport	24,100,000	Y	Y
	Midway International Airport	18,800,000	Y	Y
	Newark Liberty International Airport	33,700,000	Y	Y
	O'Hare International Airport	66,700,000	Y	Y
Transport	Lincoln & Holland Tunnels, Port Authority of NY & NJ	40,400,000	Y	
	Newport PATH Station, Port Authority of NY & NJ		Y	
	33rd Street PATH Station, Port Authority of NY & NJ		Y	
	World Trade Center, Port Authority of NY & NJ (under development)	100,000,000 (est.)	Y	Y

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Additionally, Boingo offers consumers access to the world's largest network of Wi-Fi hotspots—more than 600,000 and growing. We work with 125 operators in more than 100 countries around the globe as displayed below:

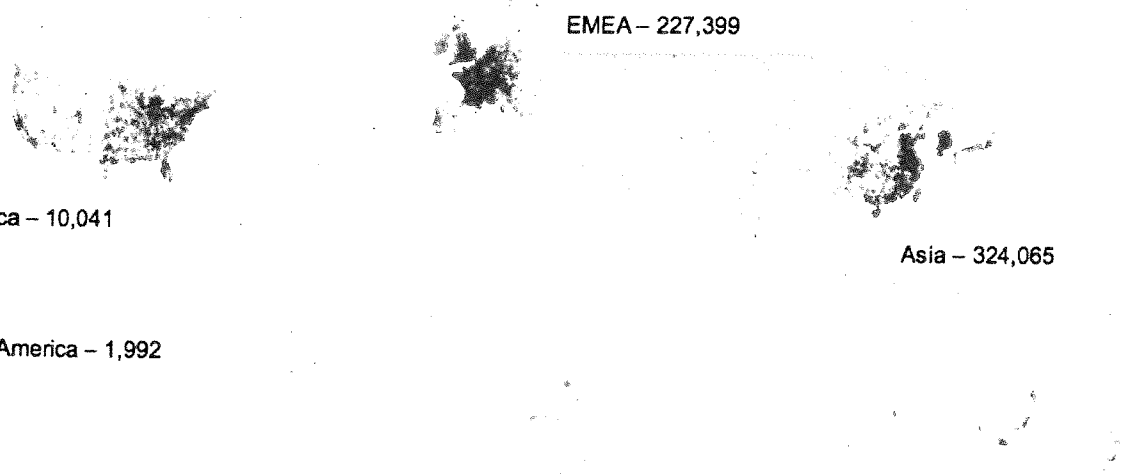
Exhibit 2 - Boingo's Global Wi-Fi Footprint

MANAGED & OPERATED FOOTPRINT

- 400+ global venues
- High-traffic, high-density locations
- Predominately airports, stadiums, malls & hot zones

ROAMING FOOTPRINT

- 600,000+ locations with 125 roaming partners
- 100+ countries across 6 continents
- Predominantly airports, cafes/retail & hotels



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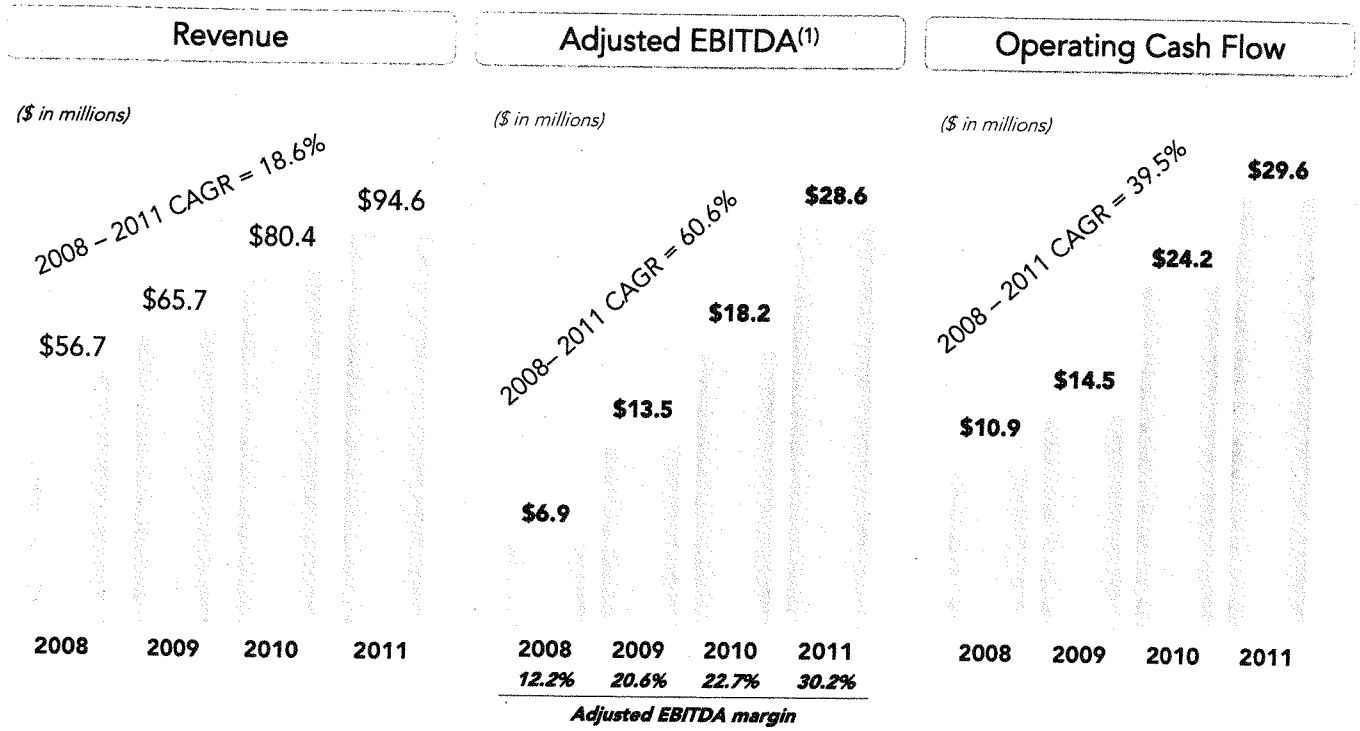
2.2 Corporate Stability

Boingo Wireless, Inc. is a public company traded on the NASDAQ stock exchange under the ticker symbol, "WIFI". Audited financial reports for Boingo Wireless, Inc. can be found at SEC.gov (http://sec.gov/cgi-bin/browse-edgar?CIK=0001169988&action=getcompany) filed with its prospectus and last S-1/A (http://sec.gov/cgi-bin/browse-edgar?CIK=0001169988&action=getcompany). See below for a snapshot of Boingo's topline financial metrics over the past few years.

Exhibit 3 - Boingo's Historical Financial Performance



(1) Defined as net income (loss) attributable to common stockholders plus accretion of convertible and redeemable stock, depreciation, amortization of intangible assets, interest and other income (expense), net, income taxes, stock-based compensation expense and non-controlling interests expense.

2.3 References

The following are examples of the complex, large-scale, densely populated, neutral-host, multi-carrier DAS systems that Boingo has designed, installed, operated and maintained.

1) Soldier Field (SMG Worldwide), Chicago

Contact Name:
Luca Serra

Telephone Number:
(312) 235-7149

Date of Deployment:
2007

Participating WSPs:
Verizon Wireless, AT&T, Sprint and US Cellular

Summary: Boingo entered into an agreement with the Chicago Park District and SMG to provide wireless services for Soldier Field to include DAS and Wi-Fi. The project included a public voice & data DAS which provides cellular coverage throughout the seating area, concourses, suites, service levels and underground parking garage as well as a stadium-wide Wi-Fi network utilized by both fans and Soldier Field staff. Boingo's responsibilities include network design, project management, materials procurement, installation, testing, monitoring, operation and maintenance. Boingo operates the infrastructure and provides neutral-host, Authentication, Authorization, and Accounting ("AAA") services for all Wi-Fi roaming partners.

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2) O'Hare International Airport and Midway International Airport, Chicago

Contact Name:
Grafe Smith

Telephone Number:
(773) 894-5355

Date of Deployment:
2006

Participating WSPs:
Verizon Wireless, AT&T, Sprint, T-Mobile and Cricket

Summary:
This contract involved complete design, build out and deployment of a backbone fiber network as well as the design and implementation of Wi-Fi services at Terminals 1-3 and International Terminal 5. A cellular voice & data Distributed Antenna System providing 3G and 4G LTE services for all of the major cellular operators is fully deployed at all terminals. Boingo's responsibilities include network design, project management, materials procurement, installation, testing, monitoring, and maintenance. Boingo operates the public infrastructure and provides neutral-host, AAA services for all Wi-Fi roaming partners.

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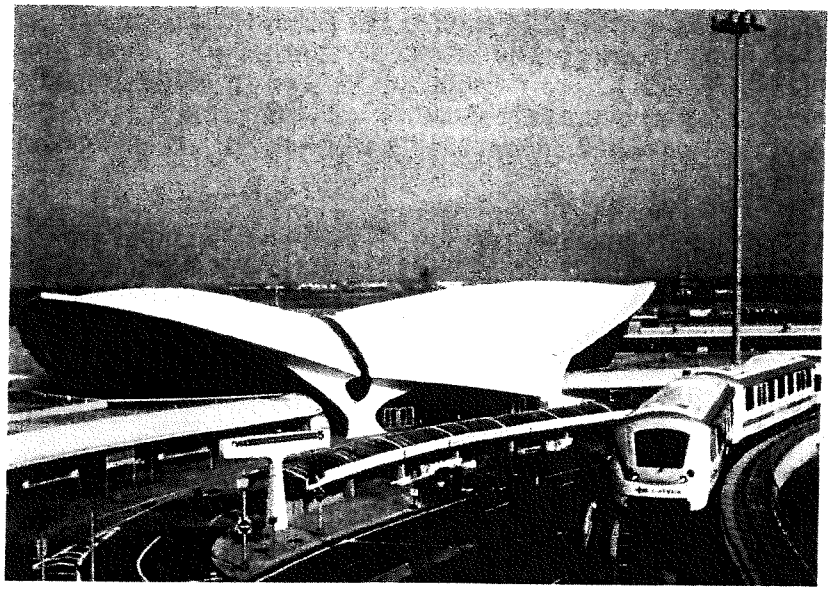
3) The Port Authority of NY & NJ at:

- **John F. Kennedy International Airport (JFK), New York**
- **La Guardia Airport (LGA), New York**
- **Newark Liberty International Airport (EWR), New Jersey**
- **The Holland Tunnel**
- **The Lincoln Tunnel**
- **The Marine Air Terminal at La Guardia**
- **The Port Authority Bus Terminal**



Contact Name:
John Kelly

Telephone Number:
(201) 395-3205

Date of Deployment:
1999

Participating WSPs:
Verizon Wireless, AT&T, Sprint and T-Mobile

Summary:
The project included DAS and Wi-Fi services at LaGuardia Central Terminal Building, Marine Air Terminal and US Airways Terminal, JFK Terminals 1, 2, 3, 4, 5, 7 and 8 and all terminals in Newark Liberty. A cellular voice and data DAS network exists throughout LGA (ATT and Nextel 3G Services), JFK (ATT, Verizon, Sprint, Nextel, T-Mobile; 3G and 4G LTE Services), and EWR (ATT, Verizon, Sprint, Nextel, T-Mobile; 3G and 4G LTE Services) airports as well as the Lincoln and Holland tunnels (all carriers – 3G services). Boingo's responsibilities include network design, project management, materials procurement, installation, testing, monitoring, and maintenance. Boingo operates the public infrastructure and provides neutral-host, AAA services for all Wi-Fi roaming partners.

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3.0 Project Requirements and Specifications

3.1 RFP Submittal Requirements & General Statement of Qualifications

3.1.1 Please provide an overview of your business model. Include contract terms and a sample contract you would offer PINNACLE BANK ARENA. Include a copy of your standard contract that carriers are given to sign-up for service.

Boingo will design, install, operate, maintain, and market the neutral-host DAS at absolutely no cost to the JPA or to Pinnacle Bank Arena. This includes all capital and operating costs for all designated areas and all required applications during the proposed Term of the agreement. Neither the JPA nor the arena will incur any capital expense associated with this project, nor will they be responsible for any ongoing financial or operational obligations associated with the project.

Boingo typically provides a share of the revenue generated by the DAS installed by Boingo with its partners. We believe that a revenue share arrangement is the optimal economic model for our partners as it aligns both parties' interests, provides our partners with full transparency ensuring a fair stake in the project, and ensures that our partners will maximize revenue as the DAS continues to perform and the revenue increases. Alternatively, if our partners desire a one-time, fixed, per-carrier payment or large up-front payment in lieu of a revenue share, Boingo is open to such an arrangement.

Please refer to *Section 7* for specific contract terms associated with this proposal.

Boingo will provide a sample contract upon project award notification. Boingo will also provide its standard contracts with the carriers upon project award notification.

3.1.2 Provide contacts and references for similar sites that have a neutral-host DAS installed and a list of carriers and services for each site listed, along with the approximate start date of when carriers were added including healthcare and higher education sites.

Please refer to *Section 2.3* for contacts, references and descriptions of similar Boingo DAS projects.

3.1.3 Provide an overview of the process and potential timeline it will take once a contract is signed with the building owner. Please include carrier negotiations through first installation.

Upon award notification, Boingo will engage all the major cellular carriers and those regional carriers who may have interest in Pinnacle Bank Arena. For those carriers who are interested, Boingo will develop a system design and cost estimate, and present it to the carriers for review. Once a decision has been made by a carrier(s) to join the DAS at the arena, Boingo will fine-tune the design(s) while incorporating the carrier input. Upon contract execution between Boingo and the building owner, Boingo will commence construction of the DAS, which typically takes 5-6 months to install, test and launch for service.

Please refer to *Section 5* for an overview of Boingo's Implementation Plan and DAS Lifecycle Process.

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3.1.4 Please list the system vendors you work with as business partners.

As a neutral-host and neutral-host service provider, Boingo's goal is to provide the best solution for the venue and the carriers, regardless of the hardware vendor that is selected for a specific project. We have primarily used Commscope ION-B and ION-M systems in our Airport DAS networks due to the reliability that we have experienced with this equipment, but also have DAS systems using TE Connectivity (Unison, Fusion, and Spectrum product lines) and LGC. We also have relationships with Powerwave and Solid.

In the Wi-Fi space, we are partners with both Cisco and Aruba.

3.1.5 Would you be willing to host First Responder/Public Safety services on the DAS and how would this be handled?

Boingo would be willing to host First Responder/Public Safety (FRPS) services after discovery with JPA on its requirements. Since DAS networks with off-air repeaters will typically induce network delays (as compared to Line-of-Site (LOS) communications), it is recommended that DAS coverage for FRPS be limited as much as possible to areas where LOS communication is not possible. Testing during the preliminary design process can define the coverage areas needed. By designing a DAS that provides segmentation (through sectorization and/or zoning of the system), FRPS coverage can be focused where necessary.

Would you be willing to accommodate Pinnacle Bank Arena's two-way radio services on DAS?

Boingo would consider accommodating this service on the DAS. An understanding of the bands and channel counts for the two-way radio service would need to be reviewed to determine cost impact, if any, to the overall design and to what extent the carriers may be willing to absorb the additional cost.

3.1.6 How do you negotiate with the building owner for requests of services that are not revenue generating from a carrier, please cite examples?

Boingo handles requests on a case-by-case basis. If requests are made during the initial design and construction phase, we are often able to accommodate such requests with lesser financial impact to the building owner.

3.1.7 How do you handle building owner requests for additional services after installation is complete, please cite examples?

The designated Boingo account manager (AM) will process the request and our engineering team will determine best practices and the most effective solution. The AM will meet with the building owner to discuss the solution and additional costs. This is a process that is common to Boingo, as additional services are implemented on a relatively frequent basis in our airport venues.

3.1.8 What is the acceptance process between your company and the building owner?

Boingo has developed an extensive set of site acceptance testing procedures, to include physical audit, functionality testing and system performance testing. Once system construction is complete, this testing is conducted for the carriers typically with building owner participation.

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Once the carrier and building owner acceptance is achieved, the system is commissioned for service.

3.1.9 Can you guarantee that certain carriers will participate? Specifically, AT & T, Verizon, T-Mobile and potentially Sprint are highly desired.

Unfortunately, Boingo cannot guarantee carrier participation at any venue; however, we are actively involved with all four major carriers (AT&T, Verizon, T-Mobile and Sprint) and certain regional carriers (US Cellular, MetroPCS and Cricket) at a number of locations. We will aggressively market Pinnacle Bank Arena to all of our carrier partners and will make best efforts to secure as many carries as possible.

3.1.10 What are your typical rent expectations for Pinnacle Bank Arena?

Our typical rent expectations are in the $3k to $15k per month range depending on the venue, the interested carriers and the surrounding coverage (or lack thereof). We expect that rents for Pinnacle Bank Arena will fall within this range.

What is your estimate of a proforma rent for Pinnacle Bank Arena?

We anticipate that two carriers will join the DAS in Year 1, each with an estimated rent payment of $5,000 per month. Based on a 40% revenue share as proposed in *Section 7.2*, we anticipate that the DAS will generate $48,000 for Pinnacle Bank Arena. The arena can expect slight year-over-year rent increases throughout the term of the agreement.

3.1.11 What is the base requirements needed in order for your company to take on an installation?

Boingo would require executed contracts with JPA and at least one carrier in order to commence installation.

3.1.12 What is the largest installation you have completed to date and when completed?

Chicago's O'Hare International Airport is Boingo largest installation completed to date, and was brought online in multiple phases, depending on each individual carrier's requirements. Verizon Wireless's initial systems designs were completed in 2007, with system deployment occurring in 2008. AT&T, Sprint/Nextel, T-Mobile, and Cricket followed soon thereafter with all four carriers coming online in 2009-2010. We are currently in process with a site-wide AT&T upgrade for LTE MIMO services and we will be integrating Verizon's AWS-band MIMO LTE services later this year.

From a stadium/arena perspective, the Chicago Bears' Soldier Field is our largest installation. Soldier Field went online in 2011 for AT&T's 3G services. An upgrade was completed in 2012 to integrate 700MHz LTE services for AT&T and Verizon Wireless. Sprint will also join this DAS in the early part of this year.

3.1.13 How many carrier neutral DAS installations do you have?

Boingo operates 13 neutral-host installations, with one (the World Trade Center in NYC) currently under development. Please refer to *Section 2.1* for a Boingo DAS venue listing.

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3.1.14 What is the largest installation you have currently under construction?

Please refer to our comments in #12 above. In addition, upgrades are in process at our three NYC-area airport venues – John F. Kennedy International Airport, Newark Liberty International Airport and LaGuardia Airport – for LTE services for AT&T.

We are also in the preliminary design and early implementation phases for the new World Trade Center campus in New York City. This is a massive project to provide neutral-host cellular 3G and 4G services and neutral-host Wi-Fi throughout the underground transit stations, within retail facilities and within the new 104 story Freedom Tower, with some services coming online in 2014.

3.1.15 What SLAs do you typically have in place with the carriers when there is an outage?

Boingo's SLAs typically ensure a 99% uptime, with a two-hour response time for any failures. Our DAS networks are alarmed for failures at each node on the network and both Boingo and the carriers receive alarms in the event of an outage.

3.1.16 Please give detail on support procedures for post installation.

Boingo's Network Operations Center (NOC) monitors the health of all our networks on a 24x7x365 basis and Boingo is typically on-site at least once per quarter to inspect and make necessary modifications to the system. Of course, more frequent visits are made, if necessary. In addition, the carriers consistently fine-tune the performance of their head-end equipment. Also, all equipment maintenance agreements will be in place with major vendors to allow for overnight replacement of most core equipment.

3.1.17 Do you directly manage the installation or do you contract that to the equipment vendor? If you contract the project management, what oversight do you provide?

Boingo Wireless directly manages all of its installations.

3.1.18 What mechanisms are in place to protect SMG LINCOLN property during installation?

Upon execution of an agreement with JPA, Boingo will submit evidence of insurance and limits of liability with respect to the following: Worker's Compensation, Employer's Liability, Commercial General Liability and Automobile Liability Insurance.

How are you insured, please cite levels of insurance and COI?

See above. These levels will be determined during negotiation of an agreement with JPA.

3.1.19 Do you require separate, locked space for the DAS electronics?

Yes, we require at least 1,500 square feet of space for DAS head-end equipment and carrier base transceiver station (BTS) equipment.

3.1.20 Do you have a local site that currently employs your services we could visit?

The Boingo DAS and Wi-Fi venues that are located closest to Pinnacle Arena are located in Chicago, IL at Soldier Field, O'Hare International Airport and Midway

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International Airport all. We would be happy to schedule a tour of these facilities at JPA's convenience.

3.1.21 In addition to the DAS headend equipment, how do you propose facilitation service provider DAS equipment?

Boingo will perform the design, procurement, installation and management of the DAS equipment for all carriers; this includes the head-end equipment as well as the carrier BTS equipment. We work with the carriers to define what their installation will entail (coverage and capacity requirements) and what they will need to provide as handoff to the DAS. We have extensive experience overseeing the design and construction of common area head-end rooms as well, if required by JPA.

3.1.22 What is your carrier to noise RF design goal by class of service area?

This is driven by the carriers in their SLAs with us, and varies based on the type of service. A sample SLA outlining some of these criteria can be provided during the next steps of the RFP process.

3.1.23 If required, how do you propose to manage Wi-Fi issues for cellular service providers? If as a shared system with Pinnacle Bank Arena, what ratio of bandwidth do you predict for service providers versus Pinnacle Bank Arena?

If required to manage Wi-Fi issues for cellular service providers, we would like design a Wi-Fi network that would be able to accommodate both traffic coming from the carriers as well as from users connecting directly to the network. Since the standards are still being developed for offloading (please refer to *Sections 3.1.26 & 3.1.28* for more detail), we anticipate the vast majority of the bandwidth being utilized for Pinnacle Bank Arenas users until such time that seamless offloading becomes a reality.

3.1.24 If required, what is your Wi-Fi deployment strategy regarding the wired LAN? Will this be an independent overlayment or a shared approach with Pinnacle Bank Arena's wired LAN? If shared, how do you propose managing any LAN upgrades?

If required to install a Wi-Fi network in Pinnacle Bank Arena, Boingo would deploy it as a completely independent overlayment of the wired LAN.

3.1.25 What is your experience with service based Wi-Fi?

Boingo is not only a leader in the DAS industry, but also a global leader in designing, deploying and operating Wi-Fi networks as well. If the JPA selects Boingo as its partner, Boingo can ensure the DAS system is designed and prepared for a Wi-Fi implementation. This would include assistance with planning, design and deployment of shared infrastructure. This approach would provide the arena significant cost savings should a Wi-Fi network be deployed at any point in the future.

Boingo's vision is always to manage a fully customizable network that provides a robust wireless Internet experience for its users, regardless of their device type, so that they can "stay connected" and have a more enjoyable experience while in a given partner's venue. Further, we design networks such that our venue partner is able to engage its wireless users while they are

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connected. Boingo can facilitate a number of marketing tactics on behalf of its partners to include acquisition of email address, SMS number or social media connection (i.e. – Facebook "Likes" and check-ins, Twitter "follows"); solicitation of guest feedback; promotion of concessions and future events in sports complexes; and wayfinding. Our partners can leverage the Wi-Fi network to learn more about users and their online behavior via Boingo's Wi-Fi reporting and analytical tools.

In addition, Boingo endeavors to maximize the wireless revenue that can be generated from its Wi-Fi networks. One way this is done is via third-party advertising and sponsorship sales on the Wi-Fi landing pages. Boingo began advertising and sponsorship sales on its Wi-Fi network in 2006 and currently delivers more than 110 million advertising impressions each year. Past and current sponsorship opportunities with major companies include American Express, Charles Schwab, Citrix, Google, Microsoft, Philips, Sony, Symantec, Visa and many others. Another means by which Boingo will monetize the Wi-Fi network is by supporting roaming Wi-Fi connections from its Wireless Internet Service Provider (WISP) partners and by supporting data offload from its cellular carrier partners.

Boingo thoroughly supports the Wi-Fi enabled handset and Smartphone market, which has been exploding over the past 24 months, by supporting all handset manufacturers, operating systems and cellular brands. In addition to smartphones, our neutral and flexible solution can support alternative handheld devices such as MP3 Players, netbooks, gaming consoles, cameras and other non-phone devices that are enabled with Wi-Fi. Boingo network infrastructure can adequately manage and support these devices to work seamlessly. This comes as a result of our technical effort and investment in industry standard Authentication, Authorization, and Accounting (AAA) systems, and our negotiated access agreements with each independent device manufacturer and wireless service provider.

3.1.26 **What is your experience with Wi-Fi Offloading?**

Being a board member of the Wireless Broadband Alliance (WBA), Boingo is at the forefront of this technology, is playing an integral role in developing the standards and participating in its initial trials, as well as piloting a few test projects independent of the WBA's efforts. Please refer to the following web page that discusses our involvement in the collaboration on developing this framework with other industry leaders:

http://www.computerworld.com/s/article/9234847/Operators_join_forces_to_simplify_international_Wi_Fi_roaming.

3.1.27 What is your usage with Multiple In and Multiple Out Systems (MIMO)?

In today's DAS environments, 2x2 MIMO has become the norm for most, if not all carriers. Boingo has already been designing 700MHz LTE MIMO systems for AT&T and Verizon. In 2013, we expect AT&T and Verizon to begin deploying LTE MIMO in the AWS bands in many markets, Sprint to begin deploying LTE MIMO in their expanded PCS spectrum, and T-Mobile to deploy LTE MIMO in their AWS and possibly PCS bands in all markets. Our new neutral-host designs already accommodate these planned expansions.

3.1.28 **What is your usage with Hotspot 2.0?**

Hotspot 2.0, the Wi-Fi Alliance's original designator, is now referred to as "PassPoint", and

hardware and devices that include certain specifications and that are compatible with this technology and enable seamless connections and offloading are referred to as "PassPoint Certified". Again, we are playing a key role within the industry-governing bodies in developing these specifications and standards, and conducting trials in order to validate the technology. We believe that Hotspot 2.0/PassPoint will become a reality in 2014 as new devices hit the market and existing devices are upgraded with this technology, and when Wi-Fi networks are deployed or upgraded to handle these devices.

3.2 Specifications Acknowledgment

3.2.1 Boingo has reviewed the entire Specifications document outlined in the RFP and acknowledges its agreement and/or understanding of all requirements.

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4.0 DAS Design Requirements

4.1 DAS System Design & Technical Requirements

The benefits to Pinnacle Bank Arena of a neutral-host, multi-service DAS for licensed system coverage across its campuses are significant— one neutral operator (Boingo), a level playing field for service providers, interference minimized, manageable system maintenance, and maximum use of the facility resources, to name a few. The benefits to the licensed carriers offering services via a neutral-host, multi-service DAS are substantial as well— low capital expenses, less maintenance, interference resolution, etc. Boingo is a proven industry leader having successfully designed, deployed, operated, and maintained neutral-host, multi-service DASs throughout the country supporting AMPS and TDMA in the early days, 2G services such as CDMA, E-GSM, EDGE and iDEN, more recently 3G services such as WCDMA, UMTS and EVDO, and currently 4G services such as WiMAX-HDSPA, HSPA+ and LTE. Boingo is also the leader in designing, deploying, operating and maintaining neutral-host Wi-Fi networks in large-scale facilities, such as stadiums and arenas, airports and shopping malls.

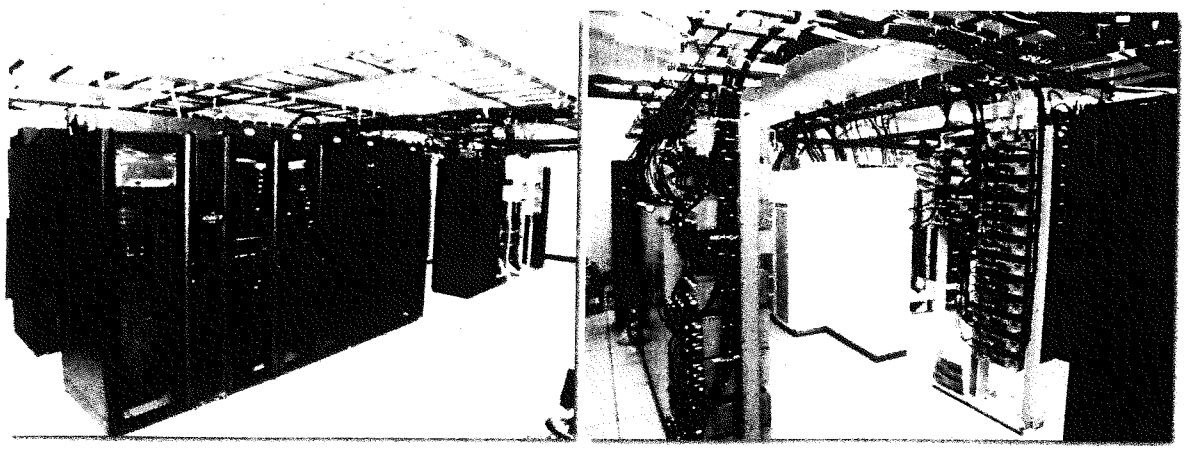
Boingo has experience designing wireless networks that accommodate two classes of service— those operating in frequency bands for which a license from the Federal Communications Commission (FCC) is required (the "Licensed" services), and those operating in frequency bands for which a license is not required (the "Unlicensed" services). The majority of those services currently operate in the radio spectrum between 700 MHz and 40 GHz. The benefit of selecting Boingo as its neutral-host DAS provider is that the JPA and the arena will have the proven industry leader as a partner with which it can partner for future technology deployments and upgrades, including those in the Unlicensed frequencies (i.e. - Wi-Fi).

4.2 DAS Technology Overview

The radio frequency (RF) source for each supported licensed service band is, by law, the responsibility of the licensed public carrier or private licensed authorities that "own" the FCC licenses. Signals are provided by each provider, at whatever frequency, capacity and protocol they utilize, from either off-the-air or from land-line (copper), fiber, microwave, or Infrared (IR) links that constitute alternative "back-haul" circuits for connectivity to the Public Switched Telephone Network (PSTN) or Internet Protocol (IP) Wide Area Network (WAN) that serves the Venue. Licensed service signals are brought to a common equipment room centrally located within the venue, called the Point of Interface ("POI") room, or "carrier hotel". From the POI, optical fiber backbones extend the signals to remote distribution points strategically placed throughout the venue. Single-mode fiber optic cabling is used for the fiber interconnection between the POI and the remote locations. As part of the Boingo design, sufficient excess strands of fiber are provided to ensure growth for future services.

EXHIBIT A

Exhibit 4 - Sample POI Room



The locations and quantities of the remote distribution points are dependent on the network involved and the areas to be covered (public or private). From the remote distribution points, the signals are further extended to fiber-to-RF remote devices. The resulting DAS is scalable in terms of frequency bands of operation, capacity (the number of channels required for a given Quality of Service for licensed wireless services), physical coverage areas, and service segmentation within those coverage areas, for all current and planned services.

EXHIBIT A

5.0 Implementation Plan

Boingo believes that the degree of program success is directly attributable to the integrity of its Implementation Plan. A well-prepared Implementation Plan, with proper consideration given to scheduling, team composition, resource management, constraints, risk mitigation, contingencies, and customer requirements, will yield a very successful program and provide for a network that is ready for future technologies in the cellular space as well as for Wi-Fi. On the other hand, insufficient consideration given to these critical attributes significantly jeopardizes a program's chance for success. Boingo is very well prepared to evolve, establish, and execute an Implementation Plan that meets or exceeds the JPA's and the arena's requirements. Boingo is well versed in providing solutions designed to blend into their surroundings. We will work diligently with the JPA and the arena to ensure the network design meets its standards prior to commencing construction.

During the implementation phase of the project, Boingo will designate a program manager and support staff to design and supervise the execution of a detailed Implementation Plan for all elements of the program. Boingo's team will manage multiple and concurrent project activities in-venue. The contents of the Implementation Plan will include detailed milestone events, dependent and interdependent activities, construction timeframes, subcontractor work packages, points-of-contact and contingency plans required to meet the agreed-upon installation time frame.

Careful consideration must be given to coordination between the DAS installation and the arena's construction schedule. A great amount of consideration will be given to security and aesthetic requirements.

The following list of milestones will provide the framework for preparing the detailed project plans in accordance with the agreed-upon schedule. The Design Phase includes site survey, preliminary design drawing preparation, formal design reviews, and Implementation Plan maintenance activities. The Implementation Phase includes construction, testing, commissioning, inspection, and final documentation activities. The DAS becomes operational upon completion of the Implementation Phase.

EXHIBIT A

See below for an overview of Boingo's DAS Lifecycle Process:

Exhibit 5 - Boingo's DAS Lifecyle Process

Boingo's DAS Lifecycle Process

Development	Planning	Installation	Launch	Operations
RFPs → Proposals	**→ Contracts → Project Plan**	**→ Design Plans → Implementation Plans**	**→ Testing Plans**	**→ O&M Plans**
• Sales Process • RFP Review • Pre-Prop Meeting • Carrier-Need Assessment • Site Evaluation • Cost Estimate • Business Model • Partnerships • Proposal Process • Award	• Venue Contract • Planning Meetings • Site Surveys • Carrier Access Agreements • DAS/Carrier Specifications • DBE Partnerships • Preliminary Designs • Long-Lead Items • Resource Allocation	• Design Drawing Packages • Venue-Specific Construction Policy • Installation Plans • Venue Approval • Install Team Mobilization • Safety Plans • Status Reports • Subcontract Management	• Workmanship Assurance • Venue Mgt and Carrier Inspections • Remedial Works • Acceptance Testing • Service Launch • Test Reports • As-Built Drawing Packages	• Network Operations Center • Venue Account Management • Revenue Sharing • Carrier Management • DAS Upgrades • Site Testing • RF Interference Management & Resolution • On-site Break/fix • Spares Supply

EXHIBIT A

6.0 System Management, Operation & Support

6.1 Network Monitoring Capabilities

Boingo Wireless will provide complete network monitoring capabilities and services as well as a trouble tracking system for the DAS (and Wi-Fi system, if required). These capabilities are covered in the following sections.

6.1.1 Network Monitoring

Boingo supports 24x7x365 operations and management oversight utilizing industry standard monitoring and ticketing systems through a centralized network operations center. This is a 24x7-staffed facility operating as the nerve center for all venues and aggregated network operations. The wireless infrastructure is managed by a variety of tools to ensure continuous monitoring of the DAS.

From a maintenance perspective, monitoring tools are used to verify network status and quality. Tools such as WhatsUp Professional and Tivoli Netcool Network Management System provide constant polling of network devices to ensure all devices are functioning. In the event of any single device failure, immediate notifications are generated for support personnel to respond in a timely fashion. These notifications may include email, SMS, paging, or other as required. In addition, direct HTTP access to the active components in the DAS provides detailed troubleshooting capabilities for field and network operations personnel.

The Boingo Network Operations Center is equipped with the most comprehensive set of commercial and in-house tools available today to verify DAS network device status and service quality from the end point (i.e. - smartphone) up to the back office infrastructure. Technologies currently in use include:

- IBM Tivoli Netcool for Service Providers
- Cisco Wireless Control Systems
- WhatsUp Professional
- Cacti
- Remote test access gateway client
- BMC Remedy Action

These applications provide a variety of indicators ranging from constant polling to trending of network devices to ensure all devices are functioning correctly and meeting internal high availability and quality level standards. In the event of any single device failure, immediate alert notifications are generated for operations personnel to respond in a timely fashion. Other alerts are generated according to degradation of service or number of failure occurrences. The notifications may include email, SMS, paging, and/or other as required for proper communication and escalation with our internal staff and in-field technician partners.

The core monitoring system, IBM Tivoli, is in use by over 1,000 service providers, including all top Fortune 20 companies. These service providers also rely on IBM Tivoli to ensure that their most critical services are performing to the highest standards. Tivoli software offers the leading Service Management software for the monitoring and management of critical services, application and network-based systems.

EXHIBIT A

Each venue is equipped with a Test Access Gateway Client. This is a dedicated client that, not just emulates, but is an actual client device at the venue that ensures the greatest service visibility for monitoring and troubleshooting at the venue.
Boingo will work with University staff to ensure that both operations teams are integrated for effective operation and ongoing management of network elements.

6.1.2 Trouble Tracking and Escalation

All issues are tracked by the use of an in-house Remedy trouble tracking system. Each ticket remains open until problem resolution has occurred. Upon discovery of a network outage or service impacting issues, a NOC engineer or network monitoring system will automatically open a trouble ticket, using the following information:

Exhibit 6 - Trouble Reporting - Severity and Escalation Hierarchy

Severity 1	Multiple DAS nodes are down or connectivity to the venue location has been lost. Immediate action is required.
Severity 2	A single node or service degradation experienced in a particular area. Problem has localized impact. Immediate action is required.
Severity 3	Customer can wait for a fix; low impact to customer service. Usually a workaround available. This can include scheduled maintenance.

Events generated through the monitoring function or inserted because of call center support are first correlated and then escalated as necessary.

6.1.3 Network Operation and Maintenance Plan

Over the past several years, Boingo has established an Operations and Maintenance (O&M) program based on real operating system experiences such as additional RF coverage needs, equipment relocation due to venue/location expansion, power outages, evolving RF interference issues, null-fill, changing or emerging wireless technologies, carrier service evolution, system capacity changes, HVAC issues, accidental damage, etc. Boingo will draw from these experiences and existing O&M practices currently employed for other venues to customize an O&M Plan for Pinnacle Bank Arena.

The O&M Plan, prepared during the Implementation Phase and presented to arena staff, will include detailed information including, but not limited to, the following:

- Detailed Configuration Drawings
- Complete Contact Lists
- Routine Testing and Preventative Maintenance Schedule/Procedures
- Trouble Ticket Procedure & Service Log Procedures
- Technical Network Operations (NOC)
- Break/Fix Process and Emergency Procedures
- RF Coverage Maps
- Spares Inventory Lists
- Customer Support Services
- Service and Change Management Activities
- Service Reporting and Billing
- Relationship and Vendor Management
- Applicable Service Level Agreements (SLAs)

EXHIBIT A

7.0 Financial Proposal and Contractual Terms

7.1 Capital Expense and Ongoing Fees

Boingo will design, install, operate, maintain, and market the neutral-host DAS at absolutely no cost to the JPA or to Pinnacle Bank Arena. Boingo will collect a proportional share of the required DAS capital directly from the cellular carriers to fund the cost of deployment. This proposal covers all capital and operating costs for all designated areas and all required applications during the proposed Term of the agreement.

Neither the JPA nor the arena will incur any capital expense associated with this project, nor will they be responsible for any ongoing financial or operational obligations associated with the project.

7.2 Revenue

Boingo proposes to the JPA a 40% share of the revenue generated by the DAS installed by Boingo within Pinnacle Bank Arena. These economics take into consideration all capital expenses, operating costs, contract management and operating risks. We believe that a revenue share arrangement is the optimal economic model for the JPA for the following reasons:

1. Revenue Share aligns Boingo's interests with the JPA's interests;
2. Revenue Share provides the JPA with full transparency which is the only way to ensure that Boingo and the JPA have a fair and equitable stake in the project; and
3. Revenue Share ensures that the JPA will maximize revenue as the DAS continues to perform and the revenue increases.

Alternatively, if the JPA wishes to consider a fixed, per-carrier payment or large up-front payment in lieu of a revenue share, Boingo is open to such an arrangement and would offer the JPA a one-time payment of $200k per carrier that joins the DAS at Pinnacle Bank Arena.

7.3 Term

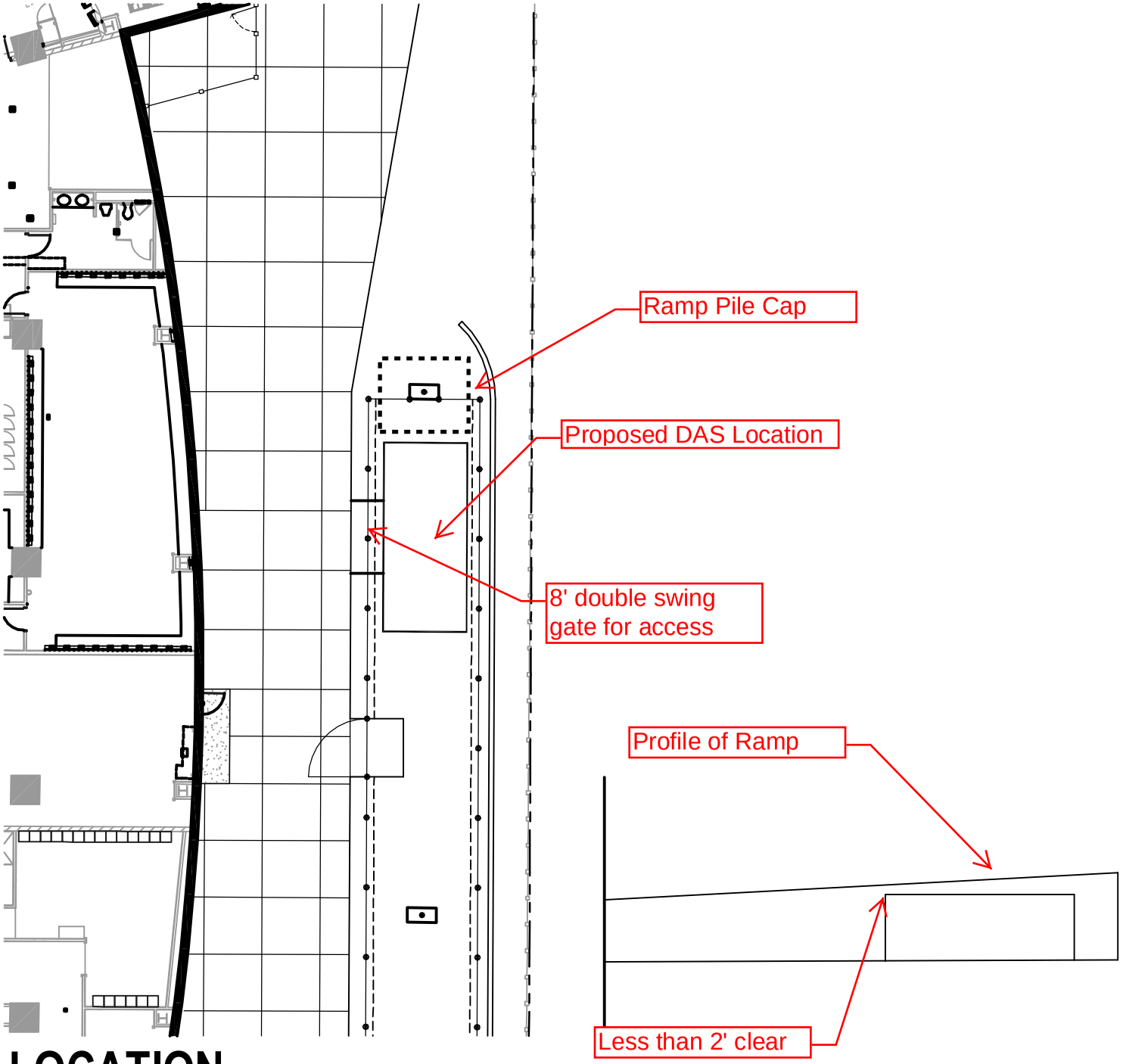
Boingo proposes a 10-year DAS Agreement with one (1) option to renew for an additional five (5) years at the sole election of the JPA.

EXHIBIT A

EXHIBIT B

Assigned Areas

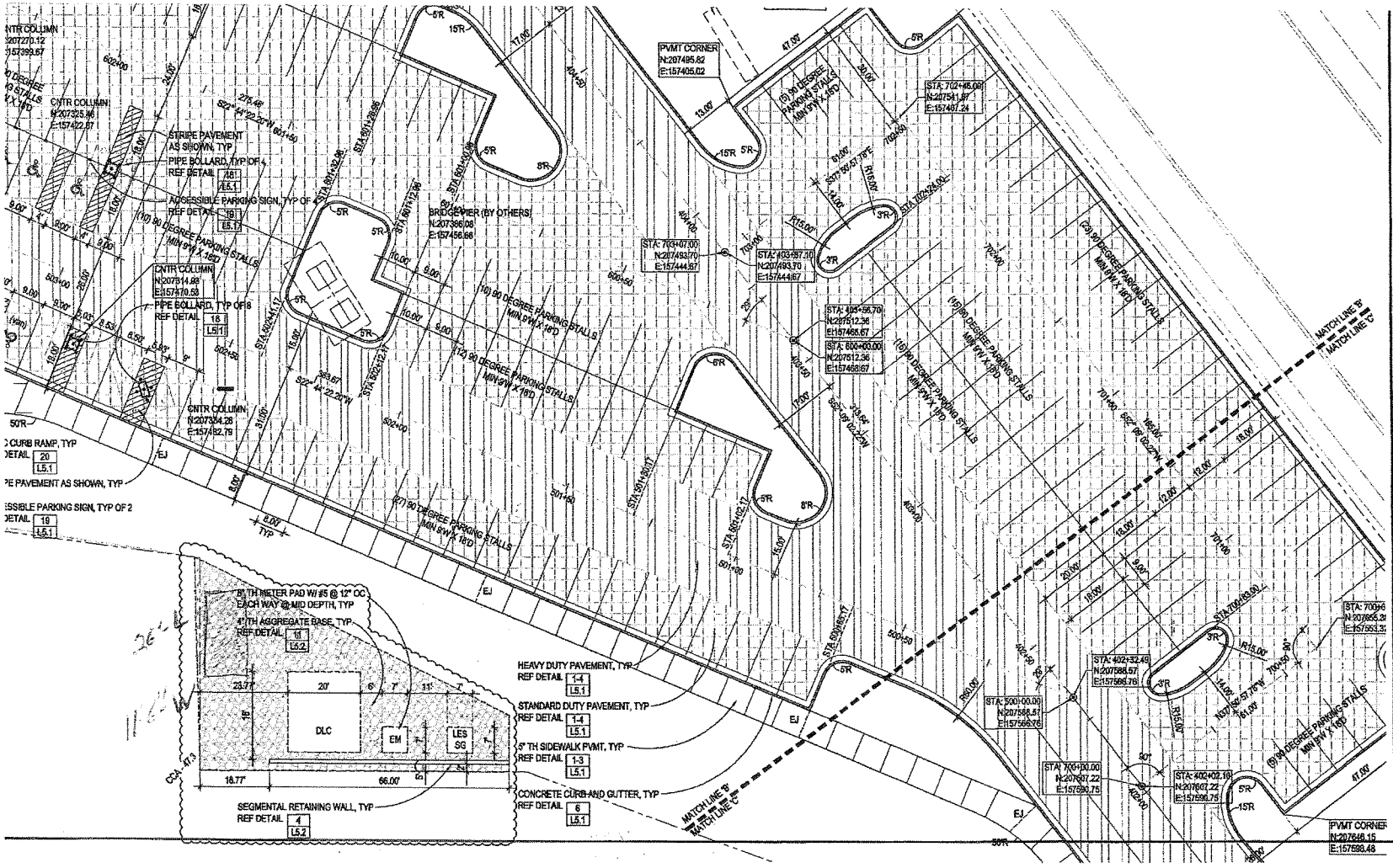
EXHIBIT B



DAS LOCATION

SCALE: 1"=20'-0"

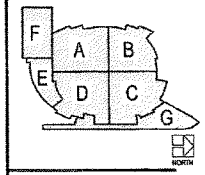
EXHIBIT B



Site Layout Plan
WEST HAYMARKET A
BID PACKAGE #5

Revisions
ADDM 1 - BP5 FEBRUARY 16, 2012
ADDM 1 - BP5 MARCH 1, 2012
CGA-33 MAY 18, 2012
CGA-47 AUGUST 30, 2012
CGA-47.2 FEBRUARY 4, 2013
CGA-47.3 MARCH 15, 2013

KEY PLAN



L1.2

10-10124-00

FEBRUARY 6, 2012

EXHIBIT C

Intentionally Omitted

EXHIBIT D

Other Contract Documents

WH00422

IMG

November 26, 2012

Mayor Chris Beutler
Board Chair
West Haymarket Joint Public Agency
555 South 10th Street, Room 103
Lincoln, NE 68508

LETTER OF AGREEMENT

Dear Mayor Beutler,

Thank you for your confidence and trust in IMG. We are delighted to have the opportunity to create a partnership with you and your team.

So that we may proceed with announcing our partnership and developing sales materials, I have taken the liberty of outlining the basic tenets of our agreement ("Agreement"):

A. **PARTIES.** This Agreement is dated this __ day of November, 2012, by and between West Haymarket Joint Public Agency ("JPA") and IMG College, LLC ("IMG").

B. **TERM.** The term of this Agreement ("Term") will be eight (8) years, beginning September 1, 2013, and ending June 30, 2021.

C. **FINANCIALS.** In consideration for the exclusive advertising and sponsorship rights at Pinnacle Bank Arena ("Arena"), IMG will pay to JPA for each License Agreement Year the guaranteed rights fee ("Guaranteed Rights Payment") outlined below totaling Eight Million, Three Hundred Thirty-Two Thousand, Nine Hundred Sixty-Nine Dollars ($8,332,969.00) plus fifty percent 50% of any gross collected cash revenue ("GCCR") in excess of the revenue sharing threshold in the table below ("Revenue Sharing Payment").

License Agreement Year	Guaranteed Rights Fee	Revenue Sharing Threshold
9/1/13 – 8/31/14	$750,000	$1,300,000
9/1/14 – 8/31/15	$1,020,000	$1,800,000
9/1/15 – 8/31/16	$1,040,400	$1,840,000
9/1/16 – 8/31/17	$1,061,208	$1,880,800
9/1/17 – 8/31/18	$1,082,432	$1,922,416
9/1/18 – 8/31/19	$1,104,081	$1,964,864
9/1/19 – 8/31/20	$1,126,162	$2,008,162
9/1/20 – 8/31/21	$1,148,686	$2,052,325

For the purpose of calculating the Revenue Sharing Payment only GCCR is defined as cash revenue received from the exploitation of all marketing, advertising, and sponsorship rights less the following:

1. Agency/Third-party sales commissions;
2. Cost of tickets purchased from JPA or the Arena operator (currently SMG hereinafter "Operator") as part of a sponsorship agreement negotiated by IMG;
3. Pre-approved hospitality expenses; and

EXHIBIT D

4. Pass-throughs to JPA (*i.e.*, suite sales, should such revenue be included in an advertising/sponsorship agreement)

Any budget-reducing trade, requested and pre-approved by the City of Lincoln's Finance Director, secured by IMG shall be deducted from the Guaranteed Rights Payment based on the fair market value of the trade, to be mutually agreed upon by the JPA and IMG. The budget reducing trade shall also be included in GCCR for purposes of calculating the Revenue Sharing Payment.

D. **PAYMENT.** IMG shall pay the Guaranteed Rights Payments to the JPA in two (2) installments each License Agreement Year. The first payment (50% of Guaranteed Rights Payment) will be made on or before December 31st and the second payment (50% of Guaranteed Rights Payment) will be made on or before June 30th.

Any Revenue Sharing Payment shall be paid on or before September 1 for all GCCR for the previous License Agreement Year, with the first Revenue Sharing Payment (if applicable) due on September 1, 2014.

E. **RIGHTS.** In consideration for the payments described in Sections C and D, JPA grants IMG the exclusive, worldwide rights to all advertising and sponsorship opportunities available in and around the Arena ("Rights"). Rights include, but are not limited to, the following:

- Permanent and temporary signage in and around the Arena. Permanent and temporary signage includes but is not limited to:
  - IPTV
  - Video walls
  - Center-hung scoreboard signage
  - Digital fascia signage
  - Backlit fascia and vomitory signage
  - Concourse signs
  - Landmark sponsor identification signage
  - Sponsor zone signage
  - Drink-cup-holder signage
  - Concourse displays, temporary signage, and special-event displays
  - Tunnel covers (if any)
  - Concession signage
  - Restroom signage
  - Outdoor marquee (if applicable)

- Permanent and temporary signage in and on the parking garage attached to the Arena and any other parking lots and garages approved by the City of Lincoln Finance Director, described in **EXHIBIT A**, attached hereto.

- Digital-distribution platform rights for all inventory throughout all official Arena digital-distribution platforms (website, Wi-Fi, social media, etc.) including but not limited to:
  - Arena's website (www.pinnaclebankarena.com)
  - Social-Media Presence
  - Mobile Application
  - Tablet Application
  - WAP Site
  - Mobile Texting

  IMG will exclusively own all advertising/sponsorship opportunities related to the Arena's Wi-Fi/DAS system.

- At-event impact including but not limited to:
  - Promotions
  - Product displays
  - Sampling, couponing, and product distribution

- Additional sponsorship opportunities including but not limited to:
  - Message-center and public-address announcements
  - Sponsor IDs in ticket promotions, brochures, and advertising media
  - Plastic souvenir cups and concession containers
  - Branded-vending opportunities
  - Ticket-mailer inserts
  - E-mail blasts
  - Ticket envelopes
  - Media backdrop
  - Official (advertising, category-exclusive) sponsorships
  - Royalty-free use of Arena marks and logos

- Hospitality events as defined below. All food and beverages for any hospitality event must be purchased through JPA or Operator.

The parties agree, during the Term, neither JPA nor anyone acting on its behalf will enter into any agreements with any third party granting such person or entity Rights similar to those granted or licensed to IMG. JPA further agrees any and all sponsorship, advertising and promotional opportunities related to the Rights will be granted only in connection with a corporate sponsorship agreement through IMG, with the exception of any such opportunities separately negotiated through the JPA and/or Operator as part of locally- and/or nationally-sponsored events that take place in the Arena (*e.g.*, tour/show stops, conventions, etc.).

In addition to currently-existing rights, the Rights also include any future modifications, expansions, refinements, and technological improvements of currently-existing rights and future advertising/sponsorship opportunities, which may be developed.

F. **DONOR-RELATED SPONSORSHIP OPPORTUNITIES.** IMG acknowledges that areas outside the Arena, including the south plaza, northeast elevated plaza and festival space, may be named for donors with no participation from IMG.

G. **IMG'S AGREEMENT WITH THE UNIVERSITY OF NEBRASKA.** JPA and IMG agree that the University Multi-Media Rights Agreement, dated July 1, 2008, by and between University and IMG, grants IMG certain advertising/sponsorship rights (*i.e.*, inventory in the Arena's "bowl", which includes floor logos, stanchions, player seat backs, courtside LED signage, LED signage on the center-hung scoreboard, LED fascia signage, other temporary signage, giveaways, and couponing, etc.) during University men's and women's basketball home games at the Arena, and revenue generated from IMG's exercising such rights will not be included in GCCR as it relates to this Agreement.

H. **ARENA SIGNAGE.** In an effort to ensure the Arena maintains the look and feel of a first-class facility, the City of Lincoln Finance Director shall have the right to approve the appearance and *location of all permanent and temporary signage.*

I. **TRADE.** If requested and approved in advance by the City of Lincoln's Finance Director, IMG may secure budget-reducing trade under this Agreement.

J. **TICKETS.** JPA grants IMG the right to purchase tickets for Arena events prior to their public sale subject to event-promoter restrictions. JPA and/or Operator shall work to provide IMG with complimentary tickets for sponsors/clients. However, IMG acknowledges that JPA and/or Operator does not receive complimentary tickets from event promoters on a regular basis and if JPA and/or Operator receive complimentary tickets, such tickets may be used for other purposes. JPA and/or Operator will provide IMG initial access to event marketing to discuss potential advertising/sponsorship opportunities.

K. **HOSPITALITY.** IMG will have the right to create hospitality areas approved by JPA and/or Operator in and around Arena events. All food and beverages for any hospitality event must be purchased through JPA and/or Operator. IMG acknowledges that the Operator and/or JPA are planning to (i) sell hospitality packages during Husker football games, (ii) lease the Arena and spaces inside the Arena to companies or individuals for conferences or events, and (iii) create additional events in and around the Arena and its parking facilities. Revenue from the Operator and/or JPA hospitality events shall be used to fund the Arena's operation.

JPA confirms that it is currently planning to allow Arena suite holders to access their respective suites during University home football games (pre-game, in-game, and post-game), subject to the Arena's availability. During these events, JPA agrees to operate Arena video boards and LED rings at no cost to IMG.

Additionally, JPA will grant IMG access to the Arena for meetings and sponsor functions on dates that are agreeable to the JPA and/or Operator when no other event is scheduled (including pre- and post-event activities) without charging IMG a rental fee. IMG will pay all costs associated with such meeting(s) or function(s) including but not limited to: security, preparation, clean-up, etc.

L. **CURRENTLY-PITCHED OPPORTUNITIES.** JPA agrees all advertising and sponsorship opportunities pitched prior to the execution of this Agreement shall be assigned to IMG and all revenue generated by any resulting agreements will be included in GCCR.

M. **FOOD VENDORS.** IMG acknowledges and agrees that the JPA and/or Operator are not obligated to sell any food and/or beverage product at the Arena and IMG shall not commit any food/beverage vending or supplier rights to any third party, unless the JPA or Operator approves of such sale. The JPA and/or Operator shall require all Arena food or beverage vendors or suppliers to pursue Arena sponsorship opportunities with IMG. Food or beverage companies not agreeing to become Arena sponsors may not receive any exclusivity with respect to vending and/or advertising rights.

N. **BEST EFFORTS.** The JPA and/or Operator agree to use their best efforts to prevent event promoters from removing or covering signage purchased by Arena corporate partners.

O. **PROHIBITED ADVERTISING CATEGORIES.** IMG may sell advertising and sponsorships into all categories, except those (i) prohibited by existing agreements detailed in **EXHIBIT B**, attached hereto; (ii) that in the JPA's discretion, are inappropriate for any public facility or (iii) encompassing any issues potentially sensitive to the JPA and/or City of Lincoln. IMG will work with the City Finance Director with respect to such issues.

P. **SIGNAGE PRODUCTION.** IMG shall pay for new Arena signage not currently contemplated by the Arena budget. (*i.e.*, light boxes on the concourse and upper-seating bowl fascia, the "Dock", etc.). A list of signage contemplated by the project budget can be found in **EXHIBIT C**, attached hereto. Additionally, IMG shall not pay for new video equipment installed in the Arena during the Term.

Q. **VIDEOBOARD OPERATION/PRODUCTION.** JPA and/or the Operator shall be responsible for all expenses related to video board operations, maintenance, and insurance during Arena events.

R. **OFFICE SPACE.** JPA and/or the Operator will use their best efforts to provide, at no cost to IMG, suitable office space at the Arena for one (1) IMG employee who is working on fulfilling the terms of this Agreement. JPA will provide utilities, janitorial services, internet access, and telephone services (local and long distance) at no cost to IMG.

S. **RADIO-STUDIO SPACE.** JPA will provide, at no cost to IMG, radio-studio space(s) visible to the public and equipped with proper electricity and internet access. IMG acknowledges that there will be dates and/or times, to be determined by the Operator, when IMG is unable to broadcast from the Arena.

T. **MINIMUM EVENTS/ATTENDANCE.** Beginning with the 2014/15 License Agreement Year (and each License Agreement Year thereafter), IMG and the JPA agree that the Arena will host a minimum of seventy-five (75) Arena Events (as defined hereinafter) having a total attendance of at least five hundred thousand (500,000). "Arena Event" shall mean and include every public event, presentation, or performance that occurs in the Arena, whether or not (i) tickets are issued or offered for sale for admission to any such event, presentation, or performance, (ii) admission is actually charged, or (iii) the Arena Event is produced by or for the JPA, directly or indirectly, pursuant to permission, license, or lease by the JPA. Should the JPA fail to meet these minimums in any License Agreement Year, IMG shall receive a pro-rata reduction of its Guaranteed Rights Payment for the subsequent License Agreement Year (*i.e.*, If total attendance in the 2015/16 License Agreement Year only reaches 490,000, 2% less than the 500,000 on which IMG's Guaranteed Rights Payments are based, then IMG's Guaranteed Rights Payment for the 2016/17 License Agreement Year will be $1,039,983.84, which is 2% less than the $1,061,208 Guaranteed Rights Payment listed above for the 2016/17 License Agreement Year).

U. **GOOD FAITH RESOLUTION OF DISPUTES.** In fulfilling the terms of this Agreement, the parties covenant and agree to work cooperatively and in good faith to address any issues or problems that may arise.

V. **REPRESENTATIONS AND WARRANTIES.**

JPA. JPA represents and warrants that (i) it has the authority to enter into this Agreement and to grant the Rights and (ii) the affixed signature on this Agreement is by a duly-authorized JPA representative. JPA further represents and warrants that it will prohibit other entities from exploiting any of the Rights.

IMG. IMG represents that it is a duly-organized Delaware limited-liability company in good standing, authorized to do business in the state of Nebraska. Additionally, IMG represents and warrants that this Agreement is a valid act of the company and the affixed signature is by a duly-authorized IMG representative.

W. **MATERIAL IMPAIRMENT.**

1. If, during the Term, the JPA, or any of its employees or representatives, engages or fails to engage in any activity that materially damages IMG's advertising and/or sponsorship commitments or ability to exploit the Rights, then IMG's Guaranteed Rights Payment for the following License Agreement Year shall be reduced by an amount equal to the actual damages IMG incurred as a result of such activity.

2. To the extent allowed by law, neither the JPA nor the City of Lincoln shall knowingly allow or permit any Arena Events which would shock, insult, or offend a majority of the people of the City of Lincoln.

3. In the event of a major disaster or national emergency (*e.g.*, a declaration of war), which materially impairs IMG's ability to exploit the Rights or collect revenue, IMG's Guaranteed Rights Payment for the following License Agreement Year shall be adjusted equitably to reflect the impact of such interruption, cancellation, or impairment

4. If IMG provides JPA written notice that any person or entity is engaging in actions materially impairing IMG's ability to exploit the Rights, JPA shall be responsible for undertaking efforts to bar such person or entity from further engaging in such actions. If JPA has the legal authority and ability to undertake all efforts necessary to eliminate the material impairment of the Rights but fails to do so, then IMG's Guaranteed Rights Payment for the following License Agreement Year will be adjusted equitably and proportionately to reflect the impact of such impairment.

5. If the inventory offerings described in Section E are materially changed or adversely impacted by the JPA or by subsequent agreements, JPA must honor (including by creating additional prohibited categories or reducing available inventory, etc.), then IMG's Guaranteed Rights Payment for the subsequent License Agreement Year will be adjusted equitably and proportionately to reflect the impact of such impairment.

6. In the event the JPA/City of Lincoln and the University decide the University's men's and women's basketball teams shall play their home games in a venue other than the Arena, then IMG's Annual Royalty Payment shall be adjusted equitably and proportionately to reflect the impact of such impairment on IMG's total revenues for the affected License Agreement Year(s).

X. **BREACH/TERMINATION.** If either party believes the other party has materially breached this Agreement or has failed to perform any of its material obligations, that party may deliver to the allegedly-breaching party a written notice of such breach or failure, providing a reasonable opportunity of not less than thirty (30) days after receipt of such notice ("Cure Period") during which the allegedly-breaching party shall cure such breach before the other party may declare a default or seek other remedies. If, after the Cure Period expires, the breach or failure to perform has not been cured, then the party that gave the notice may declare the other party in default of this Agreement and terminate it, effective at the end of the then-current License Agreement Year, by providing such party a written notice of termination within ninety (90) days of the Cure Period's expiration. If the nature of the default is such that the interests of the terminating party would not be adequately protected until such termination date, in the discretion of the terminating party, then the terminating party may take any action permitted by law or equity as a remedy for such default, to the extent such action is necessary to reasonably to protect its interests.

Y. **ADDITIONAL PINNACLE BANK INVENTORY OPPORTUNITIES.** Pinnacle Bank shall receive the first right of refusal to match Arena-related naming opportunities. Should Pinnacle Bank agree to additional inventory, revenue generated from such inventory will be included in GCCR.

If the foregoing is in accordance with your understanding, please sign one (1) copy and return it to me. The other is for your records. Thank you for your trust and confidence in our team!

IMG College, LLC

By: _____ 11/26/12
Hunter Nickell Date
Senior Vice President

West Haymarket Joint Public Agency

_____
Mayor Chris Beutler Date
Board Chair

EXHIBIT D

EXHIBIT A
Parking Lots and Parking Garages Inventory

The parking garage attached to the Arena is included in the exclusive Rights.

Signage and additional sponsorship inventory related to the parking garage includes but is not limited to:

- Landmark sponsor identification signage
- Light pole banners
- Booth signage
- Parking passes
- Parking tickets (if applicable)

EXHIBIT B
Advertising Restrictions in Existing Agreements

IMG may not sell advertising or sponsorships to any companies prohibited by and must abide by all restrictions and/or limitations in the attached agreements:

1. Title Sponsorship Agreement between Pinnacle Bank and West Haymarket Joint Public Agency

2. University of Nebraska/City of Lincoln Lease and Operating Agreement

EXHIBIT C
Signage Included in Project Budget

The following signage is included in the project budget:

1. IPTV and television monitors

2. Center hung scoreboard
    - Four (4) video replay boards measuring approximately 16.55' high x 22.05' wide
    - Four (4) statistics boards measuring approximately 6.3' high x 22.05' wide
    - Four (4) upper corner boards measuring approximately 6.3' high x 9.45' wide
    - One (1) lower LED halo measuring approximately 2.36' high x 62.98' wide

3. Digital fascia signage
    - Approximately 2.58' high x 307' long

4. Basketball scorer's table
    - Viewable area is approximately 2' 8" high x 37' 9" long

INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS

1. INDEMNIFICATION

A. **Indemnification of JPA**

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. The obligations of indemnification herein shall not include or extend to:

(1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and

(2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.

D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.

C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.

D. **Certificates Showing Coverage**. Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

F. **Other Requirements**. Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence of willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit, or other employee benefit acts;

(2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;

(3) Claims customarily covered under personal injury liability coverage;

(4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;

(5) Claims arising out of ownership, maintenance or use of any motor vehicle;

(6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	**Listing**	**Min Amt**	**Notes**
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	$500,000	each accident
	Bodily Injury by disease	$500,000	each employee
	Bodily Injury	$500,000	policy limit

C. **Commercial General Liability Insurance.**

(1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	$ 100,000	any one fire
Medical Damage Limit	$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include coverage for the following:

- Bodily injury and property damage.
- Fire legal liability
- Coverage for all premises and operations.
- Personal and advertising injury.
- Operations by independent contractors.
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted.
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
- Contractual liability coverage.

(3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.

- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
- Endorsement to provide the general aggregate per project endorsement.
- Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
- Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
- Separation of insureds.
- Additional insured endorsement in favor of and acceptable to the JPA.

(4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. **Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor or and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. **Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. **Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of $5,000,000 per occurrence, $10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

G. **Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.

B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.

B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be $5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.

C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.

D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

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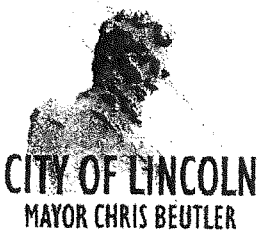

CITY OF LINCOLN
EXECUTIVE ORDER

NO. 083319

WHEREAS, there is concern over the inappropriate competitive advantages in the public bidding process for local publicly funded construction and delivery service contracts resulting from the misclassification of individuals performing construction labor services as "independent contractors" rather than "employees"; such "independent contractors" are commonly referred to as "1099 workers" due to the IRS form they receive rather than a W-4 which an employee receives;

WHEREAS, this misclassification of such individuals as "independent contractors" rather than as "employees" eliminates any obligation to pay these individuals legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit such individuals would typically receive if properly classified as employees;

WHEREAS, this misclassification of individuals performing construction labor services for the contractor as "independent contractors" rather than "employees" is a violation of federal and state law, but is difficult to enforce once public construction or delivery service contracts have been bid, awarded, and entered into;

WHEREAS, the use of public funds to compensate contractors who unlawfully avoid their obligation to pay legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit is not in the public interest; and

EXHIBIT D

WHEREAS, the Employee Classification Act, Neb. Rev. Stat. §§ 48-2901 to 48-2912 (effective July 15, 2010) provides that any contract entered into between a political subdivision and a contractor shall require that each contractor who performs construction or delivery service pursuant to the contract submit to the political subdivision an affidavit attesting that (1) each individual performing services for such contractor is properly classified under the Employee Classification Act, (2) such contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services, (3) such contractor has complied with Neb. Rev. Stat. § 4-114 requirements that the contractor register and use a federal immigration employment verification system to determine the work eligibility status of new employees physically performing services in the State of Nebraska, (4) such contractor has no reasonable basis to believe that any individual performing services for such contractor is an undocumented worker, and (5) as of the time of the contract, such contractor is not barred from contracting with the state or any political subdivision pursuant to § 48-2912 of the Employee Classification Act.

NOW, THEREFORE, BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln, I hereby establish the following policy as to the bid and award of contracts to contractors for construction and delivery services with the City of Lincoln:

The Purchasing Agent shall immediately include in the City of Lincoln's notice to bidders for construction contracts that all contractors submitting bids in response to the notice shall affirmatively certify to the Purchasing Agent that all individuals hired to perform construction or delivery labor services for the contractor under the contract shall be properly classified as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under federal and state law (including the requirements of the State of Nebraska Employee Classification Act), and that the contractor will comply with all legal obligations with respect to these employees (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes). The

EXHIBIT D

notice to bidders shall further provide that contractors may use affidavits required pursuant to the Employee Classification Act for this purpose, but that a failure to make the affirmative certification to the Purchasing Agent shall render the bidder ineligible for award of the contract.

The Purchasing Agent shall immediately include the following provisions in contracts for construction or delivery services:

(1) Contractor agrees that each individual performing services for the contractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that contractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(2) Contractor understands and agrees that failure to classify each individual hired to perform services under the contract as an employee rather than as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the contract by the City.

(3) Contractor additionally agrees to include the following provisions in each subcontract entered into with a subcontractor as part of the contractor's contract with the City:

(a) Subcontractor agrees that each individual performing services for the subcontractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that subcontractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay,

workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(b) Subcontractor understands and agrees that subcontractor's failure to properly classify individuals hired to perform services under the subcontract as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the subcontract by the contractor.

(4) Contractor agrees that if subcontractor fails to or is suspected of failing to properly classify each individual hired pursuant to the subcontract as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or fails to comply with legal obligations with respect to the subcontractor's employee, the contractor shall take appropriate corrective action including, but not limited to, reporting the suspected violation of the State of Nebraska Employee Classification Act to the Nebraska Department of Labor or rescission of the subcontract by the contractor. Written notification of the corrective action shall be submitted to the City of Lincoln Purchasing Department. Contractor understands and agrees that contractor's failure to take appropriate corrective action shall be considered a breach of the contractor's contract with the City of Lincoln and is a grounds for rescission of the contract by the City.

(5) The City of Lincoln shall notify the Nebraska Department of Labor of any contractor or subcontractor it has determined is in breach of contract due to the terms of this order.

(6) Any contractor or subcontractor who shall have been determined by the Nebraska Department of Labor to have knowingly provided a false affidavit to the City of Lincoln

under the State of Nebraska's Employee Classification Act shall be referred to the Purchasing Agent of the City who shall determine whether to declare such contractor or subcontractor an irresponsible bidder who shall be disqualified from receiving any business from the municipality for a stated period of time, in accordance with Lincoln Municipal Code § 2.18.030(n)(1) or (2).

(7) This policy does not prohibit a contractor or subcontractor from hiring individuals to perform construction labor services as independent contractors, provided that the contractor's or subcontractor's use of such individuals as an independent contractor complies with the criteria found in subdivision 5 of Neb. Rev. Stat. § 48-604 and is otherwise valid under federal and state law and is not intended to circumvent lawful obligations under federal and state law or city contractual requirements.

The City Clerk is directed to send a copy of this Executive Order to Vince Mejer, City Purchasing Agent, for his record.

Dated this 28 day of July, 2010.

Chris Beutler, Mayor of Lincoln

Approved as to Form & Legality:

City Attorney

EXHIBIT D

EMPLOYEE CLASSIFICATION ACT AFFIDAVIT

For the purposes of complying with THE NEBRASKA EMPLOYEE CLASSIFICATION ACT, I, _____, herein below known as the Contractor, state under oath and swear as follows:

1. Each individual performing services for the Contractor is properly classified under the Employee Classification Act.

2.The Contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services.

3. The Contractor has complied with Neb Rev Stat 4-114.

4. The Contractor has no reasonable basis to believe that any individual performing services for the Contractor is an undocumented worker.

5. The Contractor is not barred from contracting with the state or any political subdivision pursuant to section 12 of this Act.

6. As the Contractor I understand that pursuant to the Employee Classification Act a violation of the Act by a contractor is grounds for rescission of the contract by the City. I understand that pursuant to the Act any contractor who knowingly provides a false affidavit may be subject to criminal penalties and upon a second or subsequent violation shall be barred from contracting with the City for a period of three years after the date of discovery of the falsehood.

I hereby affirm and swear that the statements and information provided on this affidavit are true, complete and accurate. The undersigned person does hereby agree and represent that he or she is legally capable to sign this affidavit and to lawfully bind the Contractor to this affidavit.

PRINT NAME: _____
(First, Middle, Last)

SIGNATURE: _____

TITLE: _____

State of Nebraska)
) ss.
County of _____)

This affidavit was signed and sworn to before me, the undersigned Notary Public, on this ____ day of _____, 20__.

_____
Notary Public

EXHIBIT D

29 C.F.R. § 5.5

Code of Federal Regulations Currentness
Title 29. Labor
Subtitle A. Office of the Secretary of Labor
Part 5. Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)
Subpart A. Davis-Bacon and Related Acts Provisions and Procedures

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when

EXHIBIT D

the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract,

EXHIBIT D

the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis–Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis–Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

EXHIBIT D

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency

EXHIBIT D

recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

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(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the

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name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

Paragraph	OMB Control Number
(a)(1)(ii)(B)	1215-01
(a)(1)(ii)(C)	1215-01
(a)(1)(iv)	1215-01
(a)(3)(i)	1215-0140, 1215-00
(a)(3)(ii)(A)	1215-01
(c)	1215-0140, 1215-00

[29 FR 100, Jan. 4, 1964, as amended at 29 FR 13463, Sept. 30, 1964; 30 FR 13136, Oct. 15, 1965; 36 FR 19304, Oct. 2, 1971; 40 FR 30481, July 21, 1975; 41 FR 10063, March 9, 1976; 47 FR 145, Jan. 5, 1982; 51 FR 12265, April 9, 1986; 54 FR 4243, Jan. 27, 1989; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 61 FR 68641, Dec. 30, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008; 74 FR 2862, Jan. 16, 2009]

SOURCE: 48 FR 19541, April 29, 1983; 51 FR 12265, April 9, 1986; 61 FR 40716, Aug. 5, 1996; 65 FR 80278, Dec. 20, 2000; 73 FR 77511, Dec. 19, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 et seq.; 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 et seq.; and the laws listed in 5.1(a) of this part; Secretary's Order 01-2008; and Employment Standards Order No. 2001-01.; 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

NOTES OF DECISIONS

29 C. F. R. § 5.5, 29 CFR § 5.5

Current through December 15, 2011; 76 FR 77913.

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END OF DOCUMENT

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EXHIBIT D

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General Decision Number: NE130058 04/19/2013 NE58

Superseded General Decision Number: NE20120065

State: Nebraska

Construction Type: Building
BUILDING CONSTRUCTION INCLUDING WORK ON INDUSTRIAL SITES

County: Lancaster County in Nebraska.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/04/2013
1	03/22/2013
2	04/19/2013

CARP0444-002 07/01/2012

	Rates	Fringes
CARPENTER (Drywall Hanging Only)	$ 21.18	9.98

ELEC0265-003 09/01/2012

	Rates	Fringes
ELECTRICIAN		
Zone 1	$ 25.77	9.96
Zone 2	$ 26.07	9.96
Zone 3	$ 26.37	9.96
Zone 4	$ 26.77	9.96

ZONE DEFINITIONS:
Zone 1: 0 to 35 miles from the main Post Office in Lincoln
Zone 2: 36 to 50 miles from the main Post Office in Lincoln
Zone 3: 51 to 75 miles from the main Post Office in Lincoln
Zone 4: 76 miles and over from the main Post Office in Lincoln

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ELEV0028-001 01/01/2013

	Rates	Fringes
ELEVATOR MECHANIC	$ 39.09	25.185+a+b

FOOTNOTE:
a. Vacation Pay: 8% for persons with 5 or more years of service, 6% for persons with less than 5 years of service.
b. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI0571-004 10/01/2012

	Rates	Fringes
OPERATOR: Crane	$ 27.03	9.59
OPERATOR: Forklift	$ 21.65	9.59

IRON0021-002 06/01/2012

	Rates	Fringes
IRONWORKER, STRUCTURAL	$ 26.37	11.95

LABO1140-003 01/01/2011

	Rates	Fringes
LABORER (Mason Tender, Brick & Hod)	$ 18.13	7.85

PLUM0464-007 06/01/2012

	Rates	Fringes
PIPEFITTER (Including HVAC Pipe Installation)	$ 32.29	14.34

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* SHEE0003-002 07/01/2012

	Rates	Fringes
SHEET METAL WORKER (Excludes Installation of HVAC Duct)	$ 31.71	13.34

SUNE2011-032 10/27/2011

	Rates	Fringes
BRICKLAYER	$ 24.44	0.00
CARPENTER	$ 18.50	1.80
CEMENT MASON/CONCRETE FINISHER	$ 15.73	2.06
ELECTRICIAN (Alarm Installation)	$ 19.68	4.12
ELECTRICIAN (Low Voltage Wiring)	$ 20.15	4.84
FORM WORKER	$ 14.97	2.06
LABORER: Common or General	$ 12.03	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	$ 20.68	4.93
OPERATOR: Bobcat/Skid Steer/Skid Loader	$ 21.72	2.10

OPERATOR: Loader.....$ 19.27 4.00

PAINTER: Brush, Roller and
Spray.....$ 14.26 0.00

PLUMBER, Excludes HVAC Pipe
Installation.....$ 22.89 6.04

ROOFER.....$ 13.57 0.77

SHEET METAL WORKER (HVAC Duct
Installation Only).....$ 21.89 6.30

TRUCK DRIVER, Includes Dump
and Tandem Truck.....$ 14.09 2.49

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor

200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, _____, do hereby certify that all equipment to be used on JPA Project/Bid No. _____, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in Lancaster County, Nebraska.

DATED this ____ day of _____, 20___.

By: _____

Title:_____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On _____, 20___, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came _____, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

_____
Notary Public

(S E A L)

EXHIBIT D

WH 13-45 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the Aerial Lifts Equipment Contract between the West Haymarket Joint Public Agency and NMC, Inc. for the procurement and delivery of the Articulating Boom Lift, including instruction and training, pursuant to Bid No. 13-109, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Contract on behalf of the West Haymarket Joint Public Agency.

The City Clerk is directed to return a copy of this Resolution and the Contract to Rick Peo, City Law Department, for transmittal to NMC, Inc.

Adopted this _____ day of _____, 2013.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Bid No. 13-109

AERIAL LIFTS EQUIPMENT CONTRACT

THIS JPA AERIAL LIFTS CONTRACT ("Contract") is made and entered into as of this _____ day of _____, 2013, by and between **NMC, Inc.,** hereinafter called "Provider," and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, hereinafter called "JPA."

RECITALS

WHEREAS, JPA has caused to be prepared, in accordance with law, Specifications and other Contract Documents for the procurement and delivery of the aerial lifts equipment herein described, including instruction and training, and has approved and adopted said documents and has caused to be published an Invitation to Bid advertisement for and in connection with the Contract.

WHEREAS, the Provider, in response to such advertisement, has submitted to the JPA, in the manner and in the time specified, a sealed Supplier Response in accordance with the terms of said advertisement and the Specifications for an Articulating Boom Lift – JLG 600AJ 2wd.

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Proposal Bid Forms submitted in response to such advertisement, and as a result of such canvass has determined and declared the Provider to be the lowest and best bidder for the furnishing of the above-referenced aerial lifts for the total sum of Ninety-three Thousand Eight Hundred Ninety-three Dollars ($93,893). Copies of the Bid Opportunity Detail, Invitation to Bid, Specifications, Addendums 1, 2 and 3, and Supplier Response (collectively "Bid Documents") are attached hereto as Exhibit A.

WHEREAS, JPA desires to engage Provider for the procurement and delivery of the aerial lifts equipment on the terms and conditions herein provided.

WHEREAS, Provider hereby represents that Provider is willing and able to furnish the aerial lifts equipment and to perform the instruction and training services in accordance with this Contract.

NOW, THEREFORE, in consideration of the above Recitals and the below mutual covenants and agreements the Parties hereto, the Provider and JPA do hereby agree as follows:

SCOPE OF SERVICES. The Provider shall procure and deliver the aerial lifts equipment – JLG2646ES and JLG2630ES as described in the Bid Documents and shall do everything required by this Contract. Provider shall furnish all labor, materials, equipment, services, shipping, loading, packing and cleanup that is necessary for the Provider's performance of this Contract.

COMPENSATION. JPA agrees to pay to Provider for the procurement and delivery of the aerial lifts equipment and instruction/training the amount of $93,893.00 set forth in the Supplier Response and Provider agrees to accept said amount as full compensation therefor. Provider represents that said amount includes Provider's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to the aerial lifts equipment or this Contract. Provider shall defend suits on claims for infringement or any patent, copyright, trademark or other intangible rights in any way related to this Contract.

TIME OF COMPLETION. The furnishing and ordering of the aerial lifts equipment under this Contract shall be commenced as soon as possible and said aerial lifts equipment shall be delivered no earlier than August 1, 2013 and no later than September 1, 2013. Failure to meet the terms of the Contract on or before the Completion Date may result in forfeiture of the performance bonds or deposit of any; shall be deemed a breach of this Contract.

INDEMNIFICATION. Provider agrees to defend, indemnify and hold harmless JPA to the same extent and under the same terms and conditions as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B.

INSURANCE. Provider shall at all times during the term of this Contract purchase and maintain in place insurance coverage as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B, except that the required commercial general liability coverage shall be reduced to $1,000,000 per occurrence and $2,000,000 aggregate. Provider agrees to provide all types of insurance required by the JPA. Provider will furnish coverages against any and all perils required by the JPA.

NON-RAIDING CLAUSE. Provider shall not engage the services of any person or persons presently in the employ of the JPA for work covered by this Contract without the written consent of the JPA.

TERMINATION OF CONTRACT.

A. This Contract may be terminated by the Provider if the JPA fails to adequately perform any material obligation required by this Contract ("Default"). Termination rights under this paragraph may be exercised only if the JPA fails to cure a Default within ten (10) calendar days after receiving written notice from the Provider specifying the nature of the Default.

B. The JPA may terminate this Contract, in whole or part, for any reason for the JPA's own convenience upon at least ten days written notice to the Provider.

If the Contract is terminated by either the JPA or Provider as provided in A or B above, Provider shall be paid for all services performed, and reimbursable expenses incurred, not to exceed the above-mentioned Contract amount, up until the date of termination.

Provider hereby expressly waives any and all claims for damages or compensation arising under this Contract except as set forth in this paragraph in the event of termination.

FAIR EMPLOYMENT. In connection with the performance of work under this Contract, Provider agrees that it shall not discriminate against any employee or applicant for employment with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status in accordance with the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. § 48-1122, as amended.

FAIR LABOR STANDARDS. The Provider shall maintain Fair Labor Standards in the performance of this Contract as required by Chapter 73, Nebraska Revised Statues, as amended.

ASSIGNABILITY. The Provider shall not assign any interest in this Contract, delegate any duties or work required under this Contract, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the JPA thereto; provided, however, that claims for money due or to become due to the Provider from JPA under this Contract may be assigned without such approval, but notice of any such assignment shall be furnished promptly to the JPA.

INTEREST OF PROVIDER. Provider covenants that Provider presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Provider further covenants that in the performance of this Contract, no person having any such interest shall be employed or retained by Provider under this Contract.

INDEPENDENT CONTRACTOR. The JPA is interested only in the results produced by this Contract. Provider has sole and exclusive charge and control of the manner and means of performance. Provider shall perform as an independent contractor and it is expressly understood and agreed that Provider is not an employee of the JPA and is not entitled to any benefits to which JPA employees are entitled, including, but not limited to, overtime, retirement benefits, workmen's compensation benefits, sick leave and/or injury leave.

NEBRASKA LAW. This Contract shall be construed and interpreted according to the laws of the State of Nebraska.

INTEGRATION. This Contract represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Contract.

AMENDMENT. This Contract may be amended or modified only in writing signed by both the JPA and Provider.

SEVERABILITY. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

FEDERAL IMMIGRATION VERIFICATION.

A. If the Provider is a business entity or corporation, then in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Provider shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Provider shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

B. If the Provider is an individual or sole proprietor, the Provider agrees to complete the United States Citizenship Attestation Form as provided by the JPA and attach it to the Contract.

C. Public Benefits Eligibility Status Check. If the Provider is agreeing to determine eligibility for and provide a public benefit as public benefit is defined under Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to have each applicant for public benefits attest that he or she is a U.S. citizen or qualified alien using the form attached. The Provider agrees to register and use the SAVE Program as required under Neb. Rev. Stat. §§4-108 through 4-114. If the applicant indicates he or she is an alien, the Provider shall verify the applicant's lawful presence in the United States as provided under the SAVE Program and retain all documentation and provide copies of such documentation at the JPA's request. For information on the SAVE program, go to www.uscis.gov/SAVE.

CONTRACT DOCUMENTS. The Contract Documents comprise the Contract and consist of the following, whether or not attached hereto:

1. Bid Documents – Exhibit A.
2. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012) - Exhibit B.
3. Supply Bond – Exhibit C.

4. Other Non-Attached Contract Documents:
   a. Sales Tax Exempt Forms (to be provided upon award of the Special Purchase).
      i. Form of Nebraska Resale or Exempt Sales Certificate.
      ii. Form of Purchasing Agent Appointment.
      Note: Any portion of this project used for providing water service, such as pipe for water mains, are not tax exempt and are subject to sales and use tax.
      Note: The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, is exempt from sales and use tax.
   b. Any Bid Documents and/or Bid Attachments listed in the Bid Opportunity Detail not attached as part of Exhibit A.

This Contract, together with the other Contract Documents herein above mentioned, form this Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

REPRESENTATIONS. Each party hereby certifies, represents and warrants to the other party that the execution of this Contract is duly authorized and constitutes a legal, valid and binding obligation of said party.

IN WITNESS WHEREOF, Provider and JPA do hereby execute this Contract as of the Execution Date set forth above.

PROVIDER: **NMC, INC.**

By: _____
Title: _____

JPA: **WEST HAYMARKET JOINT PUBLIC AGENCY**

By: _____
_____, Chairperson of the West Haymarket Joint Public Agency Board of Representatives

EXHIBIT A

Bid Documents

Approved by Law
4-17-2013

Return to Login • Supplier Registration

Bid Opportunity Detail

Bid Number 13-109 Addendum 3 (Purchase of Arial Lifts for Pinnacle Bank Arena)
Close Date & Time 4/10/2013 12:00:00 PM Central
Bid Duration 4 days 20 hours 51 seconds

Bid Information

Bid Type	Bid
Issue Date & Time	4/5/2013 3:59:08 PM Central
Close Date & Time	4/10/2013 12:00:00 PM Central
Bid Status	Unsealed
Bid Notes	

Contact Information

Contact Name	Vince Mejer Purchasing Agent
Address	Purchasing 440 S. 8th St. Lincoln, NE 68516 USA
Department	Purchasing
Floor/Room	Suite 200
Contact Phone	1 (402) 441-8314
Contact Fax	1 (402) 441-6513
Contact Email	vmejer@lincoln.ne.gov

Bid Documents

Document	Format	Description
Invitation Document	Adobe (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Supplier Spreadsheet
Bid Tabulation by Line Item Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Line Item Spreadsheet

Bid Attachments

Location	File Name	Description
Header	13-109 Arial Lifts Spec..pdf (18KB)	Specifications
Header	Instructions to Bidders JPA - A 09-19-11.pdf (26KB)	Instructions to Bidders
Header	JPA_Bonding.pdf (358KB)	Bonding
Header	13-109 Notice to Bidders.pdf (9KB)	Notice to Bidders
Header	13-109 adn1.pdf (6KB)	Addendum No. 1
Header	13-109 Adn. 2.pdf (6KB)	Addendum No. 2
Header	13-109adn1.pdf (18KB)	Addendum 3

EXHIBIT A TO CONTRACT AGREEMENT

INSTRUCTIONS TO BIDDERS
WEST HAYMARKET JOINT PUBLIC AGENCY
E-Bid

1. BIDDING PROCEDURE

1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the West Haymarket Joint Public Agency, hereinafter referred to as "JPA", the materials, supplies, equipment or services shown in the electronic bid request.

1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.

1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.

1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.

1.5 Bids received after the time and date established for receiving bids will be rejected.

1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.

1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2011 shall apply.

1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.

1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.

1.7.3 Said document is available on the web site.
http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm

2. BID SECURITY

2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.

2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.

2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.

2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.

2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.

2.4 Bid security will be returned to the successful Bidder(s) as follows:

2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by JPA.

2.4.2 For all other contracts: upon approval by JPA of the executed contract and bonds.

2.5 JPA shall have the right to retain the bid security of Bidders to whom an award is being considered until either:

2.5.1 A contract has been executed and bonds have been furnished.

2.5.2 The specified time has elapsed so that the bids may be withdrawn.

2.5.3 All bids have been rejected.

2.6 Bid security will be forfeited to JPA as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:

2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided JPA, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. BIDDER'S REPRESENTATION

3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.

3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. **CLARIFICATION OF BIDDING DOCUMENTS**

4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.

4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.

4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.

4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on JPA; and Bidders shall not rely upon such interpretations or changes.

5. **ADDENDA**

5.1 Addenda are instruments issued by JPA prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.

5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.

5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. **INDEPENDENT PRICE DETERMINATION**

6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. **ANTI-LOBBYING PROVISION**

7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or JPA Board and staff except in the course of JPA sponsored inquiries, briefings, interviews, or presentations, unless requested by JPA.

8. **BRAND NAMES**

8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.

8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of JPA that said item is equal to, or better than, the product specified.

8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.

8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.

8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with JPA's bidding documents.

9. **DEMONSTRATIONS/SAMPLES**

9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from JPA.

9.2 Such demonstration can be at the JPA delivery location or a surrounding community.

9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by JPA of acceptable goods. The Bidder must indicate how samples are to be returned.

10. **DELIVERY (Non-Construction)**

10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.

10.2 JPA reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.

10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to JPA at the location specified by JPA, with all transportation charges paid.

10.4 At the time of delivery, a designated JPA employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:

11.1.1 Manufacturer's warranties and/or guarantees.

11.1.2 Bidder's maintenance policies and associated costs.

11.2 As a minimum requirement of JPA, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to JPA. Replacement parts of defective components shall be shipped at no cost to JPA. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.

12.2 Material delivered under this proposal shall remain the property of the Bidder until:

12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to JPA; and

12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.

12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, JPA reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.

12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of JPA, as required by the bidding documents or purchase orders.

12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by JPA of purchase orders, contract award notifications, or other contract documents appropriate to the work.

13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.

13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to JPA, and as JPA deems will best serve the requirements and interests of JPA.

13.5 JPA reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of JPA.

13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by JPA. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.

13.7 JPA reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.

13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

14.1 The Bidder shall indemnify and hold harmless JPA from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless JPA for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of JPA.

14.2 In any and all claims against JPA or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, JPA will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. LIVING WAGE

19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

20.1 All Bidders shall take special notice of the insurance provisions required for all JPA contracts (see *Insurance Requirements for All JPA Contracts*).

21. EXECUTION OF AGREEMENT

21.1 Depending on the type of service provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

__X__ a. **PURCHASE ORDER**, unless otherwise noted.

1. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.

_____ b. **CONTRACT,** unless otherwise noted.

1. JPA will furnish copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
3. JPA will sign and date the Contract.
4. Upon approval and signature, the JPA will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

22.1 JPA is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. AUDIT ADVISORY BOARD

23.1 All parties of any JPA agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. E-VERIFY

24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

Addendum #1
For Purchase of Aerial Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

NOTE: **WHERE EVER THE WORD "ARIAL" APPEARS THROUGHOUT THE BID IT SHOULD READ "AERIAL".**

1. The word "**Arial**" in the title of this bid should read "*Aerial*".

2. The word "**Arial**" in the title of the Bid Specifications and in Section No. 1, Line 1.1 - has been changed to read "*Aerial*".

All other terms and conditions shall remain unchanged.

Dated this 26th day of March, 2013.

Vince Mejer
Purchasing Agent

Addendum #2
For Purchase of Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question There is no indication that the requested machine is to be a 2-wheel drive, or 4-wheel drive.

Answer The unit shall be a 2-wheel drive

All other terms and conditions shall remain unchanged.

Dated this 5th day of April, 2013.

Vince Mejer
Purchasing Agent

MASTERING CRYSTAL REPORTS MADE EASY V. 2011-10

Syllabus

CHAPTER 1- The Crystal Reports Environment
1.1- Starting Crystal Reports
1.2- The Menu Bar
1.3- Using Toolbars
1.4- The Design View

CHAPTER 2- Creating Data Connections
2.1- Creating a New Blank Report
2.2- The Database Expert
2.3- Access/Excel (DAO)
2.4- ADO.NET (XML)- (2011/2008)
2.5- Database Files
2.6- Java Beans Connectivity
2.7- JDBC (JNDI)
2.8- ODBC (RDO)
2.9- OLAP
2.10- OLE DB (ADO)
2.11- Salesforce.com- (2011/2008)
2.12- SAP BW MDX Query- (2011)
2.13- SAP Info Sets- (2011)
2.14- SAP Operational Data Store- (2011)
2.15- SAP Table, Cluster, or Function- (2011)
2.16- Universes- (2011/2008)
2.17- XML and Web Services
2.18- Repository- (2011/2008)
2.19- More Data Sources
2.20- Selecting Report Data and Tables
2.21- Making a "Favorite" Connection- (10 & 11)
2.22- The Data Explorer

CHAPTER 3- Creating Basic Reports
3.1- Adding Data Fields to a Report
3.2- Browsing Field Data
3.3- Selecting, Moving, and Resizing Fields
3.4- Using the "Size" and "Align" Commands
3.5- Creating Text Objects
3.6- Saving a Report
3.7- Previewing a Report (2011, 2008 & 11)
3.8- Previewing a Report (10)
3.9- Refreshing the Report Data

CHAPTER 4- Linking Tables in a Report
4.1- Basic Table Structures and Terms
4.2- Linking Multiple Tables
4.3- Table Joins
4.4- Enforcing Table Joins and Changing Link Types

CHAPTER 5- Basic Formatting Techniques
5.1- Formatting Report Objects
5.2- The Format Editor
5.3- Drawing Lines
5.4- Drawing Boxes
5.5- Format Painter
5.6- Formatting Part of a Text Object
5.7- The Template Expert
5.8- Inserting Pictures

CHAPTER 6- Record Selection
6.1- The Select Expert
6.2- Setting Multiple Filters
6.3- Editing the Selection Formula

CHAPTER 7- Sorting and Grouping Records
7.1- The Record Sort Expert
7.2- The Group Expert
7.3- Managing Groups
7.4- Summarizing Groups
7.5- Hierarchical Groupings
7.6- The Group Sort Expert

CHAPTER 8- Printing Reports
8.1- Inserting Special Fields
8.2- Page Setup
8.3- Print Setup (10)
8.4- Printing Reports

CHAPTER 9- Using Formulas
9.1- Crystal Reports Formula Syntax
9.2- The Formula Workshop- Formula Editor Window
9.3- Creating Formula Fields
9.4- Crystal Syntax
9.5- Basic Syntax
9.6- Finding Function and Operator Assistance

CHAPTER 10- Advanced Formatting
10.1- The Highlighting Expert
10.2- The Section Expert
10.3- Conditionally Formatting a Section
10.4- Conditionally Formatting a Field
10.5- Manipulating Multiple Sections

CHAPTER 11- Summary Reports
11.1- Summarizing Report Data
11.2- Using the DrillDownGroupLevel Feature

CHAPTER 12- Charting
12.1- The Chart Expert
12.2- Editing Charts
12.3- Setting General Chart Options- (2011, 2008 & 11)
12.4- Setting General Chart Options- (10)
12.5- Changing Chart Titles- (10)
12.6- Formatting Selected Chart Items- (2011, 2008 & 11)
12.7- Formatting Selected Chart Items- (10)
12.8- Formatting a Data Series
12.9- Formatting Chart Gridlines- (2011, 2008 & 11)
12.10- Formatting a Chart Grid- (10)
12.11- Setting Chart Axes Options- (2011, 2008 & 11)
12.12- Adding Chart Trendlines
12.13- Modifying a 3D Chart View
12.14- Using Chart Templates
12.15- Auto-Arranging Charts

CHAPTER 13- Advanced Reporting Tools
13.1- Using Running Totals
13.2- Creating Parameter Fields- (2011, 2008 & 11)
13.3- Creating Parameter Fields- (10)
13.4- Parameterized Record Selection
13.5- Entering Parameter Values- (2011, 2008 & 11)
13.6- Entering Parameter Values- (10)
13.7- Creating Subreports
13.8- Report Alerts
13.9- Report Alert Functions

CHAPTER 14- Advanced Formula Creation
14.1- Evaluation Time Functions
14.2- Declaring Variables
14.3- Using and Displaying Variables
14.4- Using Array Values
14.5- Using "If... Then... Else..." Statements
14.6- Using the "Select/Case" Statement
14.7- Using "For" Loops
14.8- Using "Do... While" Loops
14.9- The IIF Functions

CHAPTER 15- Advanced Reporting
15.1- Creating a Report Template
15.2- Exporting Report Results
15.3- Exporting as HTML
15.4- Setting Default Options
15.5- Setting Report Options

CHAPTER 16- Using Report Wizards
16.1- Using the Report Wizards
16.2- Report Wizard Types
16.3- Creating a Cross-Tab Report

CHAPTER 17- Advanced Database Concepts
17.1- Viewing the SQL Code
17.2- Using Table Aliases
17.3- Verifying the Database
17.4- Setting the Datasource Location
17.5- Mapping Fields

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EXHIBIT A TO CONTRACT AGREEMENT

Addendum #3
For Purchase of Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question	The solicitation is for a sales of equipment. Is a bond required ?
Answer	Yes
Question	You are asking for a 5 year warranty. This implies that you are asking for a new boom, is this correct?
Answer	That is the general intent, however if bidding a used unit then a two year warranty will be required.

All other terms and conditions shall remain unchanged.

Dated this 5th day of April, 2013.

Vince Mejer
Purchasing Agent

ARIAL LIFT EQUIPMENT
FOR
PINNACLE BANK ARENA

SPECIFICATIONS
BID NO.: 13-109

1. **GENERAL INFORMATION**
   - 1.1 The following is the approved new Arial Lift equipment.
   - 1.2 This specification is used to establish the minimum acceptable standards for the new lift equipment.
     - 1.2.1 See instructions to bidders Section 8 **Brand Names**.
   - 1.3 If bidding an alternate, all specifications sheets for the equipment must be submitted for review with bid.
     - 1.3.1 Failure to include equipment specification sheets will be considered as a no-bid.
   - 1.4 The successful bidder will be required to provide product data for review and approval prior to award.
   - 1.5 Units shall be delivered with full fluids and fuels ready to use.

2. **BID SPECIFICATIONS PER ITEM**
   - 2.1 Genie GS-2646 or APPROVED EQUAL
     - 2.1.1 32' working height
     - 2.1.2 1000 lbs lift capacity
     - 2.1.3 24v DC (four 6v 225 Ah batteries)
     - 2.1.4 89"x45.3" steel working platform
     - 2.1.5 36" extension deck
     - 2.1.6 Folding rails with full height swing gate
     - 2.1.7 Dual front wheel drive
     - 2.1.8 Universal 20 amp smart charger
     - 2.1.9 Rear recessed charger receptacle
     - 2.1.10 Smart Link – 2 speed lift and proportional drive
     - 2.1.11 Platform control with battery charge indicator and diagnostic display
     - 2.1.12 AC power to platform
     - 2.1.13 On-board diagnostic system
     - 2.1.14 Manual platform lowering valve
     - 2.1.15 Emergency stop at both platform and ground controls
     - 2.1.16 Rear wheel multiple disc brakes
     - 2.1.17 Front wheel hydraulic dynamic braking
     - 2.1.18 Brake release
     - 2.1.19 Solid non-marking tires
     - 2.1.20 Pothole guards
     - 2.1.21 Tilt level sensor with audible alarm
     - 2.1.22 Descent alarm
     - 2.1.23 Electronic horn
     - 2.1.24 Hour Meter
     - 2.1.25 Power Inverter (120v/60Hz)
     - 2.1.26 Full One Year Warranty
     - 2.1.27 Must meet or exceed the following specifications
     - 2.1.28 ANSI A92.6

2.1.29 CSA standard B354.2

3. **GENIE GS-2632 OR APPROVED EQUAL**

3.1 32' working height
3.2 500 lbs lift capacity
3.3 24v DC (four 6v 225 Ah batteries)
3.4 89"x32" steel working platform
3.5 36" extension deck
3.6 Folding rails with half-height swing gate
3.7 Dual front wheel drive
3.8 Universal 20 amp smart charger
3.9 Rear recessed charger receptacle
3.10 Proportional 2 speed lift and drive
3.11 Platform control with battery charge indicator and diagnostic display
3.12 AC power to platform
3.13 On-board diagnostic system
3.14 Manual platform lowering valve
3.15 Emergency stop at both platform and ground controls
3.16 Rear wheel multiple disc brakes
3.17 Front wheel hydraulic dynamic braking
3.18 Brake release
3.19 Solid non-marking tires
3.20 Pothole guards
3.21 Tilt level sensor with audible alarm
3.22 Descent alarm
3.23 Electronic horn
3.24 Hour Meter
3.25 Power Inverter (120v/60Hz)
3.26 Full One Year Warranty
3.27 Must meet or exceed the following specifications
3.28 ANSI A92.6
3.29 CSA standard B354.2

4. **JLG 600AJ ARTICULATING BOOM LIFT**

4.1 6' Articulating Jib
4.2 36"x96" work platform with side entry
4.3 Inward self-closing swing gate
4.4 Oscillating Axle
4.5 180 Degree Hydraulic platform rotator
4.6 5 degree Tilt Alarm/Indicator Light
4.7 Swing-Out engine tray
4.8 12v-DC Auxiliary Power
4.9 Hour meter
4.10 Horn
4.11 Control ADE System
4.12 Proportional Controls
4.13 Gull-Wing Engine Hood
4.14 Operator Tool Tray
4.15 Platform console machine status light panel
4.16 14x17.5 rim protector lug tread tires
4.17 All motion alarm

4.18 60'7" Maximum Platform Height
4.19 39'9" Maximum Horizontal Outreach
4.20 26'7" Up and Over clearance
4.21 8' Overall Width
4.22 Dual Fuel Engine (GM Vortec 3000 MPH)
4.23 Full One Year Warranty
4.24 Five Year Warranty of major structural components
4.25 Must meet or exceed the following specifications:
OSHA 29 CFR 1910.67
OSHA 29 CFR 1926.453
ANSI A92.5-2006
CSA standard B354.4-02

5. **MANUFACTURERS RECOMMENDED MAINTENANCE INTERVALS UP TO 500 HOURS**.
5.1 First PM service no charge.
5.2 To include two hour operator training class to cover machine daily checks and correct machine operations at delivery time of machine.
5.3 To include two hour refresher course six months after delivery or equivalent of all of above

6. **IF BIDDING USED EQUIPMENT**
6.1 Used Equipment with not more than 1500 of use hours will be accepted.
6.2 Full Maintenance records of used equipment must be provided.
6.3 Full ANSI inspection and certification prior to delivery.
6.4 Bidder must submit a list of five (5) references if bidding used equipment.
6.5 Bidder must include all information pertaining to each used equipment bid on, to include, type of use, company name, and contact.

7. **COMPANY INFORMATION**
7.1 Provide company history for lifts, including years of operation and client/employee growth.
7.2 Describe the firm's ability to support the schedule and delivery requirements.
7.2.1 Describe the firm's customer support program for resolution of warranty items.
7.3 Provide information on five (5) recent projects of similar facilities that have utilized its equipment being proposed within the last three (3) years.
7.4 The above shall be attached in the Response Attachment Section of the bid.

8. **PROJECT DESCRIPTION**
8.1 Project Description and Construction Team:
8.1 Owner: West Haymarket JPA (Joint Public Agency)
8.2 JPA Program Manager: PC Sports
8.3 Arena Operator: SMG Management / SAVOR
8.4 Project Architect: DLR Group
8.5 Arena Contractor: Mortenson Construction

8.2 Project location:

Pinnacle Bank Arena
600 R Street
Lincoln, NE 68508

8.3 Type of Construction:

8.3.1 The project consist of a 16,000 seat arena of approximately five levels toinclude: Event Level, Main Concourse, Premium Suite Level, Upper Concourse and the catwalk level.

8.3.2 The attached garage is approximately 280 spaces and is a three-level precast structure.

9. QUALIFICATIONS

9.1 All proposers must state the location that the proposed products are manufactured, assembled or produced.

9.2 The manufacturer must have an established reputation in the line with the equipment proposed.

10. SHIPMENT OF PRODUCT

10.1 Shipment of product is to be coordinated with the Arena Operator, PC Sports and Mortenson Construction.

10.2 Product must be delivered no sooner than **August 1, 2013 but no later than September 1, 2013.**

10.3 Pinnacle Bank Arena 600 R Street, Lincoln, NE 68508.

11. SECURITY

11.1 Access will be restricted only to those having business on the site.

12. USE OF WORK AREA

12.1 Delivery of supplies, equipment and/or materials to the site shall be along routes designated by the Arena Contractor or Arena Operator.

12.2 The Vendor must obtain prior approval from the Owner or his representative of areas proposed for temporary storage, stockpiling, equipment, maintenance or operations.

12.3 Working areas shall be chosen by the Owner or his representative in cooperation with the Arena Contractor.

12.4 The Vendor shall be responsible for repairing, at no cost to the Owner, all Images caused by the work of the Contract.

13. DISCREPANCIES AND OMISSIONS

13.1 The Vendor finding discrepancies in, or omissions from the drawings, specifications or other documents, or having any doubt as to meaning or intent of any part thereof, shall at once notify the JPA's Purchasing Agent in writing, he will send written instructions in the form of an Addendum.

13.2 Direct inquiries to:

Vince M. Mejer
440 S. 8th Street, Suite 200
Fax: 402.441.6513
vmejer@lincoln.ne.gov

14. ERRORS IN BIDS

14.1 Owner will not entertain requests for gratuitous payments arising from errors alleged to have been made in Bid that he has accepted.

15. BID SUBMITTAL

15.1 Contractor shall submit bid documents and all supporting material via e-bid.

15.2 All inquiries regarding the Lifts Specifications shall be directed via e-mail or faxed request to:

Vince M. Mejer, Purchasing Agent
(vmejer@lincoln.ne.gov) or Fax: (402) 441-6513.

15.2.1 These inquiries and/or responses shall be distributed to prospective Vendor electronically as addenda.

15.2.2 The Purchasing Office shall only reply to written inquiries received within five (5) calendar days of bid opening.

15.3 No direct contact is allowed between Vendor and other City or JPA Staff through the bid process.

15.3.1 Failure to comply with this directive may result in the Vendor bid being rejected.

City of Lincoln/Lancaster County (Lincoln Purchasing)
Supplier Response

Bid Information

Bid Creator	Shelly Hinze, Buyer
Email	rhinze@lincoln.ne.gov
Phone	1 (402) 441-8313
Fax	1 (402) 441-6513
Bid Number	13-109 Addendum 3
Title	Purchase of Arial Lifts for Pinnacle Bank Arena
Bid Type	Bid
Issue Date	04/05/2013
Close Date	4/10/2013 12:00:00 PM CST
Need by Date	

Contact Information

Address	Purchasing 440 S. 8th St. Lincoln, NE 68516
Contact	Vince Mejer Purchasing Agent
Department	Purchasing
Building	
Floor/Room	Suite 200
Telephone	1 (402) 441-8314
Fax	1 (402) 441-6513
Email	vmejer@lincoln.ne.gov

Ship to Information

Address	
Contact	
Department	
Building	
Floor/Room	
Telephone	
Fax	
Email	

Supplier Information

Company	NMC, Inc
Address	930 West O Street Lincoln, NE 68528
Contact	
Department	
Building	
Floor/Room	
Telephone	1 (402) 474-5566
Fax	1 (402) 474-0118
Email	
Submitted	4/10/2013 8:17:57 AM CST
Total	$134,459.00

Signature _____

Supplier Notes

Bid Notes

Bid Activities

Bid Messages

Please review the following and respond where necessary

EXHIBIT A TO CONTRACT AGREEMENT

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Performance/Payment Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	Yes
3	Specifications	I acknowledge reading and understanding the specifications and attachments.	Yes
4	Tax Exempt Certificate Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby Water projects are taxable.)	Yes
5	Contact	Name of person submitting this bid:	Bill Scholting
6	Electronic Signature	Please check here for your electronic signature.	Yes
7	Agreement to Addendum No. 1	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes
8	Agreement to Addendum No. 2	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes
9	Agreement to Addendum No. 3	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes

Line Items

#	Qty	UOM	Description	Response
1	1	EA	Arial Lift Genie GS-2646 or Equal	$23,798.00
	Item Notes:			
	Supplier Notes: Bidding Genie GS-2646 Per Specs. (Genie GS-2646 is manufactured in Redmond, WA)			
2	1	EA	Arial Lift Genie GS-2632 or Equal	$16,768.00
	Item Notes:			
	Supplier Notes: Bidding Genie GS-2632 Per Specs. (Genie GS-2646 is manufactured in Redmond, WA)			
3	1	EA	Articulating Boom Lift JLG 600 AJ or Equal	$93,893.00
	Item Notes:			
	Supplier Notes: Bidding JLG 600 AJ 2wd per specs. (JLG 600AJ is manufactured McConnellsburg, PA)			
			Response Total:	$134,459.00

EXHIBIT A TO CONTRACT AGREEMENT

EXHIBIT B

Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012)

Approved by Law
4-17-2013

INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS

1. INDEMNIFICATION

A. **Indemnification of JPA**

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. The obligations of indemnification herein shall not include or extend to:

(1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and

(2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.

D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.

C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.

D. **Certificates Showing Coverage**. Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

F. **Other Requirements**. Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence of willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit, or other employee benefit acts;

(2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;

(3) Claims customarily covered under personal injury liability coverage;

(4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;

(5) Claims arising out of ownership, maintenance or use of any motor vehicle;

(6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	**Listing**	**Min Amt**	**Notes**
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	$500,000	each accident
	Bodily Injury by disease	$500,000	each employee
	Bodily Injury	$500,000	policy limit

C. **Commercial General Liability Insurance.**

(1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	$ 100,000	any one fire
Medical Damage Limit	$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include coverage for the following:

- Bodily injury and property damage.
- Fire legal liability
- Coverage for all premises and operations.
- Personal and advertising injury.
- Operations by independent contractors.
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted.
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
- Contractual liability coverage.

(3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.

- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
- Endorsement to provide the general aggregate per project endorsement.
- Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
- Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
- Separation of insureds.
- Additional insured endorsement in favor of and acceptable to the JPA.

(4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. **Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor or and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. **Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. **Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of $5,000,000 per occurrence, $10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

G. **Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.

B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.

B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be $5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.

C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.

D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

EXHIBIT C

Supply Bond

Approved by Law
4-17-2013

Bond No. _____

SUPPLY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, **NMC, Inc.**, as **Principal**, and _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Nebraska, as **Surety**, are held and firmly bound unto the **West Haymarket Joint Public Agency,** as **Obligee**, in the penal sum of Ninety-Three Thousand Eight Hundred Ninety-Three and 00/100ths Dollars ($93,893.00), lawful money of the United States of America and to the faithful payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators (or, assigns), firmly by this presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That:

WHEREAS, Principal has entered into the West Haymarket Joint Public Agency (JPA) Portable Basketball Floor Contract ("Contract") dated May 3, 2013, (an original of which is on file in the Office of the City Clerk of the City of Lincoln, Nebraska) which provided for the procurement and delivery of the aerial lifts equipment as set forth in the Bid Documents.
\

NOW, THEREFORE, if Principal shall timely procure and deliver the aerial lifts equipment in accordance with the Contract, as require the execution of this Supply Bond, then this obligation shall become void, otherwise to remain in full force and effect. In the event Principal shall be declared by the Obligee to be in default under the above obligation, the Obligee may relet or otherwise complete the purchase and delivery of the aerial lifts equipment. Surety shall promptly indemnify and save harmless the Obligee to the limit of the penal amount of this bond from any loss, including but not limited to the Obligee's reasonable cost of such reletting or completion including the increased cost, if any, for the purchase and delivery of the aerial lifts equipment and delay damages due to the Principal's failure to timely procure and deliver the aerial lifts equipment.

Signed and dated this ____ day of _____, 2013.

NMC, Inc., Principal

By: _____
Name: _____
Title: _____

_____, Surety

By: _____
Title: Attorney-in-Fact

(Accompany this Bond with Attorney-in-Fact's authority from Surety to execute this bond, certified to include the date of the Bond)

WH 13-46 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the Aerial Lifts Equipment Contract between the West Haymarket Joint Public Agency and OER Services, LLC for the procurement and delivery of two aerial lifts, including instruction and training, pursuant to Bid No. 13-109, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Contract on behalf of the West Haymarket Joint Public Agency.

The City Clerk is directed to return a copy of this Resolution and the Contract to Rick Peo, City Law Department, for transmittal to OER Services, LLC.

Adopted this _____ day of _____, 2013.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Bid No. 13-109

AERIAL LIFTS EQUIPMENT CONTRACT

THIS JPA AERIAL LIFTS CONTRACT ("Contract") is made and entered into as of this _____ day of _____, 2013, by and between **OER SERVICES, LLC**, hereinafter called "Provider," and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, hereinafter called "JPA."

RECITALS

WHEREAS, JPA has caused to be prepared, in accordance with law, Specifications and other Contract Documents for the procurement and delivery of the aerial lifts equipment herein described, including instruction and training, and has approved and adopted said documents and has caused to be published an Invitation to Bid advertisement for and in connection with the Contract.

WHEREAS, the Provider, in response to such advertisement, has submitted to the JPA, in the manner and in the time specified, a sealed Supplier Response in accordance with the terms of said advertisement and the Specifications for Alternate 1 Alt Spec: JLG2646ES and Alternate 1 Alt Spec: JLG2630ES.

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Proposal Bid Forms submitted in response to such advertisement, and as a result of such canvass has determined and declared the Provider to be the lowest and best bidder for the furnishing of the above-referenced aerial lifts for the total sum of Thirteen Thousand Six Hundred Fifty-five Dollars ($13,655) ($6,530 for JLG2646ES and $7,125 for JLG2630ES). Copies of the Bid Opportunity Detail, Invitation to Bid, Specifications, Addendums 1, 2 and 3, and Supplier Response (collectively "Bid Documents") are attached hereto as Exhibit A.

WHEREAS, JPA desires to engage Provider for the procurement and delivery of the aerial lifts equipment on the terms and conditions herein provided.

WHEREAS, Provider hereby represents that Provider is willing and able to furnish the aerial lifts equipment and to perform the instruction and training services in accordance with this Contract.

NOW, THEREFORE, in consideration of the above Recitals and the below mutual covenants and agreements the Parties hereto, the Provider and JPA do hereby agree as follows:

SCOPE OF SERVICES. The Provider shall procure and deliver the aerial lifts equipment – JLG2646ES and JLG2630ES as described in the Bid Documents and shall do everything required by this Contract. Provider shall furnish all labor, materials, equipment, services, shipping, loading, packing and cleanup that is necessary for the Provider's performance of this Contract.

COMPENSATION. JPA agrees to pay to Provider for the procurement and delivery of the aerial lifts equipment and instruction/training the amount of $13,655 set forth in the Supplier Response and Provider agrees to accept said amount as full compensation therefor. Provider represents that said amount includes Provider's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to the aerial lifts equipment or this Contract. Provider shall defend suits on claims for infringement or any patent, copyright, trademark or other intangible rights in any way related to this Contract.

TIME OF COMPLETION. The furnishing and ordering of the aerial lifts equipment under this Contract shall be commenced as soon as possible and said aerial lifts equipment shall be delivered no earlier than August 1, 2013 and no later than September 1, 2013. Failure to meet the terms of the Contract on or before the Completion Date may result in forfeiture of the performance bonds or deposit of any; shall be deemed a breach of this Contract.

INDEMNIFICATION. Provider agrees to defend, indemnify and hold harmless JPA to the same extent and under the same terms and conditions as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B.

INSURANCE. Provider shall at all times during the term of this Contract purchase and maintain in place insurance coverage as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B, except that the required commercial general liability coverage shall be reduced to $1,000,000 per occurrence and $2,000,000 aggregate. Provider agrees to provide all types of insurance required by the JPA. Provider will furnish coverages against any and all perils required by the JPA.

NON-RAIDING CLAUSE. Provider shall not engage the services of any person or persons presently in the employ of the JPA for work covered by this Contract without the written consent of the JPA.

TERMINATION OF CONTRACT.

A. This Contract may be terminated by the Provider if the JPA fails to adequately perform any material obligation required by this Contract ("Default"). Termination rights under this paragraph may be exercised only if the JPA fails to cure a Default within ten (10) calendar days after receiving written notice from the Provider specifying the nature of the Default.

B. The JPA may terminate this Contract, in whole or part, for any reason for the JPA's own convenience upon at least ten days written notice to the Provider.

If the Contract is terminated by either the JPA or Provider as provided in A or B above, Provider shall be paid for all services performed, and reimbursable expenses incurred, not to exceed the above-mentioned Contract amount, up until the date of termination.

Provider hereby expressly waives any and all claims for damages or compensation arising under this Contract except as set forth in this paragraph in the event of termination.

FAIR EMPLOYMENT. In connection with the performance of work under this Contract, Provider agrees that it shall not discriminate against any employee or applicant for employment with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status in accordance with the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. § 48-1122, as amended.

FAIR LABOR STANDARDS. The Provider shall maintain Fair Labor Standards in the performance of this Contract as required by Chapter 73, Nebraska Revised Statues, as amended.

ASSIGNABILITY. The Provider shall not assign any interest in this Contract, delegate any duties or work required under this Contract, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the JPA thereto; provided, however, that claims for money due or to become due to the Provider from JPA under this Contract may be assigned without such approval, but notice of any such assignment shall be furnished promptly to the JPA.

INTEREST OF PROVIDER. Provider covenants that Provider presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Provider further covenants that in the performance of this Contract, no person having any such interest shall be employed or retained by Provider under this Contract.

INDEPENDENT CONTRACTOR. The JPA is interested only in the results produced by this Contract. Provider has sole and exclusive charge and control of the manner and means of performance. Provider shall perform as an independent contractor and it is expressly understood and agreed that Provider is not an employee of the JPA and is not entitled to any benefits to which JPA employees are entitled, including, but not limited to, overtime, retirement benefits, workmen's compensation benefits, sick leave and/or injury leave.

NEBRASKA LAW. This Contract shall be construed and interpreted according to the laws of the State of Nebraska.

INTEGRATION. This Contract represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Contract.

AMENDMENT. This Contract may be amended or modified only in writing signed by both the JPA and Provider.

SEVERABILITY. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

FEDERAL IMMIGRATION VERIFICATION.

A. If the Provider is a business entity or corporation, then in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Provider shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Provider shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

B. If the Provider is an individual or sole proprietor, the Provider agrees to complete the United States Citizenship Attestation Form as provided by the JPA and attach it to the Contract.

C. Public Benefits Eligibility Status Check. If the Provider is agreeing to determine eligibility for and provide a public benefit as public benefit is defined under Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to have each applicant for public benefits attest that he or she is a U.S. citizen or qualified alien using the form attached. The Provider agrees to register and use the SAVE Program as required under Neb. Rev. Stat. §§4-108 through 4-114. If the applicant indicates he or she is an alien, the Provider shall verify the applicant's lawful presence in the United States as provided under the SAVE Program and retain all documentation and provide copies of such documentation at the JPA's request. For information on the SAVE program, go to www.uscis.gov/SAVE.

CONTRACT DOCUMENTS. The Contract Documents comprise the Contract and consist of the following, whether or not attached hereto:

1. Bid Documents – Exhibit A.
2. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012) - Exhibit B.
3. Supply Bond – Exhibit C.

4. Other Non-Attached Contract Documents:
   a. Sales Tax Exempt Forms (to be provided upon award of the Special Purchase).
      i. Form of Nebraska Resale or Exempt Sales Certificate.
      ii. Form of Purchasing Agent Appointment.
      Note: Any portion of this project used for providing water service, such as pipe for water mains, are not tax exempt and are subject to sales and use tax.
      Note: The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, is exempt from sales and use tax.
   b. Any Bid Documents and/or Bid Attachments listed in the Bid Opportunity Detail not attached as part of Exhibit A.

This Contract, together with the other Contract Documents herein above mentioned, form this Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

REPRESENTATIONS. Each party hereby certifies, represents and warrants to the other party that the execution of this Contract is duly authorized and constitutes a legal, valid and binding obligation of said party.

IN WITNESS WHEREOF, Provider and JPA do hereby execute this Contract as of the Execution Date set forth above.

PROVIDER: **OER SERVICES LLC**

By: _____
Title: _____

JPA: **WEST HAYMARKET JOINT PUBLIC AGENCY**

By: _____
_____, Chairperson of the West Haymarket Joint Public Agency Board of Representatives

EXHIBIT A

Bid Documents

Approved by Law
4-17-2013

Return to Login • Supplier Registration

Bid Opportunity Detail

Bid Number 13-109 Addendum 3 (Purchase of Arial Lifts for Pinnacle Bank Arena)
Close Date & Time 4/10/2013 12:00:00 PM Central
Bid Duration 4 days 20 hours 51 seconds

Bid Information

Bid Type	Bid
Issue Date & Time	4/5/2013 3:59:08 PM Central
Close Date & Time	4/10/2013 12:00:00 PM Central
Bid Status	Unsealed
Bid Notes	

Contact Information

Contact Name	Vince Mejer Purchasing Agent
Address	Purchasing 440 S. 8th St. Lincoln, NE 68516 USA
Department	Purchasing
Floor/Room	Suite 200
Contact Phone	1 (402) 441-8314
Contact Fax	1 (402) 441-6513
Contact Email	vmejer@lincoln.ne.gov

Bid Documents

Document	Format	Description
Invitation Document	Adobe (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Supplier Spreadsheet
Bid Tabulation by Line Item Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Line Item Spreadsheet

Bid Attachments

Location	File Name	Description
Header	13-109 Arial Lifts Spec..pdf (18KB)	Specifications
Header	Instructions to Bidders JPA - A 09-19-11.pdf (26KB)	Instructions to Bidders
Header	JPA_Bonding.pdf (358KB)	Bonding
Header	13-109 Notice to Bidders.pdf (9KB)	Notice to Bidders
Header	13-109 adn1.pdf (6KB)	Addendum No. 1
Header	13-109 Adn. 2.pdf (6KB)	Addendum No. 2
Header	13-109adn1.pdf (18KB)	Addendum 3

EXHIBIT A TO CONTRACT AGREEMENT

INSTRUCTIONS TO BIDDERS
WEST HAYMARKET JOINT PUBLIC AGENCY
E-Bid

1. BIDDING PROCEDURE

1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the West Haymarket Joint Public Agency, hereinafter referred to as "JPA", the materials, supplies, equipment or services shown in the electronic bid request.

1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.

1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.

1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.

1.5 Bids received after the time and date established for receiving bids will be rejected.

1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.

1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2011 shall apply.

1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.

1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.

1.7.3 Said document is available on the web site.
http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm

2. BID SECURITY

2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.

2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.

2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.

2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.

2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.

2.4 Bid security will be returned to the successful Bidder(s) as follows:

2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by JPA.

2.4.2 For all other contracts: upon approval by JPA of the executed contract and bonds.

2.5 JPA shall have the right to retain the bid security of Bidders to whom an award is being considered until either:

2.5.1 A contract has been executed and bonds have been furnished.

2.5.2 The specified time has elapsed so that the bids may be withdrawn.

2.5.3 All bids have been rejected.

2.6 Bid security will be forfeited to JPA as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:

2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided JPA, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. BIDDER'S REPRESENTATION

3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.

3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. **CLARIFICATION OF BIDDING DOCUMENTS**

4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.

4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.

4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.

4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on JPA; and Bidders shall not rely upon such interpretations or changes.

5. **ADDENDA**

5.1 Addenda are instruments issued by JPA prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.

5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.

5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. **INDEPENDENT PRICE DETERMINATION**

6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. **ANTI-LOBBYING PROVISION**

7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or JPA Board and staff except in the course of JPA sponsored inquiries, briefings, interviews, or presentations, unless requested by JPA.

8. **BRAND NAMES**

8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.

8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of JPA that said item is equal to, or better than, the product specified.

8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.

8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.

8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with JPA's bidding documents.

9. **DEMONSTRATIONS/SAMPLES**

9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from JPA.

9.2 Such demonstration can be at the JPA delivery location or a surrounding community.

9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by JPA of acceptable goods. The Bidder must indicate how samples are to be returned.

10. **DELIVERY (Non-Construction)**

10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.

10.2 JPA reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.

10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to JPA at the location specified by JPA, with all transportation charges paid.

10.4 At the time of delivery, a designated JPA employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:

11.1.1 Manufacturer's warranties and/or guarantees.

11.1.2 Bidder's maintenance policies and associated costs.

11.2 As a minimum requirement of JPA, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to JPA. Replacement parts of defective components shall be shipped at no cost to JPA. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.

12.2 Material delivered under this proposal shall remain the property of the Bidder until:

12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to JPA; and

12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.

12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, JPA reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.

12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of JPA, as required by the bidding documents or purchase orders.

12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by JPA of purchase orders, contract award notifications, or other contract documents appropriate to the work.

13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.

13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to JPA, and as JPA deems will best serve the requirements and interests of JPA.

13.5 JPA reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of JPA.

13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by JPA. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.

13.7 JPA reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.

13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

14.1 The Bidder shall indemnify and hold harmless JPA from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless JPA for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of JPA.

14.2 In any and all claims against JPA or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, JPA will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. LIVING WAGE

19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

20.1 All Bidders shall take special notice of the insurance provisions required for all JPA contracts (see *Insurance Requirements for All JPA Contracts*).

21. EXECUTION OF AGREEMENT

21.1 Depending on the type of service provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

__X__ a. **PURCHASE ORDER**, unless otherwise noted.

1. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.

_____ b. **CONTRACT,** unless otherwise noted.

1. JPA will furnish copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
3. JPA will sign and date the Contract.
4. Upon approval and signature, the JPA will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

22.1 JPA is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. AUDIT ADVISORY BOARD

23.1 All parties of any JPA agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. E-VERIFY

24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

Addendum #1
For Purchase of Aerial Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

NOTE: **WHERE EVER THE WORD "ARIAL" APPEARS THROUGHOUT THE BID IT SHOULD READ "AERIAL".**

1. The word "**Arial**" in the title of this bid should read "*Aerial*".

2. The word "**Arial**" in the title of the Bid Specifications and in Section No. 1, Line 1.1 - has been changed to read "*Aerial*".

All other terms and conditions shall remain unchanged.

Dated this 26th day of March, 2013.

Vince Mejer
Purchasing Agent

Addendum #2
For Purchase of Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question There is no indication that the requested machine is to be a 2-wheel drive, or 4-wheel drive.

Answer The unit shall be a 2-wheel drive

All other terms and conditions shall remain unchanged.

Dated this 5th day of April, 2013.

Vince Mejer
Purchasing Agent

MASTERING CRYSTAL REPORTS MADE EASY V. 2011-10

Syllabus

CHAPTER 1- The Crystal Reports Environment
1.1- Starting Crystal Reports
1.2- The Menu Bar
1.3- Using Toolbars
1.4- The Design View

CHAPTER 2- Creating Data Connections
2.1- Creating a New Blank Report
2.2- The Database Expert
2.3- Access/Excel (DAO)
2.4- ADO.NET (XML)- (2011/2008)
2.5- Database Files
2.6- Java Beans Connectivity
2.7- JDBC (JNDI)
2.8- ODBC (RDO)
2.9- OLAP
2.10- OLE DB (ADO)
2.11- Salesforce.com- (2011/2008)
2.12- SAP BW MDX Query- (2011)
2.13- SAP Info Sets- (2011)
2.14- SAP Operational Data Store- (2011)
2.15- SAP Table, Cluster, or Function- (2011)
2.16- Universes- (2011/2008)
2.17- XML and Web Services
2.18- Repository- (2011/2008)
2.19- More Data Sources
2.20- Selecting Report Data and Tables
2.21- Making a "Favorite" Connection- (10 & 11)
2.22- The Data Explorer

CHAPTER 3- Creating Basic Reports
3.1- Adding Data Fields to a Report
3.2- Browsing Field Data
3.3- Selecting, Moving, and Resizing Fields
3.4- Using the "Size" and "Align" Commands
3.5- Creating Text Objects
3.6- Saving a Report
3.7- Previewing a Report (2011, 2008 & 11)
3.8- Previewing a Report (10)
3.9- Refreshing the Report Data

CHAPTER 4- Linking Tables in a Report
4.1- Basic Table Structures and Terms
4.2- Linking Multiple Tables
4.3- Table Joins
4.4- Enforcing Table Joins and Changing Link Types

CHAPTER 5- Basic Formatting Techniques
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5.2- The Format Editor
5.3- Drawing Lines
5.4- Drawing Boxes
5.5- Format Painter
5.6- Formatting Part of a Text Object
5.7- The Template Expert
5.8- Inserting Pictures

CHAPTER 6- Record Selection
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6.2- Setting Multiple Filters
6.3- Editing the Selection Formula

CHAPTER 7- Sorting and Grouping Records
7.1- The Record Sort Expert
7.2- The Group Expert
7.3- Managing Groups
7.4- Summarizing Groups
7.5- Hierarchical Groupings
7.6- The Group Sort Expert

CHAPTER 8- Printing Reports
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9.1- Crystal Reports Formula Syntax
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9.6- Finding Function and Operator Assistance

CHAPTER 10- Advanced Formatting
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CHAPTER 17- Advanced Database Concepts
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17.2- Using Table Aliases
17.3- Verifying the Database
17.4- Setting the Datasource Location
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EXHIBIT A TO CONTRACT AGREEMENT

Addendum #3
For Purchase of Lifts for Pinnacle Bank Arena
Bid No. 13-109

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question	The solicitation is for a sales of equipment. Is a bond required ?
Answer	Yes
Question	You are asking for a 5 year warranty. This implies that you are asking for a new boom, is this correct?
Answer	That is the general intent, however if bidding a used unit then a two year warranty will be required.

All other terms and conditions shall remain unchanged.

Dated this 5th day of April, 2013.

Vince Mejer
Purchasing Agent

ARIAL LIFT EQUIPMENT
FOR
PINNACLE BANK ARENA

SPECIFICATIONS
BID NO.: 13-109

1. **GENERAL INFORMATION**
   - 1.1 The following is the approved new Arial Lift equipment.
   - 1.2 This specification is used to establish the minimum acceptable standards for the new lift equipment.
     - 1.2.1 See instructions to bidders Section 8 **Brand Names**.
   - 1.3 If bidding an alternate, all specifications sheets for the equipment must be submitted for review with bid.
     - 1.3.1 Failure to include equipment specification sheets will be considered as a no-bid.
   - 1.4 The successful bidder will be required to provide product data for review and approval prior to award.
   - 1.5 Units shall be delivered with full fluids and fuels ready to use.

2. **BID SPECIFICATIONS PER ITEM**
   - 2.1 Genie GS-2646 or APPROVED EQUAL
     - 2.1.1 32' working height
     - 2.1.2 1000 lbs lift capacity
     - 2.1.3 24v DC (four 6v 225 Ah batteries)
     - 2.1.4 89"x45.3" steel working platform
     - 2.1.5 36" extension deck
     - 2.1.6 Folding rails with full height swing gate
     - 2.1.7 Dual front wheel drive
     - 2.1.8 Universal 20 amp smart charger
     - 2.1.9 Rear recessed charger receptacle
     - 2.1.10 Smart Link – 2 speed lift and proportional drive
     - 2.1.11 Platform control with battery charge indicator and diagnostic display
     - 2.1.12 AC power to platform
     - 2.1.13 On-board diagnostic system
     - 2.1.14 Manual platform lowering valve
     - 2.1.15 Emergency stop at both platform and ground controls
     - 2.1.16 Rear wheel multiple disc brakes
     - 2.1.17 Front wheel hydraulic dynamic braking
     - 2.1.18 Brake release
     - 2.1.19 Solid non-marking tires
     - 2.1.20 Pothole guards
     - 2.1.21 Tilt level sensor with audible alarm
     - 2.1.22 Descent alarm
     - 2.1.23 Electronic horn
     - 2.1.24 Hour Meter
     - 2.1.25 Power Inverter (120v/60Hz)
     - 2.1.26 Full One Year Warranty
     - 2.1.27 Must meet or exceed the following specifications
     - 2.1.28 ANSI A92.6

2.1.29 CSA standard B354.2

3. **GENIE GS-2632 OR APPROVED EQUAL**

3.1 32' working height
3.2 500 lbs lift capacity
3.3 24v DC (four 6v 225 Ah batteries)
3.4 89"x32" steel working platform
3.5 36" extension deck
3.6 Folding rails with half-height swing gate
3.7 Dual front wheel drive
3.8 Universal 20 amp smart charger
3.9 Rear recessed charger receptacle
3.10 Proportional 2 speed lift and drive
3.11 Platform control with battery charge indicator and diagnostic display
3.12 AC power to platform
3.13 On-board diagnostic system
3.14 Manual platform lowering valve
3.15 Emergency stop at both platform and ground controls
3.16 Rear wheel multiple disc brakes
3.17 Front wheel hydraulic dynamic braking
3.18 Brake release
3.19 Solid non-marking tires
3.20 Pothole guards
3.21 Tilt level sensor with audible alarm
3.22 Descent alarm
3.23 Electronic horn
3.24 Hour Meter
3.25 Power Inverter (120v/60Hz)
3.26 Full One Year Warranty
3.27 Must meet or exceed the following specifications
3.28 ANSI A92.6
3.29 CSA standard B354.2

4. **JLG 600AJ ARTICULATING BOOM LIFT**

4.1 6' Articulating Jib
4.2 36"x96" work platform with side entry
4.3 Inward self-closing swing gate
4.4 Oscillating Axle
4.5 180 Degree Hydraulic platform rotator
4.6 5 degree Tilt Alarm/Indicator Light
4.7 Swing-Out engine tray
4.8 12v-DC Auxiliary Power
4.9 Hour meter
4.10 Horn
4.11 Control ADE System
4.12 Proportional Controls
4.13 Gull-Wing Engine Hood
4.14 Operator Tool Tray
4.15 Platform console machine status light panel
4.16 14x17.5 rim protector lug tread tires
4.17 All motion alarm

4.18 60'7" Maximum Platform Height
4.19 39'9" Maximum Horizontal Outreach
4.20 26'7" Up and Over clearance
4.21 8' Overall Width
4.22 Dual Fuel Engine (GM Vortec 3000 MPH)
4.23 Full One Year Warranty
4.24 Five Year Warranty of major structural components
4.25 Must meet or exceed the following specifications:
OSHA 29 CFR 1910.67
OSHA 29 CFR 1926.453
ANSI A92.5-2006
CSA standard B354.4-02

5. **MANUFACTURERS RECOMMENDED MAINTENANCE INTERVALS UP TO 500 HOURS**.
5.1 First PM service no charge.
5.2 To include two hour operator training class to cover machine daily checks and correct machine operations at delivery time of machine.
5.3 To include two hour refresher course six months after delivery or equivalent of all of above

6. **IF BIDDING USED EQUIPMENT**
6.1 Used Equipment with not more than 1500 of use hours will be accepted.
6.2 Full Maintenance records of used equipment must be provided.
6.3 Full ANSI inspection and certification prior to delivery.
6.4 Bidder must submit a list of five (5) references if bidding used equipment.
6.5 Bidder must include all information pertaining to each used equipment bid on, to include, type of use, company name, and contact.

7. **COMPANY INFORMATION**
7.1 Provide company history for lifts, including years of operation and client/employee growth.
7.2 Describe the firm's ability to support the schedule and delivery requirements.
7.2.1 Describe the firm's customer support program for resolution of warranty items.
7.3 Provide information on five (5) recent projects of similar facilities that have utilized its equipment being proposed within the last three (3) years.
7.4 The above shall be attached in the Response Attachment Section of the bid.

8. **PROJECT DESCRIPTION**
8.1 Project Description and Construction Team:
8.1 Owner: West Haymarket JPA (Joint Public Agency)
8.2 JPA Program Manager: PC Sports
8.3 Arena Operator: SMG Management / SAVOR
8.4 Project Architect: DLR Group
8.5 Arena Contractor: Mortenson Construction

8.2 Project location:

Pinnacle Bank Arena
600 R Street
Lincoln, NE 68508

8.3 Type of Construction:

8.3.1 The project consist of a 16,000 seat arena of approximately five levels toinclude: Event Level, Main Concourse, Premium Suite Level, Upper Concourse and the catwalk level.

8.3.2 The attached garage is approximately 280 spaces and is a three-level precast structure.

9. QUALIFICATIONS

9.1 All proposers must state the location that the proposed products are manufactured, assembled or produced.

9.2 The manufacturer must have an established reputation in the line with the equipment proposed.

10. SHIPMENT OF PRODUCT

10.1 Shipment of product is to be coordinated with the Arena Operator, PC Sports and Mortenson Construction.

10.2 Product must be delivered no sooner than **August 1, 2013 but no later than September 1, 2013.**

10.3 Pinnacle Bank Arena 600 R Street, Lincoln, NE 68508.

11. SECURITY

11.1 Access will be restricted only to those having business on the site.

12. USE OF WORK AREA

12.1 Delivery of supplies, equipment and/or materials to the site shall be along routes designated by the Arena Contractor or Arena Operator.

12.2 The Vendor must obtain prior approval from the Owner or his representative of areas proposed for temporary storage, stockpiling, equipment, maintenance or operations.

12.3 Working areas shall be chosen by the Owner or his representative in cooperation with the Arena Contractor.

12.4 The Vendor shall be responsible for repairing, at no cost to the Owner, all Images caused by the work of the Contract.

13. DISCREPANCIES AND OMISSIONS

13.1 The Vendor finding discrepancies in, or omissions from the drawings, specifications or other documents, or having any doubt as to meaning or intent of any part thereof, shall at once notify the JPA's Purchasing Agent in writing, he will send written instructions in the form of an Addendum.

13.2 Direct inquiries to:

Vince M. Mejer
440 S. 8th Street, Suite 200
Fax: 402.441.6513
vmejer@lincoln.ne.gov

14. ERRORS IN BIDS

14.1 Owner will not entertain requests for gratuitous payments arising from errors alleged to have been made in Bid that he has accepted.

15. BID SUBMITTAL

15.1 Contractor shall submit bid documents and all supporting material via e-bid.

15.2 All inquiries regarding the Lifts Specifications shall be directed via e-mail or faxed request to:

Vince M. Mejer, Purchasing Agent
(vmejer@lincoln.ne.gov) or Fax: (402) 441-6513.

15.2.1 These inquiries and/or responses shall be distributed to prospective Vendor electronically as addenda.

15.2.2 The Purchasing Office shall only reply to written inquiries received within five (5) calendar days of bid opening.

15.3 No direct contact is allowed between Vendor and other City or JPA Staff through the bid process.

15.3.1 Failure to comply with this directive may result in the Vendor bid being rejected.

City of Lincoln/Lancaster County (Lincoln Purchasing)
Supplier Response

Bid Information

Bid Creator	Shelly Hinze, Buyer
Email	rhinze@lincoln.ne.gov
Phone	1 (402) 441-8313
Fax	1 (402) 441-6513
Bid Number	13-109 Addendum 3
Title	Purchase of Arial Lifts for Pinnacle Bank Arena
Bid Type	Bid
Issue Date	04/05/2013
Close Date	4/10/2013 12:00:00 PM CST
Need by Date	

Contact Information

Address	Purchasing 440 S. 8th St. Lincoln, NE 68516
Contact	Vince Mejer Purchasing Agent
Department	Purchasing
Building	
Floor/Room	Suite 200
Telephone	1 (402) 441-8314
Fax	1 (402) 441-6513
Email	vmejer@lincoln.ne.gov

Ship to Information

Address	
Contact	
Department	
Building	
Floor/Room	
Telephone	
Fax	
Email	

Supplier Information

Company	OER Services LLC
Address	925 E Rand Rd $204 Arlington Heights, IL 60004
Contact	James Pinatne
Department	
Building	
Floor/Room	
Telephone	1 (224) 241 0985
Fax	1 (847) 4831125
Email	jpintane@oer4usa.com
Submitted	4/10/2013 11:49:51 AM CST
Total	$143,066.83

Signature _____

Supplier Notes

Bid Notes

Bid Activities

Bid Messages

Please review the following and respond where necessary

EXHIBIT A TO CONTRACT AGREEMENT

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Performance/Payment Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	Yes
3	Specifications	I acknowledge reading and understanding the specifications and attachments.	Yes
4	Tax Exempt Certificate Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby Water projects are taxable.)	Yes
5	Contact	Name of person submitting this bid:	James Pintane - 773 456 4828
6	Electronic Signature	Please check here for your electronic signature.	Yes
7	Agreement to Addendum No. 1	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes
8	Agreement to Addendum No. 2	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes
9	Agreement to Addendum No. 3	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: See Bid Attachments section for Addendum information.	Yes

Line Items

#	Qty	UOM	Description	Response
1	1	EA	Arial Lift Genie GS-2646 or Equal	$23,220.07
	Item Notes:			
	Supplier Notes:		Genie / 2646 - (NEW 2013) Power inverter, 800W, 120V AC, 60 Hz	
Alt 1	1	EA	Alt Spec: JLG 2646ES 2004 - 285 hrs	6,530.00
	Alt Manufacturer: JLG		Alt Manufacturer #: 2646ES	
	Item Notes:			
	Supplier Notes:		DOES NOT INCLUDE Power inverter, 800W, 120V AC, 60 Hz	
2	1	EA	Arial Lift Genie GS-2632 or Equal	$17,960.13
	Item Notes:			
	Supplier Notes:		Genie GS-2632 Power inverter, 800W, 120V AC, 60 Hz	
Alt 1	1	EA	Alt Spec: JLG 2630ES 2005 - 314 hrs	7,125.00
	Alt Manufacturer: JLG		Alt Manufacturer #: 2639 ES	
	Item Notes:			
	Supplier Notes:		DOES NOT INCLUDE Power inverter, 800W, 120V AC, 60 Hz	
3	1	EA	Articulating Boom Lift JLG 600 AJ or Equal	$101,886.63
	Item Notes:			
	Supplier Notes:		Genie Z-60/34 with jib, 4WD All included options	
Alt 1	1	EA	Alt Spec: Genie Z-60/34 with jib, 2WD with non-oscillating axles	92,131.75
	Alt Manufacturer: Genie		Alt Manufacturer #: Z60/34 2wd	
	Item Notes:			
	Supplier Notes:		All included options	
			Response Total:	$143,066.83

EXHIBIT A TO CONTRACT AGREEMENT

EXHIBIT B

Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012)

Approved by Law
4-17-2013

INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS

1. INDEMNIFICATION

A. **Indemnification of JPA**

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. The obligations of indemnification herein shall not include or extend to:

(1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and

(2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.

D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.

C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.

D. **Certificates Showing Coverage**. Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

F. **Other Requirements**. Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence of willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit, or other employee benefit acts;

(2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;

(3) Claims customarily covered under personal injury liability coverage;

(4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;

(5) Claims arising out of ownership, maintenance or use of any motor vehicle;

(6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	**Listing**	**Min Amt**	**Notes**
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	$500,000	each accident
	Bodily Injury by disease	$500,000	each employee
	Bodily Injury	$500,000	policy limit

C. **Commercial General Liability Insurance.**

(1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	$ 100,000	any one fire
Medical Damage Limit	$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include coverage for the following:

- Bodily injury and property damage.
- Fire legal liability
- Coverage for all premises and operations.
- Personal and advertising injury.
- Operations by independent contractors.
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted.
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
- Contractual liability coverage.

(3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.

- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
- Endorsement to provide the general aggregate per project endorsement.
- Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
- Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
- Separation of insureds.
- Additional insured endorsement in favor of and acceptable to the JPA.

(4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. **Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor or and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. **Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. **Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of $5,000,000 per occurrence, $10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

G. **Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.

B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.

B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be $5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.

C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.

D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

EXHIBIT C

Supply Bond

Approved by Law
4-17-2013

Bond No. _____

SUPPLY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, **OER SERVICES LLC**, as **Principal**, and _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Nebraska, as **Surety**, are held and firmly bound unto the **West Haymarket Joint Public Agency,** as **Obligee**, in the penal sum of Thirteen Thousand Six Hundred Fifty-five and 00/100ths Dollars ($13,655.00), lawful money of the United States of America and to the faithful payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators (or, assigns), firmly by this presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That:

WHEREAS, Principal has entered into the West Haymarket Joint Public Agency (JPA) Portable Basketball Floor Contract ("Contract") dated May 3, 2013, (an original of which is on file in the Office of the City Clerk of the City of Lincoln, Nebraska) which provided for the procurement and delivery of the aerial lifts equipment as set forth in the Bid Documents.

NOW, THEREFORE, if Principal shall timely procure and deliver the aerial lifts equipment in accordance with the Contract, as require the execution of this Supply Bond, then this obligation shall become void, otherwise to remain in full force and effect. In the event Principal shall be declared by the Obligee to be in default under the above obligation, the Obligee may relet or otherwise complete the purchase and delivery of the aerial lifts equipment. Surety shall promptly indemnify and save harmless the Obligee to the limit of the penal amount of this bond from any loss, including but not limited to the Obligee's reasonable cost of such reletting or completion including the increased cost, if any, for the purchase and delivery of the aerial lifts equipment and delay damages due to the Principal's failure to timely procure and deliver the aerial lifts equipment.

Signed and dated this ____ day of _____, 2013.

OER SERVICES LLC, Principal

By: _____
Name: _____
Title: _____

_____, Surety

By: _____
Title: Attorney-in-Fact

(Accompany this Bond with Attorney-in-Fact's authority from Surety to execute this bond, certified to include the date of the Bond)

WH 13-47 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the attached Portable Concession Carts Contract between the West Haymarket Joint Public Agency and Carts of Colorado, Inc. to provide for the procurement, delivery and installation of the portable concession carts, pursuant to Bid No. 13-094, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Contract on behalf of the JPA.

The City Clerk is directed to return a fully executed original of the Contract to Rick Peo for transmittal to Carts of Colorado, Inc.

Adopted this _____ day of May, 2013.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
BID NO. 13-094

PORTABLE CONCESSION CARTS CONTRACT

THIS JPA PORTABLE CONCESSION CARTS CONTRACT ("Contract") is made and entered into as of this _____ day of _____, 2013, by and between **CARTS OF COLORADO, INC.**, hereinafter called "Provider," and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, hereinafter called "JPA."

RECITALS

WHEREAS, JPA has caused to be prepared, in accordance with law, Portable Concession Carts Specifications and other Contract Documents for the procurement, delivery and installation of the portable concession carts herein described and has approved and adopted said documents and has caused to be published an Invitation to Bid advertisement for and in connection with the Contract.

WHEREAS, the Provider, in response to such advertisement, has submitted to the JPA, in the manner and in the time specified, a sealed Quote in accordance with the terms of said advertisement and the Portable Concession Carts Specifications.

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Quotes submitted in response to such advertisement, and as a result of such canvass has determined and declared the Provider to be the lowest and best bidder for the furnishing of the portable concession carts for the sum of $249,647, plus freight and installation in the not-to-exceed estimated amounts of $14,425 and $3,850, respectively. Copies of the Bid Opportunity Detail, Invitation to Bid, Instructions to Bidders, the Portable Concession Carts Specifications, Addendums 1 and 2, and the Provider's Quote (collectively "Bid Documents") are attached hereto as Exhibit A.

WHEREAS, JPA desires to engage Provider for the procurement, delivery and installation of the portable concession carts on the terms and conditions herein provided.

WHEREAS, Provider hereby represents that Provider is willing and able to furnish and install the portable concession carts in accordance with this Contract.

NOW, THEREFORE, in consideration of the above Recitals and the below mutual covenants and agreements the Parties hereto, the Provider and JPA do hereby agree as follows:

SCOPE OF SERVICES. The Provider shall procure, deliver and install the portable concession carts as described in the Specifications prepared by the JPA and shall do everything required by this Contract. Provider shall furnish all labor, materials, equipment, and services that is necessary for the Provider's performance of this Contract.

COMPENSATION. JPA agrees to pay to Provider for the procurement, delivery and installation of the portable concession carts for the sum of $249,647 as set forth in the Provider's Quote, plus freight and installation in the not-to-exceed amounts of $14,425 and $3,850, respectively, and Provider agrees to accept said amounts as full compensation therefor. Provider represents that said amounts include Provider's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to the portable concession carts or this Contract. Provider shall defend suits on claims for infringement or any patent, copyright, trademark or other intangible rights in any way related to this Contract.

TIME OF COMPLETION. The furnishing and ordering of the portable concession carts under this Contract shall be commenced as soon as possible and said portable concession carts shall be delivered and installed commencing on or about August 1, 2013 and completed no later than August 31, 2013, provided that the JPA reserves the right to adjust the installation schedule to a later date with no penalty and at no additional costs. Failure to meet the terms of the Contract on or before the Completion Date may result in forfeiture of the supply bond or deposit, if any, and shall be deemed a breach of this Contract.

INDEMNIFICATION. Provider agrees to defend, indemnify and hold harmless JPA to the same extent and under the same terms and conditions as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B.

INSURANCE. Provider shall at all times during the term of this Contract purchase and maintain in place insurance coverage as required by the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts attached hereto as Exhibit B, except that the required commercial general liability coverage shall be reduced to $1,000,000 per occurrence and $2,000,000 aggregate. Provider agrees to provide all types of insurance required by the JPA. Provider will furnish coverages against any and all perils required by the JPA.

NON-RAIDING CLAUSE. Provider shall not engage the services of any person or persons presently in the employ of the JPA for work covered by this Contract without the written consent of the JPA.

TERMINATION OF CONTRACT.

A. This Contract may be terminated by the Provider if the JPA fails to adequately perform any material obligation required by this Contract ("Default"). Termination rights under this paragraph may be exercised only if the JPA fails to cure a Default within ten (10) calendar days after receiving written notice from the Provider specifying the nature of the Default.

B. The JPA may terminate this Contract, in whole or part, for any reason for the JPA's own convenience upon at least ten days written notice to the Provider.

If the Contract is terminated by either the JPA or Provider as provided in A or B above, Provider shall be paid for all services performed, and reimbursable expenses incurred, not to exceed the above-mentioned Contract amount, up until the date of termination.

Provider hereby expressly waives any and all claims for damages or compensation arising under this Contract except as set forth in this paragraph in the event of termination.

FAIR EMPLOYMENT. In connection with the performance of work under this Contract, Provider agrees that it shall not discriminate against any employee or applicant for employment with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status in accordance with the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. § 48-1122, as amended.

FAIR LABOR STANDARDS. The Provider shall maintain Fair Labor Standards in the performance of this Contract as required by Chapter 73, Nebraska Revised Statues, as amended.

ASSIGNABILITY. The Provider shall not assign any interest in this Contract, delegate any duties or work required under this Contract, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the JPA thereto; provided, however, that claims for money due or to become due to the Provider from JPA under this Contract may be assigned without such approval, but notice of any such assignment shall be furnished promptly to the JPA.

INTEREST OF PROVIDER. Provider covenants that Provider presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. Provider further covenants that in the performance of this Contract, no person having any such interest shall be employed or retained by Provider under this Contract.

INDEPENDENT CONTRACTOR. The JPA is interested only in the results produced by this Contract. Provider has sole and exclusive charge and control of the manner and means of performance. Provider shall perform as an independent contractor and it is expressly understood and agreed that Provider is not an employee of the JPA and is not entitled to any benefits to which JPA employees are entitled, including, but not limited to, overtime, retirement benefits, workmen's compensation benefits, sick leave and/or injury leave.

NEBRASKA LAW. This Contract shall be construed and interpreted according to the laws of the State of Nebraska.

INTEGRATION. This Contract represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Contract.

AMENDMENT. This Contract may be amended or modified only in writing signed by both the JPA and Provider.

SEVERABILITY. If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER OF CONTRACTUAL RIGHT. The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

FEDERAL IMMIGRATION VERIFICATION.

A. If the Provider is a business entity or corporation, then in accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Provider shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Provider shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

B. If the Provider is an individual or sole proprietor, the Provider agrees to complete the United States Citizenship Attestation Form as provided by the JPA and attach it to the Contract.

C. Public Benefits Eligibility Status Check. If the Provider is agreeing to determine eligibility for and provide a public benefit as public benefit is defined under Neb. Rev. Stat. §§ 4-108 through 4-114, the Provider agrees to have each applicant for public benefits attest that he or she is a U.S. citizen or qualified alien using the form attached. The Provider agrees to register and use the SAVE Program as required under Neb. Rev. Stat. §§4-108 through 4-114. If the applicant indicates he or she is an alien, the Provider shall verify the applicant's lawful presence in the United States as provided under the SAVE Program and retain all documentation and provide copies of such documentation at the JPA's request. For information on the SAVE program, go to www.uscis.gov/SAVE.

CONTRACT DOCUMENTS. The Contract Documents comprise the Contract and consist of the following, whether or not attached hereto:

1. Bid Documents – Exhibit A.
2. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012) - Exhibit B.
3. Supply Bond – Exhibit C.

4. Other Non-Attached Contract Documents:
   a. Sales Tax Exempt Forms (to be provided upon award of the Special Purchase).
      i. Form of Nebraska Resale or Exempt Sales Certificate.
      ii. Form of Purchasing Agent Appointment.
      Note: Any portion of this project used for providing water service, such as pipe for water mains, are not tax exempt and are subject to sales and use tax.
      Note: The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, is exempt from sales and use tax.
   b. Any Bid Documents and/or Bid Attachments listed in the Bid Opportunity Detail not attached as part of Exhibit A.

This Contract, together with the other Contract Documents herein above mentioned, form this Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

REPRESENTATIONS. Each party hereby certifies, represents and warrants to the other party that the execution of this Contract is duly authorized and constitutes a legal, valid and binding obligation of said party.

IN WITNESS WHEREOF, Provider and JPA do hereby execute this Contract as of the Execution Date set forth above.

PROVIDER: **CARTS OF COLORADO, INC.**

By: _____
Title: _____

JPA: **WEST HAYMARKET JOINT PUBLIC AGENCY**

By: _____
Chris Beutler, Chairperson of the West Haymarket Joint Public Agency Board of Representatives

EXHIBIT A

Bid Documents

Approved by Law
4-16-2013

Return to Login • Supplier Registration

Bid Opportunity Detail

Bid Number 13-094 Addendum 2 (Portable Concession Carts for Pinnacle Bank Arena)
Close Date & Time 3/22/2013 12:00:00 PM Central
Bid Duration 13 days 20 hours 27 minutes 59 seconds

Bid Information

Bid Type	Bid
Issue Date & Time	3/8/2013 3:32:00 PM Central
Close Date & Time	3/22/2013 12:00:00 PM Central
Bid Status	Unsealed
Bid Notes	

Contact Information

Contact Name	Vince Mejer Purchasing Agent
Address	Purchasing 440 S. 8th St. Lincoln, NE 68516 USA
Department	Purchasing
Floor/Room	Suite 200
Contact Phone	1 (402) 441-8314
Contact Fax	1 (402) 441-6513
Contact Email	vmejer@lincoln.ne.gov

Bid Documents

Document	Format	Description
Invitation Document	Adobe (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Supplier Spreadsheet
Bid Tabulation by Line Item Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Line Item Spreadsheet

Bid Attachments

Location	File Name	Description
Header	13-094 adv.pdf (6KB)	Notice to Bidders
Header	Instructions to Bidders JPA - A 09-19-11.pdf (26KB)	Instructions to Bidders
Header	JPA Insurance March 2012.pdf (236KB)	Insurance Requirements
Header	JPA_Bonding.pdf (358KB)	Bonding
Header	13-094 Concession Carts.pdf (63KB)	Specifications
Header	Renderings.pdf (560KB)	Renderings (Page 1 is blank)
Header	13-094 ftp.pdf (127KB)	CCA55 Plans Arena Schedule and Food Service Plans, Equipment Plans/Drawings
Header	13-094adn1.pdf (6KB)	Addendum No. 1
Header	13-094 contract.pdf (35KB)	Sample Contract (per Addendum No. 1)
Header	13-094adn2.pdf (6KB)	Addendum No. 2

EXHIBIT A TO CONTRACT AGREEMENT
4/16/2013

Advertise 1 time
Friday, March 8, 2013

West Haymarket JPA
Purchasing Division
NOTICE TO BIDDERS

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska **BY ELECTRONIC BID PROCESS** until: **12:00 p.m, Friday, March 22, 2013** for the following:

West Haymarket JPA Portable Concession Carts
for
Pinnacle Bank Arena
Bid No. 13-094

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration").

Once registered, vendors will receive e-mail bid notification, first acknowledging registration, then approval of registration. Upon e-mail notification of registration approval, you may go to the E-Bid site to respond to this bid. Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-7410 or (402) 441-8314 or vmejer@lincoln.ne.gov.

EXHIBIT A TO CONTRACT AGREEMENT

INSTRUCTIONS TO BIDDERS
WEST HAYMARKET JOINT PUBLIC AGENCY
E-Bid

1. BIDDING PROCEDURE

1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the West Haymarket Joint Public Agency, hereinafter referred to as "JPA", the materials, supplies, equipment or services shown in the electronic bid request.

1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.

1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.

1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.

1.5 Bids received after the time and date established for receiving bids will be rejected.

1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.

1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2011 shall apply.

1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.

1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.

1.7.3 Said document is available on the web site.
http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm

2. BID SECURITY

2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.

2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.

2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.

2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.

2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.

2.4 Bid security will be returned to the successful Bidder(s) as follows:

2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by JPA.

2.4.2 For all other contracts: upon approval by JPA of the executed contract and bonds.

2.5 JPA shall have the right to retain the bid security of Bidders to whom an award is being considered until either:

2.5.1 A contract has been executed and bonds have been furnished.

2.5.2 The specified time has elapsed so that the bids may be withdrawn.

2.5.3 All bids have been rejected.

2.6 Bid security will be forfeited to JPA as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:

2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided JPA, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. BIDDER'S REPRESENTATION

3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.

3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. CLARIFICATION OF BIDDING DOCUMENTS

4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.

4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.

4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.

4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on JPA; and Bidders shall not rely upon such interpretations or changes.

5. ADDENDA

5.1 Addenda are instruments issued by JPA prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.

5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.

5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. INDEPENDENT PRICE DETERMINATION

6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. ANTI-LOBBYING PROVISION

7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or JPA Board and staff except in the course of JPA sponsored inquiries, briefings, interviews, or presentations, unless requested by JPA.

8. BRAND NAMES

8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.

8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of JPA that said item is equal to, or better than, the product specified.

8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.

8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.

8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with JPA's bidding documents.

9. DEMONSTRATIONS/SAMPLES

9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from JPA.

9.2 Such demonstration can be at the JPA delivery location or a surrounding community.

9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by JPA of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.

10.2 JPA reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.

10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to JPA at the location specified by JPA, with all transportation charges paid.

10.4 At the time of delivery, a designated JPA employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
- 11.1.1 Manufacturer's warranties and/or guarantees.
- 11.1.2 Bidder's maintenance policies and associated costs.

11.2 As a minimum requirement of JPA, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to JPA. Replacement parts of defective components shall be shipped at no cost to JPA. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.

12.2 Material delivered under this proposal shall remain the property of the Bidder until:
- 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to JPA; and
- 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.

12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, JPA reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.

12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of JPA, as required by the bidding documents or purchase orders.

12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by JPA of purchase orders, contract award notifications, or other contract documents appropriate to the work.

13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.

13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.

13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to JPA, and as JPA deems will best serve the requirements and interests of JPA.

13.5 JPA reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of JPA.

13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by JPA. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.

13.7 JPA reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.

13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

14.1 The Bidder shall indemnify and hold harmless JPA from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless JPA for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of JPA.

14.2 In any and all claims against JPA or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

15.1 Unless stated otherwise, JPA will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.

16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

18.1 The City of Lincoln provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. LIVING WAGE

19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

20.1 All Bidders shall take special notice of the insurance provisions required for all JPA contracts (see *Insurance Requirements for All JPA Contracts*).

21. EXECUTION OF AGREEMENT

21.1 Depending on the type of service provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

__X__ a. **PURCHASE ORDER**, unless otherwise noted.

1. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.

_____ b. **CONTRACT,** unless otherwise noted.

1. JPA will furnish copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
3. JPA will sign and date the Contract.
4. Upon approval and signature, the JPA will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

22.1 JPA is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. AUDIT ADVISORY BOARD

23.1 All parties of any JPA agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. E-VERIFY

24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

ADDENDUM #1
Issue Date: 03/12/13

BID NO.13-094
FOR

Portable Concession Carts for Pinnacle Bank Arena

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

A sample contract has been attached to this bid.

All other terms and conditions shall remain unchanged.

Dated this 12th day of March, 2013.

Vince M. Mejer
Purchasing Agent

ADDENDUM #2
Issue Date: 03/20/13

BID NO.13-094
FOR

Portable Concession Carts for Pinnacle Bank Arena

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

Question 1: On numbers 34 and 35 (Bar Composite and Outdoor Bar Cart) the descriptions indicate canopy structure whereas the renderings show no canopy. Are we to include canopy(ies) in our bid.

Answer: A canopy structure is not applicable for Items 34 and 35.

All other terms and conditions shall remain unchanged.

Dated this 20th day of March, 2013.

Vince M. Mejer
Purchasing Agent

PORTABLE CONCESSION CARTS
FOR
PINNACLE BANK ARENA

SPECIFICATIONS
BID NO: 13-094

1. **PORTABLE CART REQUIREMENTS**
   - 1.1 The successful Bidder shall furnish all labor, materials and equipment necessary to perform and complete the work called for in the specifications.
     - 1.1.1 The Bidder understands that all materials furnished shall be new and the best of their respective kinds, unless otherwise specified.
   - 1.2 The items shown in the specifications shall be manufactured as specified, or an approved equal. (See Section 8 of Instructions to Bidders)
     - 1.2.1 Specifications were written around Carts of Colorado, Inc.
   - 1.3 The basic published specifications or material, finish and construction used by each manufacturer for the item specified herein shall be considered as the minimum acceptable under this contract.
     - 1.3.1 Substitutions of equivalent items of other manufacturers will be considered, provided all provisions are satisfactorily met.
   - 1.4 All bid responses are to include the base bid portable cart package.
     - 1.4.1 If Vendor would like Owner to consider any alternate, please note item in the Supplier Notes section and attach cut sheets and product information.
     - 1.4.2 Alternates may or may not be considered in selection.
   - 1.5 Any "or equal" item must reflect the appearance, design, and approximate dimensions of the item specified, and must be of equivalent materials, quality and sturdiness of construction as the item specified.
     - 1.5.1 Failure to submit product literature may result in disqualification of the bid.

2. **SCOPE OF WORK**
   - 2.1 The Scope of Work shall include, but not be limited to the following:
     - 2.1.1 All products are to be received by dedicated receiving personnel at the project site or by exception at an approved warehouse.
       - 2.1.1.1 Warehouses must be bonded and insured.
       - 2.1.1.2 Shipments are to be verified for completeness and damages, if any assessed.
       - 2.1.1.3 Freight claims to be processed immediately to ensure manufacturer's support for replacement and repair.
     - 2.1.2 Supply and deliver to project site, ready for unloading, unpacking, assembly, Installation and similar subsequent requirements.
     - 2.1.3 Floors, elevators, walls and doorways are to be padded or protected as necessary during installation.
     - 2.1.4 The Vendor shall identify and tag furnishings in accordance with the plans and specifications before delivery and installation occur.
       - 2.1.4.1 For supervision purposes, tags shall indicate specific item number.
     - 2.1.5 Schedule deliveries to coordinate availability of spaces at the project site.
       - 2.1.5.1 No product may be delivered and stored at the project site before substantial completion of the building is achieved, without prior approval.

2.1.6 Installation at project site, including unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, leveling, removing tapes, providing keys, removal of packing material from site, and similar requirements.

2.1.6.1 All the furnishings are to be complete and ready for intended use.

2.1.7 The installation is to comply with manufacturer's instructions and recommendations.

2.1.7.1 Anchor securely in place, where applicable, accurately located and aligned in accordance with coded furnishings lay-out floor plans, or by direction of the Arena Operations and/or PC Sports.

2.1.8 All work is to be inspected for substrate and conditions for installation. Correct unsatisfactory conditions before proceeding.

2.1.8.1 Inspect each product immediately before installation, and do not install damaged or defective products, materials or equipment.

2.1.9 Clean and protect to insure that products, materials and equipment will be free from damage and deterioration at time of acceptance.

2.1.10 Provide a complete inventory checklist during delivery and installation.

2.1.11 All other components as described herein.

3. SUBMITTALS

3.1 Specification - Submit manufacturers complete specification sheets for architect's approval.

3.2 Samples may be required during submittal process for verification and approval.

3.3 Maintenance Literature.

4. COMPANY INFORMATION

4.1 Provide company history for Portable Carts in the Stadium and Arena industry, including years of operation and client/employee growth.

4.2 Provide information on five (5) recent projects of similar size or scope that have completed by your company.

4.3 Provide the project name and a client point of contact for each with name, title, and address and phone number.

4.4 Describe the firm's ability to support the schedule and delivery requirements.

4.4.1 Describe the firm's customer support program for resolution of warranty items.

5. PROJECT DESCRIPTION

5.1 Project Description and Construction Team:

5.1.1 Owner: West Haymarket JPA (Joint Public Agency)

5.1.2 JPA Program Manager: PC Sports

5.1.3 Arena Operator: SMG Management / SAVOR

5.1.4 Project Architect: DLR Group

5.1.5 Arena Contractor: Mortenson Construction

5.2 Project location:

Pinnacle Bank Arena
600 R Street
Lincoln, NE 68508

5.3 Type of Construction:

5.3.1 The project consist of a 16,000 seat arena of approximately five levels to include Event Level, Main Concourse, Premium Suite Level, Upper Concourse and the catwalk level.

5.3.2 The attached garage is approximately 280 spaces and is a three-level precast structure.

6. **CONTRACT**

6.1 The Vendor contract will need to be approved by the JPA at a formal board meeting.

6.1.1 A notice to proceed will follow the approval.

7. **QUALIFICATIONS**

7.1 All products must include a one (1) year warranty free from manufacturing defects.

7.2 All proposers must state the location that the proposed products are manufactured, assembled or produced.

7.3 The manufacturer must have an established reputation in the line with the equipment proposed.

7.4 The manufacturer must list five (5) similar type facilities that have opened in the past three (3) years in which the proposed product is currently in use.

8. **TIME FOR COMPLETION**

8.1 Items for the Pinnacle Bank Arena Furniture are to be delivered and installed from August 1, 2013 and completed no later than August 31, 2013.

8.1.1 Awarded Vendor(s) will be provided with a delivery and installation schedule.

8.2 Delivery of the product is to be coordinated with the Arena Operator, PC Sports and Mortenson Construction.

8.3 Delivery and installation is to be done during regular business hours between 8:00 a.m. and 5:00 p.m. Monday through Friday.

8.3.1 Any deviation from these times will require approval from the Arena Operator, PC Sports and Mortenson Construction.

8.4 Carts/equipment installation is dependent upon the substantial completion of the construction of the building and therefore, the Owner reserves the right to adjust the installation schedule to a later date with no penalty and no additional costs.

8.4.1 Each awarded bidder will be notified of any schedule changes in writing.

9. **EXAMINATION OF SITE AFTER AWARD OF CONTRACT**

9.1 Make a careful examination of the site, and investigate, at no cost or risk to the Owner, all matters relating to the nature of the work to be undertaken, the means of access and egress thereto and therefrom, the obstacles to be met with the rights and interests of which may be interfered with during the construction of the work.

9.2 Make a careful examination of the extent of the work to be performed and all matters which are referred to in the drawings, specifications, and contract documents or which are necessary for the full and proper construction of the work and the conditions under which it will be performed.

10. **SECURITY**

10.1 Access will be restricted only to those having business on the site.

11. **USE OF WORK AREA**

11.1 Delivery of supplies, equipment and/or materials to the site shall be along routes designated by the Arena Contractor or Arena Operator.

11.2 The Vendor must obtain prior approval from the Owner or his representative of areas proposed for temporary storage, stockpiling, equipment, maintenance or operations.

11.3 Working areas shall be chosen by the Owner or his representative in cooperation with the Arena Contractor.

11.4 The Vendor shall be responsible for repairing, at no cost to the Owner, all damages caused by the work of the Contract.

12. **DISCREPANCIES AND OMISSIONS**

12.1 The Vendor finding discrepancies in, or omissions from the drawings, specifications or other documents, or having any doubt as to meaning or intent of any part thereof, shall at once notify the JPA's Purchasing Agent in writing, he will send written instructions in the form of an Addendum.

12.2 Direct inquiries to:

Vince M. Mejer
440 S. 8th Street, Suite 200
Fax: 402.441.6513
VMejer@lincoln.ne.gov

13. **INSTRUCTIONS**

13.1 All inquiries regarding these specifications shall be directed to Vince Mejer, Purchasing Agent, via e-mail request to vmejer@lincoln.ne.gov or faxed request to 402-441-6513.

13.1.1 These inquiries and/or responses shall be distributed to prospective Vendors electronically as addenda.

13.1.2 The Purchasing Office shall only reply to written inquiries received within three (3) calendar days of bid opening.

13.2 No direct contact is allowed between Vendor and other City or JPA Staff through the bid process.

13.2.1 Failure to comply with this directive may result in the Vendor bid being rejected.

14. **ERRORS IN BIDS**

14.1 Owner will not entertain requests for gratuitous payments arising from errors alleged to have been made in Bid that he has accepted.

15. **ALTERNATIVE, SEPARATE AND ITEMIZED PRICES**

15.1 Where separate and itemized prices are requested, it is agreed that such prices may be accepted at any time within a period of ninety (90) days after closing date for prices.

16. **CO-OPERATION, CONSTRUCTION AND INTERFACING WITH OTHER CONTRACTORS**

16.1 Insure that all trades co-operate with each other to insure that work will be carried out expeditiously and will be satisfactory in all respects at completion.

16.2 Insure that all examine the Plans and Specifications covering the work of all other sections.

16.3 This Vendor shall coordinate his work with the work of other Contractors at the site and shall not commit or permit any act which will interfere with the performance of the work of other Contractors.

16.3.1 Where this Vendor's work adjoins that of other Contractors, he /she shall confer with them as required and so arrange his/her work that there shall be no discrepancies when the whole work is completed.

16.3.2 If this Vendor fails to cooperate with or coordinate his work with the work of other contractors, he/she shall not make any claim founded on delays which have resulted from such failure and he/she shall save the Owner harmless from all claims made by other Contractors which are founded on delays caused by such failure.

16.4 If any part of the work depends on its proper execution or results upon the work of other contractors, this Vendor shall report promptly to the Owner in writing of any defects in the work of such other Contractors that interfere with the proper execution of the work.

16.5 Should the Vendor fail to inspect and report, he/she shall have no claim against the Owner by reason of defective or unfinished work of any other Contractor except as to latent defects no reasonably observable at the time of the commencement of the Vendor's work.

16.6 The Vendor shall be responsible for any and all damages caused by his or her negligence or failures to coordinate his/her work with that of other Contractors and any additional expenses arising therefrom.

16.7 There may be other Contractors or forces of the Owner working in the same area where work under this Contract will be performed.

16.7.1 The Owner or his designated representative will use his or her best efforts to assist with coordination of work of all Contractors so as to minimize interference with or suspension of work of any other Contractor.

16.7.2 These coordination efforts shall be consistent with orderly and expeditious performance and completion of the project as a whole.

16.8 The Vendor must anticipate that this work may be interfered with or suspended from time to time on account of concurrent performance of the work by other contractors.

16.8.1 This Vendor shall, if requested by the Owner of his designated representative, arrange his work under the Contract with the work being performed by other Contractors.

16.8.2 Furthermore, the Owner or his designated representative may direct that certain facilities be used mutually by the Contractor and other persons.

16.9 Prior to the commencement of the work, the Vendor accompanied by the Owner or his designated representative, shall inspect all previous works executed by other trades and shall report his approval promptly in writing.

16.10 If any part of the work executed is unsatisfactory, this Vendor shall so report in writing to the Owner or his designated representative prior to the commencement of his/her work.

16.11 If the necessity for corrective work is established, the Owner or his designated representative will proceed with these corrections.

16.12 All Scope of Work for this Package will need to be coordinated with the main arena contractor's schedule (Mortenson).

16.12.1 This will be done in more detail once a Vendor is selected and delivery/install timelines are established.

16.13 The plans relating to this bid are provided as CCA 55 plans, Arena Schedule and Food Service Plans.

17. BID SUBMITTAL REQUIREMENTS

17.1 Submit seven (7) copies of your bid on or before the date and time established for receiving bids.

17.2 Submit your bid responses to:

Vince M. Mejer, Purchasing Agent
City of Lincoln
440 South 8th Street, Suite 200
Lincoln, NE 68508

17.3 Indicate the Bid Number and Firm Name on the outside of the sealed bid.

17.4 Bidders must also complete and submit the electronic portion (Attributes and Line Item sections) of this bid on the E-bid system.

17.4.1 The electronic response of this bid will include information such as bid requirements and addendum acknowledgments.

17.4.2 Electronic submittal must be submitted before the closing date and time of this Bid.

18. SUBCONTRACTORS

18.1 Bidders shall list the names of any Subcontractor upon whose proposals this bid is based.

18.2 We recognize that the list of Subcontractors shall be considered in the selection of the successful bidder.

18.3 Bids will not be accepted unless accompanied by a complete list of Subcontractors and that no names either of Subcontractors, Contractor or "Own Forces" may be changed after submission of bid, unless good and sufficient cause is submitted in writing and written approval received from the Owner and Consultant.

18.4 The list of Subcontractors shall be included in your response.

19. INSURANCE REQUIREMENTS

19.1 Insurance requirements are attached to the Attachment Section of this bid.

20. DRAFT BEER CART RENDERING 1

Quantity: 5
Item Nos.: A300A, B300A, B300B, B300C, C301C

20.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.

20.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.

20.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins. Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.

20.4 6" casters shall be a plate style, heavy duty component. All casters shall be NSF listed. Swivel casters will have side locking devices.

20.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.

20.6 Carts to have 1" black rubber bumper on three (3) sides.

20.7 Carts to be fork lift ready.

20.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.

20.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.

20.8.2 The awning structures to be removable.

20.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.

20.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.

20.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.

20.11.1 A removable magnetic menu printed with menu items will be provided.

20.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.

20.12.1 Sintra sign back to have raised letters on customer front side.

20.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished

20.14 All interior compartments to be constructed out of stainless steel.

20.15 All exposed stainless steel will have a #4 finish.

20.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.

20.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.

20.18 Door catches to be a magnetic type and built into doors so as not to protrude.

20.19 Fasteners shall be stainless steel and be NSF listed.

20.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.

20.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
20.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7'power cord and NEMA Caps provided.
20.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
20.24 All carts to include their respective cord and NEMA configured plugs.
20.25 All sealant material to be NSF listed and USDA approved.
20.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
20.27 All mobile carts to be listed to either NSF standard #2 or #59.
20.28 Refrigeration will be NSF listed with locks.
20.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
20.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
20.31 Drop in Ice Well with Cold Plate- Krowne D2712-10.
20.32 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
20.33 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
20.34 18" In Counter Drip Tray- Custom.
20.35 Removable 6.5 Gallon Waste Water Tank with Quick Disconnects- Custom.

21. <u>DRAFT BEER CART- HOT DOG RENDERING 2</u>
Quantity: 1
Item No.: D157A

21.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
21.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
21.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
21.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
21.4 6" casters shall be a plate style, heavy duty component.
21.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
21.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
21.6 Carts to have 1" black rubber bumper on three (3) sides.
21.7 Carts to be fork lift ready.
21.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
21.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
21.8.2 Awning structures to be removable.
21.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
21.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
21.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
21.11.1 A removable magnetic menu printed with menu items will be provided.
21.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
21.12.1 Sintra sign back to have raised letters on customer front side.
21.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
21.14 All interior compartments to be constructed out of stainless steel.
21.15 All exposed stainless steel will have a #4 finish.

21.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
21.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
21.18 Door catches to be a magnetic type and built into doors so as not to protrude.
21.19 Fasteners shall be stainless steel and be NSF listed.
21.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
21.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
21.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7'power cord and NEMA Caps provided.
21.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
21.24 All carts to include their respective cord and NEMA configured plugs.
21.25 All sealant material to be NSF listed and USDA approved.
21.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
21.27 All mobile carts to be listed to either NSF standard #2 or #59.
21.28 Refrigeration will be NSF listed with locks.
21.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
21.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
21.31 Drop in Ice Well with Cold Plate- Krowne D2712-10.
21.32 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
21.33 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
21.34 18" In Counter Drip Tray- Custom.
21.35 Removable 6.5 Gallon Waste Water Tank with Quick Disconnects- Custom.
21.36 Hot Dog Roller Grill- APW Wyott HR-20S.
21.37 Portable Two-Tier Sneeze Guard with top tier to be stainless steel and bottom to be glass- Custom.

22. <u>DRAFT BEER CART- PRETZEL RENDERING 3</u>
Quantity: 1
Item No: D157B

22.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
22.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
22.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
22.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
22.4 6" casters shall be a plate style, heavy duty component.
22.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
22.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
22.6 Carts to have 1" black rubber bumper on three (3) sides.
22.7 Carts to be fork lift ready.
22.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
22.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
22.8.2 The awning structures to be removable.
22.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
22.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.

22.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
22.11.1 A removable magnetic menu printed with menu items will be provided.
22.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
22.12.1 Sintra sign back to have raised letters on customer front side.
22.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished
22.14 All interior compartments to be constructed out of stainless steel.
22.15 All exposed stainless steel will have a #4 finish.
22.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
22.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
22.18 Door catches to be a magnetic type and built into doors so as not to protrude.
22.19 Fasteners shall be stainless steel and be NSF listed.
22.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
22.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
22.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7'power cord and NEMA Caps provided.
22.23 All electrical load centers to be mounted in the end of the cart, located behind access door.

22.24 All carts to include their respective cord and NEMA configured plugs.
22.25 All sealant material to be NSF listed and USDA approved.
22.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
22.27 All mobile carts to be listed to either NSF standard #2 or #59.
22.28 Refrigeration will be NSF listed with locks.
22.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
22.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
22.31 Drop in Ice Well with Cold Plate- Krowne D2712-10.
22.32 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
22.33 Draft Tower Head with Dual Faucets- MicroMatic D4743DS.
22.34 18" In Counter Drip Tray- Custom.
22.35 Removable 56. Gallon Waste Water Tank with Quick Disconnects- Custom.
22.36 Pretzel Curved Heated Display Case- Gold Medal #5006.

23. <u>ICE CREAM CART RENDERING 4</u>
Quantity: 2
Item Nos.: A300B, D301D

23.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
23.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
23.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
23.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
23.4 6" casters shall be a plate style, heavy duty component.
23.4.1 All casters shall be NSF listed.
23.4.2 Swivel casters will have side locking devices.
23.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
23.6 Carts to have 1" black rubber bumper on three (3) sides.
23.7 Carts to be fork lift ready.

23.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
  23.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
  23.8.2 The awning structures to be removable.
23.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
23.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
23.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
  23.11.1 A removable magnetic menu printed with menu items will be provided.
23.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
  23.12.1 Sintra sign back to have raised letters on customer front side.
23.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
23.14 All interior compartments to be constructed out of stainless steel.
23.15 All exposed stainless steel will have a #4 finish.
23.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
23.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
23.18 Door catches to be a magnetic type and built into doors so as not to protrude.
23.19 Fasteners shall be stainless steel and be NSF listed.
23.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
23.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
23.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7'power cord and NEMA Caps provided.
23.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
23.24 All carts to include their respective cord and NEMA configured plugs.
23.25 All sealant material to be NSF listed and USDA approved.
23.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
23.27 All mobile carts to be listed to either NSF standard #2 or #59.
23.28 Refrigeration will be NSF listed with locks.
23.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
23.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
23.31 Three sided stainless steel shroud with laminate exterior- Custom.

4. **NACHO CART RENDERING 5**
Quantity: 3
Item Nos.: A300C, B313B, C500B

24.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
24.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
24.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
  24.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
24.4 6" casters shall be a plate style, heavy duty component.
  24.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
24.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.

24.6 Carts to have 1" black rubber bumper on three (3) sides.
24.6.1 Carts to be fork lift ready.

24.7 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
24.7.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
24.7.2 The awning structures to be removable.

24.8 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.

24.9 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.

24.10 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
24.10.1 A removable magnetic menu printed with menu items will be provided.

24.11 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
24.11.1 Sintra sign back to have raised letters on customer front side.

24.12 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.

24.13 All interior compartments to be constructed out of stainless steel.

24.14 All exposed stainless steel will have a #4 finish.

24.15 Carts to have corner trim that shall be no less than 18 gauge stainless steel.

24.16 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.

24.17 Door catches to be a magnetic type and built into doors so as not to protrude.

24.18 Fasteners shall be stainless steel and be NSF listed.

24.19 Hinges shall be stainless steel and will be used and applied to meet NSF standards.

24.20 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.

24.21 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.

24.22 All electrical load centers to be mounted in the end of the cart, located behind access door.

24.23 All carts to include their respective cord and NEMA configured plugs.

24.24 All sealant material to be NSF listed and USDA approved.

24.25 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.

24.26 All mobile carts to be listed to either NSF standard #2 or #59.

24.27 Refrigeration will be NSF listed with locks.

24.28 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.

24.29 Sneeze guards will be tempered glass with stainless supports and NSF listed.

24.30 Two section glass sneeze guard with front panels, side panels, and top panels- Custom.

24.31 Chip storage department with steel tray slides- Custom.

24.32 Nacho Chip Display Bin- Custom.

24.33 Drop in single well hot food well- APW Wyott HFW-1D.

24.34 Include adapter plate for 7 qt. inserts.

24.35 Drop in single well cold food well- APW Wyott CFW-1D.

24.36 Removable 5 gallon waste water tank with plumbing- Custom.

24.37 Drop in ice cooled bottle / can well- Custom.

25. COTTON CANDY CART RENDERING 6

Quantity: 1
Item No.: C309

25.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
25.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
25.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins. Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
25.4 6" casters shall be a plate style, heavy duty component.
25.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
25.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
25.6 Carts to have 1" black rubber bumper on three (3) sides.
25.7 Carts to be fork lift ready.
25.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
28.1.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
28.1.2 The awning structures to be removable.
25.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
25.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
25.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
25.11.1 A removable magnetic menu printed with menu items will be provided.
25.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
25.12.1 Sintra sign back to have raised letters on customer front side.
25.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
25.14 All interior compartments to be constructed out of stainless steel.
25.15 All exposed stainless steel will have a #4 finish.
25.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
25.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
25.18 Door catches to be a magnetic type and built into doors so as not to protrude.
25.19 Fasteners shall be stainless steel and be NSF listed.
25.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
25.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
25.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
25.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
25.24 All carts to include their respective cord and NEMA configured plugs.
25.25 All sealant material to be NSF listed and USDA approved.
25.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
25.27 All mobile carts to be listed to either NSF standard #2 or #59.
25.28 Refrigeration will be NSF listed with locks.
25.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.

25.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
25.31 Two section glass sneeze guard with front panels, side panels, and top panels- Custom.
25.32 Metal Bag Clips for cotton candy- Custom.

26. BBQ CART RENDERING 7

Quantity: 1
Item No.: B313C

26.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
26.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
26.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
26.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
26.4 6" casters shall be a plate style, heavy duty component.
26.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
26.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
26.6 Carts to have 1" black rubber bumper on three (3) sides.
26.7 Carts to be fork lift ready.
26.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
26.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
26.8.2 The awning structures to be removable.
26.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
26.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
26.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
26.11.1 A removable magnetic menu printed with menu items will be provided.
26.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
26.12.1 Sintra sign back to have raised letters on customer front side.
26.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
26.14 All interior compartments to be constructed out of stainless steel.
26.15 All exposed stainless steel will have a #4 finish.
26.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
26.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
26.18 Door catches to be a magnetic type and built into doors so as not to protrude.
26.19 Fasteners shall be stainless steel and be NSF listed.
26.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
26.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
26.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
26.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
26.24 All carts to include their respective cord and NEMA configured plugs.
26.25 All sealant material to be NSF listed and USDA approved.
26.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.

26.27 All mobile carts to be listed to either NSF standard #2 or #59.
26.28 Refrigeration will be NSF listed with locks.
26.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
26.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
26.31 Two section glass sneeze guard with front panels, side panels, middle shelf and top panels-Custom.
26.32 Drop in single well cold food well- APW Wyott CFW-1D.
26.33 Drop in three well hot food well- APW Wyott HFW-3D.
26.34 5 Gallon removable waste water tank with plumbing- Custom.
26.35 Under counter heated holding cabinet- Alto-Shaam 750-S/STD.
26.36 Removable 30" x 9" Cutting Board- Custom.
26.37 Removable 30" x 9" Cutting Board- Custom.

27. <u>POPCORN CART RENDERING 8</u>

Quantity: 2
Item Nos.: D301A, A500A

27.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
27.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
27.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
27.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
27.4 6" casters shall be a plate style, heavy duty component.
27.4.1 All casters shall be NSF listed.
27.4.2 Swivel casters will have side locking devices.
27.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
27.6 Carts to have 1" black rubber bumper on three (3) sides.
27.7 Carts to be fork lift ready.
27.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
27.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
27.8.2 The awning structures to be removable.
27.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
27.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
27.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
27.11.1 A removable magnetic menu printed with menu items will be provided.
27.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
27.12.1 Sintra sign back to have raised letters on customer front side.
27.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
27.14 All interior compartments to be constructed out of stainless steel.
27.15 All exposed stainless steel will have a #4 finish.
27.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
27.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
27.18 Door catches to be a magnetic type and built into doors so as not to protrude.
27.19 Fasteners shall be stainless steel and be NSF listed.

27.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
27.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
27.22 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
27.23 All electrical load centers to be mounted in the end of the cart, located behind access door.
27.24 All carts to include their respective cord and NEMA configured plugs.
27.25 All sealant material to be NSF listed and USDA approved.
27.26 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
27.27 All mobile carts to be listed to either NSF standard #2 or #59.
27.28 Refrigeration will be NSF listed with locks.
27.29 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
27.30 Sneeze guards will be tempered glass with stainless supports and NSF listed.
27.31 Floor Model 48 oz. Popcorn Popper- Gold Medal #2228.

28. <u>SANDWICH CART RENDERING 9</u>
Quantity: 1
Item No.: D301B

28.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
28.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
28.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
28.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
28.4 6" casters shall be a plate style, heavy duty component.
28.4.1 All casters shall be NSF listed.
28.4.2 Swivel casters will have side locking devices.
28.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides
28.6 Carts to have 1" black rubber bumper on three (3) sides.
28.7 Carts to be fork lift ready.
28.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
28.9 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
28.9.1 The awning structures to be removable.
28.10 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
28.11 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
28.12 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
28.12.1 A removable magnetic menu printed with menu items will be provided.
28.13 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
28.13.1 Sintra sign back to have raised letters on customer front side.
28.14 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
28.15 All interior compartments to be constructed out of stainless steel.
28.16 All exposed stainless steel will have a #4 finish.

28.17 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
28.18 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
28.19 Door catches to be a magnetic type and built into doors so as not to protrude.
28.20 Fasteners shall be stainless steel and be NSF listed.
28.21 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
28.22 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
28.23 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
28.24 All electrical load centers to be mounted in the end of the cart, located behind access door.
28.25 All carts to include their respective cord and NEMA configured plugs.
28.26 All sealant material to be NSF listed and USDA approved.
28.27 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
28.28 All mobile carts to be listed to either NSF standard #2 or #59.
28.29 Refrigeration will be NSF listed with locks.
28.30 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
28.31 Sneeze guards will be tempered glass with stainless supports and NSF listed.
28.32 Two section glass sneeze guard with front panels, side panels and top panels- Custom.
28.33 Panini Grill- Nuova Simonelli USA P1L/FLT.
28.34 Panini Grill- Nuova Simonelli USA P1L/FLT.
28.35 Panini Grill- Nuova Simonelli USA P1L/FLT.
28.36 Removable Cutting Board- Custom.
28.37 Glass refrigerated display case- True G4SM-23.

29. <u>COFFEE CART RENDERING 10</u>
Quantity: 1

29.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
29.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
29.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
29.3.1 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
29.4 6" casters shall be a plate style, heavy duty component.
29.4.1 All casters shall be NSF listed.
29.4.2 Swivel casters will have side locking devices.
29.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
29.6 Carts to have 1" black rubber bumper on three (3) sides.
29.7 Carts to be fork lift ready.
29.8 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
29.8.1 Front two (2) poles to extend upwards and then be angled forward to support awning structure.
29.8.2 Awning structures to be removable.
29.9 Awning structures to have a clear Plexiglas roof that extends beyond all four (4) sides of the tubular frame.
29.10 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
29.11 One (1) hanging magnetic stainless steel menu board backer that is 52" long x 12" high will be mounted below the awning frame with stainless steel brackets.
29.11.1 A removable magnetic menu printed with menu items will be provided.

29.12 One (1) ½" thick white sintra sign backer board will be mounted to the top of the awning frame.
19.12.1 Sintra sign back to have raised letters on customer front side.
29.13 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
29.14 All interior compartments to be constructed out of stainless steel.
29.15 All exposed stainless steel will have a #4 finish.
29.16 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
29.17 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
29.18 Door catches to be a magnetic type and built into doors so as not to protrude.
29.19 Fasteners shall be stainless steel and be NSF listed.
29.20 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
29.21 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
29.22 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet.
29.22.1 Includes all required NSF hoses and fittings.
29.22.2 Sinks are to be located below the countertop.
29.22.3 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.
29.23 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
29.24 All electrical load centers to be mounted in the end of the cart, located behind access door.
29.25 All carts to include their respective cord and NEMA configured plugs.
29.26 All sealant material to be NSF listed and USDA approved.
29.27 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
29.28 All mobile carts to be listed to either NSF standard #2 or #59.
29.29 Refrigeration will be NSF listed with locks.
29.30 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
29.31 Sneeze guards will be tempered glass with stainless supports and NSF listed.
29.32 Two section glass sneeze guard with front panels, side panels and top panels- Custom.
29.33 Under counter hand sink system- Custom.
29.34 Water system for an espresso machine (TBD) with water pump, 20 gallon fresh water tank, and 30 gallon waste water tank- Custom.

30. <u>LARGE CONDIMENT CART RENDERING 11</u>
Quantity: 2

30.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
30.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
30.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
30.3.1 Both customer access sides will have three (3) raised accent panels each, finished with Chemetal #380 Weathered Metal.
30.4 6" casters shall be a plate style, heavy duty component.
30.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.
30.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
30.6 Carts to have 1" black rubber bumper on three (3) sides.
30.7 Carts to be fork lift ready.

30.8 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
30.9 All interior compartments to be constructed out of stainless steel.
30.10 All exposed stainless steel will have a #4 finish.
30.11 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
30.12 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
30.13 Door catches to be a magnetic type and built into doors so as not to protrude.
30.14 Fasteners shall be stainless steel and be NSF listed.
30.15 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
30.16 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
30.17 All sealant material to be NSF listed and USDA approved.
30.18 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
30.19 All mobile carts to be listed to either NSF standard #2 or #59.
30.20 Refrigeration will be NSF listed with locks.
30.21 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
30.22 Sneeze guards will be tempered glass with stainless supports and NSF listed.
30.23 Island style, self-serve glass sneeze guard with top and end panels- Custom.
30.24 Drop-in two well ice cooled well- Wells ICP-200.
30.25 5 Gallon removable waste tank and plumbing- Custom.
30.26 3-1/2 qt. round stainless steel drop in pan- Custom.
30.27 3-1/2 qt. round stainless steel drop in pan- Custom.

31. <u>SMALL CONDIMENT CART RENDERING 12</u>
Quantity: 10

31.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
31.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
31.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
31.3.1 Both customer access sides will have three (3) raised accent panels each, finished with Chemetal #380 Weathered Metal.
31.4 6" casters shall be a plate style, heavy duty component.
31.4.1 All casters shall be NSF listed.
31.4.2 Swivel casters will have side locking devices.
31.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
31.6 Carts to have 1" black rubber bumper on three (3) sides.
31.7 Carts to be fork lift ready.
31.8 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
31.9 All interior compartments to be constructed out of stainless steel.
31.10 All exposed stainless steel will have a #4 finish.
31.11 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
31.12 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
31.13 Door catches to be a magnetic type and built into doors so as not to protrude.
31.14 Fasteners shall be stainless steel and be NSF listed.
31.15 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
31.16 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
31.17 All sealant material to be NSF listed and USDA approved.

31.18 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
31.19 All mobile carts to be listed to either NSF standard #2 or #59.
31.20 Refrigeration will be NSF listed with locks.
31.21 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
31.22 Sneeze guards will be tempered glass with stainless supports and NSF listed.
31.23 Island style, self-serve glass sneeze guard with top and end panels- Custom.
31.24 Drop-in single well ice cooled well- Wells ICP-100.
31.25 5 Gallon removable waste tank and plumbing- Custom.
31.26 3-1/2 qt. round stainless steel drop in pan- Custom.
31.27 3-1/2 qt. round stainless steel drop in pan- Custom.

32. <u>SUPPORT CART RENDERING 13</u>
Quantity: 11

32.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
32.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
32.3 Cart exteriors to be finished with Formica #271 Blackstone laminate skins.
32.4 Customer front side will have three (3) raised accent panels finished with Chemetal #380 Weathered Metal.
32.5 6" casters shall be a plate style, heavy duty component.
32.5.1 All casters shall be NSF listed.
32.5.2 Swivel casters will have side locking devices.
32.6 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
32.7 Carts to have 1" black rubber bumper on three (3) sides.
32.8 Carts to be fork lift ready.
32.9 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
32.10 All interior compartments to be constructed out of stainless steel.
32.11 All exposed stainless steel will have a #4 finish.
32.12 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
32.13 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
32.14 Door catches to be a magnetic type and built into doors so as not to protrude.
32.15 Fasteners shall be stainless steel and be NSF listed.
32.16 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
32.17 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
32.18 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet.
32.18.1 Includes all required NSF hoses and fittings.
32.18.2 Sinks are to be located below the countertop.
32.18.3 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.
32.19 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
32.20 All electrical load centers to be mounted in the end of the cart, located behind access door.
32.21 All carts to include their respective cord and NEMA configured plugs.
32.22 All sealant material to be NSF listed and USDA approved.
32.23 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.

32.24 All mobile carts to be listed to either NSF standard #2 or #59.
32.25 Refrigeration will be NSF listed with locks.
32.26 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
32.27 Sneeze guards will be tempered glass with stainless supports and NSF listed.
32.28 Under counter hand sink system- Custom.

33. **CARVERY COMPOSITE RENDERING 14**
Quantity: 1 Each (3 Carts Total)

33.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
33.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
33.3 Customer cart exteriors to be finished with Texture Plus Faux Brick, Rustic Brick Standard Panels.
33.4 6" casters shall be a plate style, heavy duty component.
33.4.1 All casters shall be NSF listed.
33.4.2 Swivel casters will have side locking devices.
33.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
33.6 Carts to have 1" black rubber bumper on three (3) sides.
33.7 Carts to be fork lift ready.
33.8 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished
33.9 All interior compartments to be constructed out of stainless steel.
33.10 All exposed stainless steel will have a #4 finish.
33.11 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
33.12 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
33.13 Door catches to be a magnetic type and built into doors so as not to protrude.
33.14 Fasteners shall be stainless steel and be NSF listed.
33.15 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
33.16 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
33.17 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet.
33.17.1 Includes all required NSF hoses and fittings.
33.17.2 Sinks are to be located below the countertop.
33.17.3 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.
33.18 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
33.19 All electrical load centers to be mounted in the end of the cart, located behind access door.
33.20 All carts to include their respective cord and NEMA configured plugs.
33.21 All sealant material to be NSF listed and USDA approved.
33.22 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
33.23 All mobile carts to be listed to either NSF standard #2 or #59.
33.24 Refrigeration will be NSF listed with locks.
33.25 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
33.26 Sneeze guards will be tempered glass with stainless supports and NSF listed.
33.27 Electric Food Slicer- Hobart #2612.
33.28 Electric Food Slicer- Hobart #2612.
33.29 Drop in double well hot food well- APW Wyott HFW-2D.

33.30 Carving Station with dual heat lamps- Alto-Shaam CS-200.
33.31 Drop in single well ice well with sliding lid- Krowne D2712.
33.32 5 Gallon removable waste water tank with plumbing- Custom.
33.33 3-Compartment Convenience Store sink system- Custom.
33.34 Draft beer dispenser with two towers, one single head, one double head- Masterbilt MBDD-79.

34. <u>BAR COMPOSITE RENDERING 15</u>
Quantity: 1 Each
Item No.: C301B (5 Carts Total)

34.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
34.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
34.3 Customer cart exteriors to be finished with milky white acrylic paneling with satin aluminum grid pattern overlay.
34.4 All panels to be backlit with color changing LED lights.
34.4.1 Control Panel for lights to be mounted on operator side in locking cabinet.
34.5 6" casters shall be a plate style, heavy duty component.
34.5.1 All casters shall be NSF listed.
34.5.2 Swivel casters will have side locking devices.
34.6 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
34.7 Carts to have 1" black rubber bumper on three (3) sides.
34.8 Carts to be fork lift ready.
34.9 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
34.10 All interior compartments to be constructed out of stainless steel.
34.11 All exposed stainless steel will have a #4 finish.
34.12 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
34.13 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
34.14 Door catches to be a magnetic type and built into doors so as not to protrude.
34.15 Fasteners shall be stainless steel and be NSF listed.
34.16 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
34.17 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
34.18 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet.
34.18.1 Includes all required NSF hoses and fittings.
34.18.2 Sinks are to be located below the countertop.
34.18.3 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.
34.19 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.
34.20 Awning structures to have a clear Plexiglas panel mounted to front and rear of frame.
34.21 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.
34.22 Four (4) hanging magnetic stainless steel menu board backer will be mounted on the awning post with stainless steel brackets.
34.22.1 A removable magnetic menu printed with menu items will be provided.
34.23 Two (2) ½" thick black sintra sign backer board will be mounted to the Plexiglas panels.
34.23.1 Sintra sign back to have raised letters on customer front side.

34.24 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
34.25 All electrical load centers to be mounted in the end of the cart, located behind access door.
34.26 All carts to include their respective cord and NEMA configured plugs.
34.27 All sealant material to be NSF listed and USDA approved.
34.28 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
34.29 All mobile carts to be listed to either NSF standard #2 or #59.
34.30 Refrigeration will be NSF listed with locks.
34.31 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
34.32 Sneeze guards will be tempered glass with stainless supports and NSF listed.
34.33 Under counter hand sink system- Custom.
34.34 Drop in single well ice well with sliding lid- Krowne D2712.
34.35 5 Gallon removable waste water tank with plumbing- Custom.
34.36 28" Stainless Steel Speed Rail- Custom.
34.37 Drop in single well ice well with sliding lid- Krowne D2712.
34.38 5 Gallon removable waste water tank with plumbing- Custom.
34.39 28" Stainless Steel Speed Rail- Custom.
34.40 Drop in single well ice well with sliding lid- Krowne D2712.
34.41 28" Stainless Steel Speed Rail- Custom.
34.42 Under counter glass door bar refrigerator- Beverage Air BB78G.
34.43 Back bar liquor display- Perlick LMDS2-72R.
34.44 Back bar bottle / ice display- Perlick GMDS24x72.
34.45 5 Gallon removable waste water tank with plumbing- Custom.

35. <u>OUTDOOR BAR CART COMPOSITE RENDERING 16</u>
Quantity: 1 Each (4 Carts Total - Patio)

35.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.
35.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.
35.3 Customer cart exteriors to be stainless steel paneling with fire engine red paint, and 1" cut in polished stainless steel reveals of, 1", 2" and 1" verticals.
35.4 6" casters shall be a plate style, heavy duty component.
35.4.1 All casters shall be NSF listed.
35.4.2 Swivel casters will have side locking devices.
35.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.
35.6 Carts to have 1" black rubber bumper on three (3) sides.
35.7 Carts to be fork lift ready.
35.8 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.
35.9 All interior compartments to be constructed out of stainless steel.
35.10 All exposed stainless steel will have a #4 finish.
35.11 Carts to have corner trim that shall be no less than 18 gauge stainless steel.
35.12 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
35.13 Door catches to be a magnetic type and built into doors so as not to protrude.
35.14 Fasteners shall be stainless steel and be NSF listed.
35.15 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
35.16 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.

35.17 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet.
- 35.17.1 Includes all required NSF hoses and fittings.
- 35.17.2 Sinks are to be located below the countertop.
- 35.17.3 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.

35.18 Tubular awning structures to be painted to match PMS #426 and will be mounted on four (4) 2" square stainless steel poles.

35.19 Awning structures to have a clear Plexiglas panel mounted to front and rear of frame.

35.20 Awning structures to have track lighting with four (4) JUNO R551SC Satin Chrome finish light fixtures.

35.21 Four (4) hanging magnetic stainless steel menu board backer will be mounted on the awning post with stainless steel brackets.
- 35.21.1 A removable magnetic menu printed with menu items will be provided.

35.22 Two (2) ½" thick black sintra sign backer board will be mounted to the Plexiglas panels.
- 35.22.1 Sintra sign back to have raised letters on customer front side.

35.23 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.

35.24 All electrical load centers to be mounted in the end of the cart, located behind access door.

35.25 All carts to include their respective cord and NEMA configured plugs.

35.26 All sealant material to be NSF listed and USDA approved.

35.27 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.

35.28 All mobile carts to be listed to either NSF standard #2 or #59.

35.29 Refrigeration will be NSF listed with locks.

35.30 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.

35.31 Sneeze guards will be tempered glass with stainless supports and NSF listed.

35.32 Under counter hand sink system- Custom.

35.33 Drop in single well ice well with sliding lid- Krowne D2712.

35.34 5 Gallon removable waste water tank with plumbing- Custom.

35.35 36" Stainless Steel Speed Rail- Custom.

35.36 Under counter glass door back bar refrigerator- Beverage Air BB48G.

35.37 Portable ice cart with storage- Cambro ICS100L-110.

36. BAR CART COMPOSITE RENDERING 17

Quantity: 1 Each (2 Carts Total)

36.1 Carts to have a 1-1/4" aluminum tubular frame construction that is welded continually.

36.2 Countertops to be no less than 16 gauge #304 stainless steel with a #4 finish.

36.3 Customer cart exteriors to be finished with Texture Plus Faux Brick, Rustic Brick Standard Panels.

36.4 6" casters shall be a plate style, heavy duty component.
- 36.4.1 All casters shall be NSF listed. Swivel casters will have side locking devices.

36.5 1/8" thick black rubber caster skirt to be mounted to cart bottom to hide casters on three (3) sides.

36.6 Carts to have 1" black rubber bumper on three (3) sides.

36.7 Carts to be fork lift ready.

36.8 Mig welds on all aluminum components shall be blended - Tig welds on all stainless components shall be blended and finished.

36.9 All interior compartments to be constructed out of stainless steel.

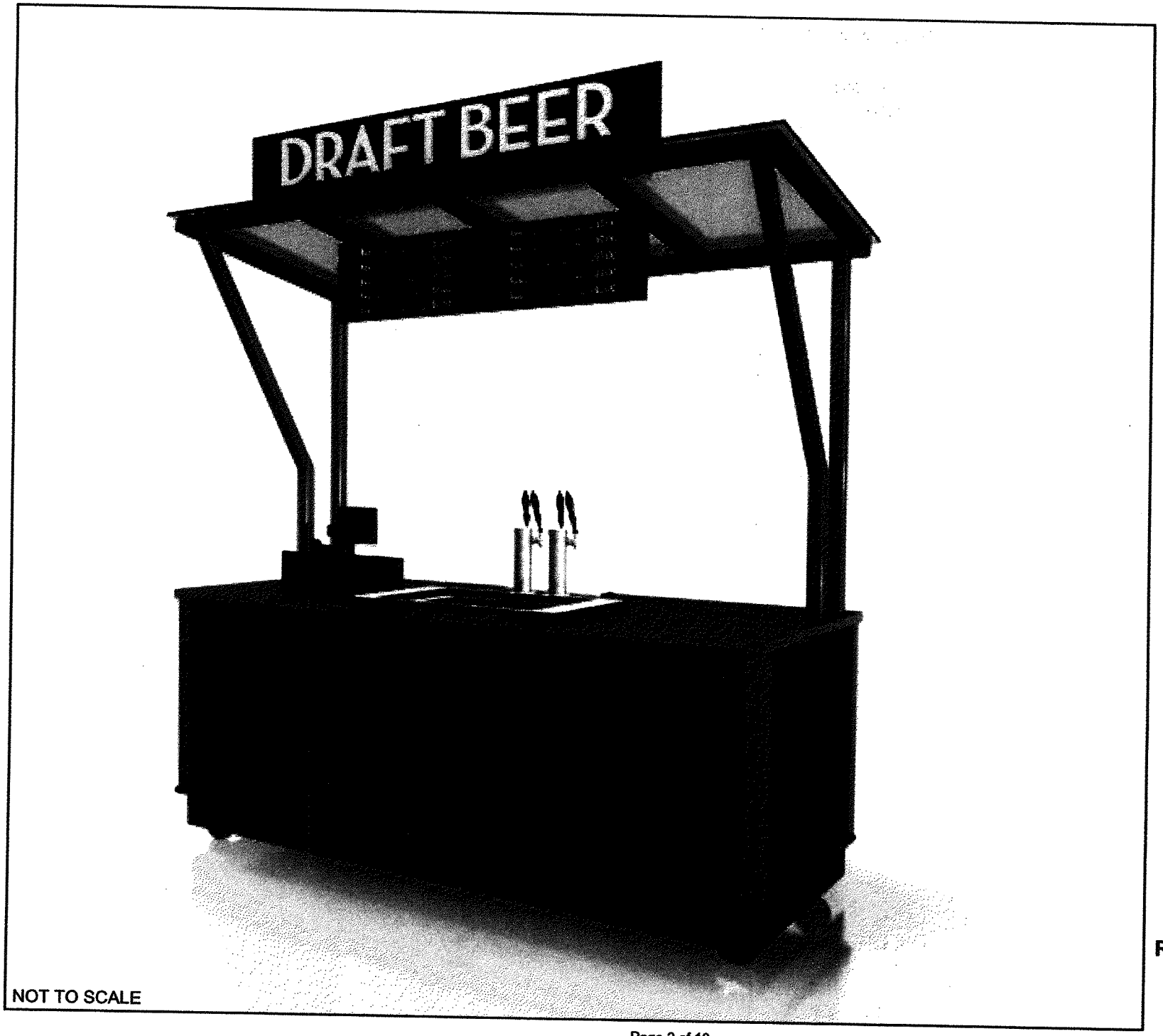
36.10 All exposed stainless steel will have a #4 finish.

36.11 Carts to have corner trim that shall be no less than 18 gauge stainless steel.

36.12 Doors shall be no less than 20 gauge stainless steel and have flush mounted handles with locks.
36.13 Door catches to be a magnetic type and built into doors so as not to protrude.
36.14 Fasteners shall be stainless steel and be NSF listed.
36.15 Hinges shall be stainless steel and will be used and applied to meet NSF standards.
36.16 Access holes through the countertop, walls and floors shall be properly finished with grommets installed to prevent chaffing of material going through.
36.17 Standard sink compartment to be self-contained with 5 gallon fresh water and 7-1/2 gallon waste water tank, a 2.5 gallon hot water heater, water pump and drop-in hand sink with faucet. Includes all required NSF hoses and fittings.
  36.17.1 Sinks are to be located below the countertop.
  36.17.2 All countertops above the sink are to have a cutout that is 20" wide x 8" deep to allow access from above.
36.18 All electrical components and Mobile Cart shall be UL listed with a central load center and a 7' power cord and NEMA Caps provided.
36.19 All electrical load centers to be mounted in the end of the cart, located behind access door.
36.20 All carts to include their respective cord and NEMA configured plugs.
36.21 All sealant material to be NSF listed and USDA approved.
36.22 Any and all exterior façade cart body treatment shall be removable for "face lifts" (Imaging change) and service.
36.23 All mobile carts to be listed to either NSF standard #2 or #59.
36.24 Refrigeration will be NSF listed with locks.
36.25 All food and beverage carts will have two (2) drop shelves with heavy duty brackets.
36.26 Sneeze guards will be tempered glass with stainless supports and NSF listed.
36.27 Under counter hand sink system- Custom.
36.28 Drop in single well ice well with sliding lid- Krowne D2712.
36.29 28" Stainless Steel Speed Rail- Custom.
36.30 Under counter refrigerator- Beverage Air UCR48A.
36.31 5 Gallon removable waste water tank with plumbing- Custom.
36.32 Glass display sneeze guard with front panels, side panels, top panel, and middle shelf- Custom.

RENDERINGS

EXHIBIT A TO CONTRACT AGREEMENT



NOT TO SCALE

Portable Carts For Pinnacle Bank Arena

RENDERING NO. 1

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena

NOT TO SCALE

RENDERING NO. 2

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena

NOT TO SCALE

RENDERING NO. 3

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

NOT TO SCALE

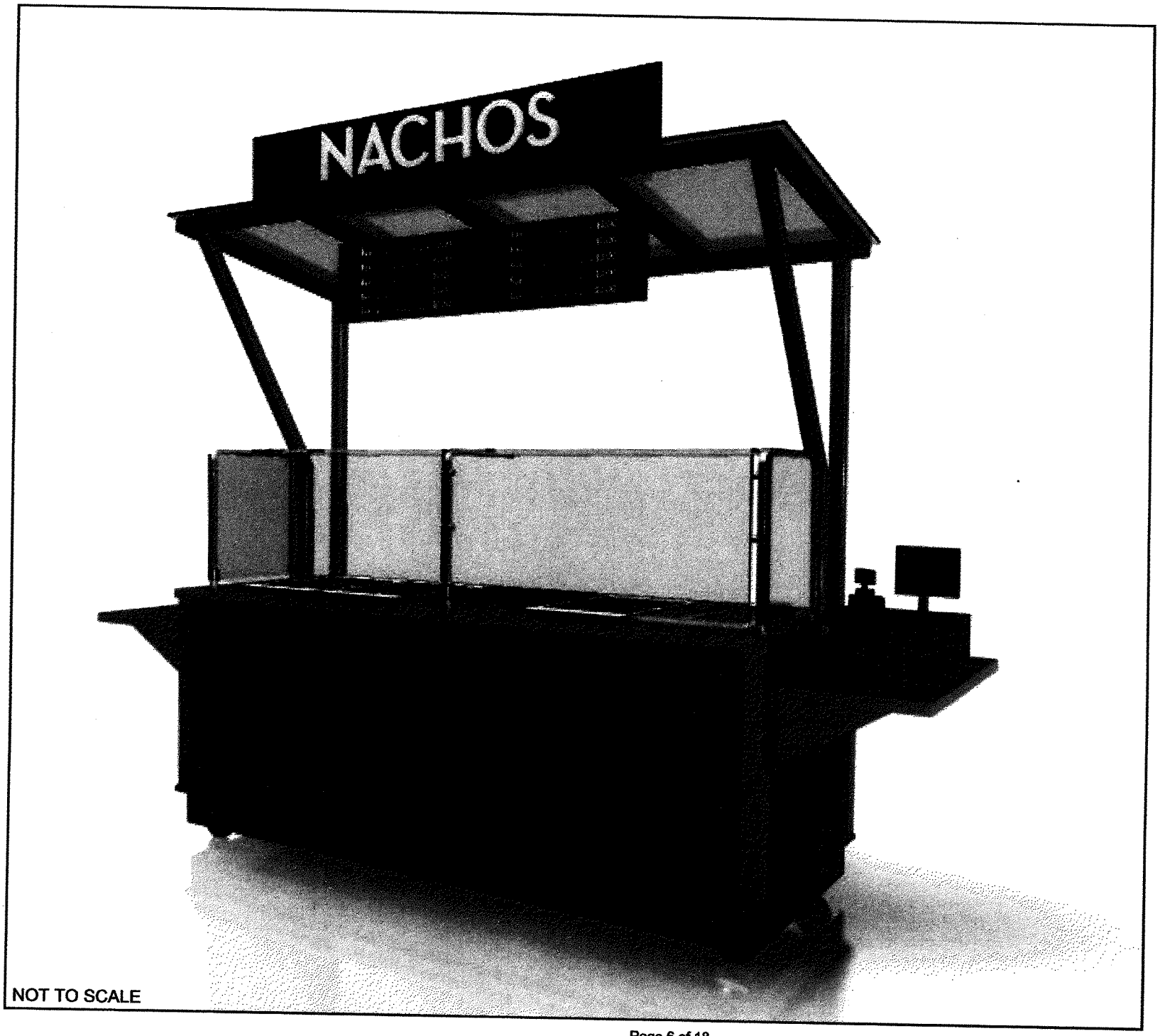
Portable Carts For Pinnacle Bank Arena

RENDERING NO. 4

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



NOT TO SCALE

RENDERING NO. 5

1-08-13

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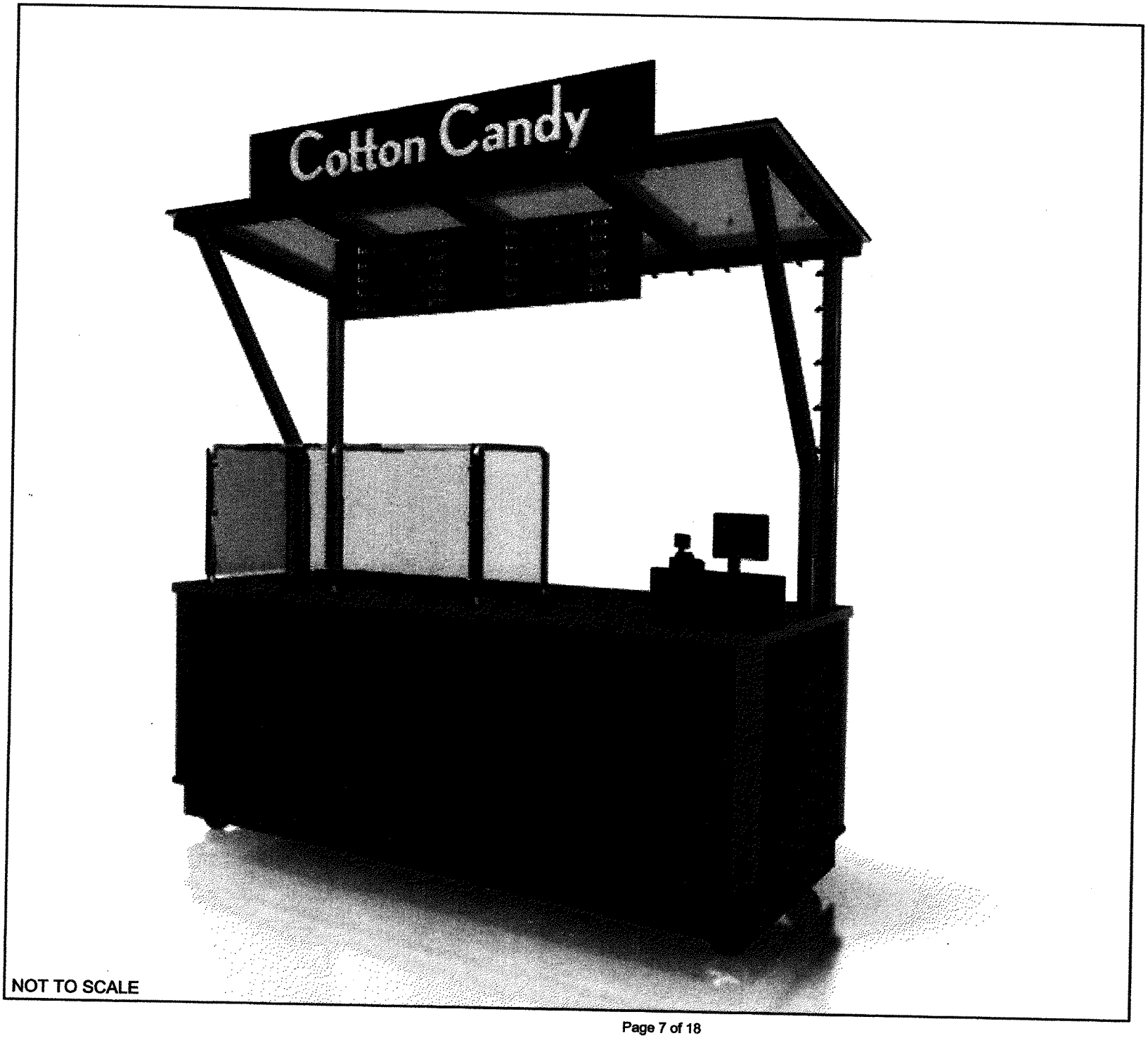


NOT TO SCALE

Portable Carts For Pinnacle Bank Arena

RENDERING NO. 6

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena

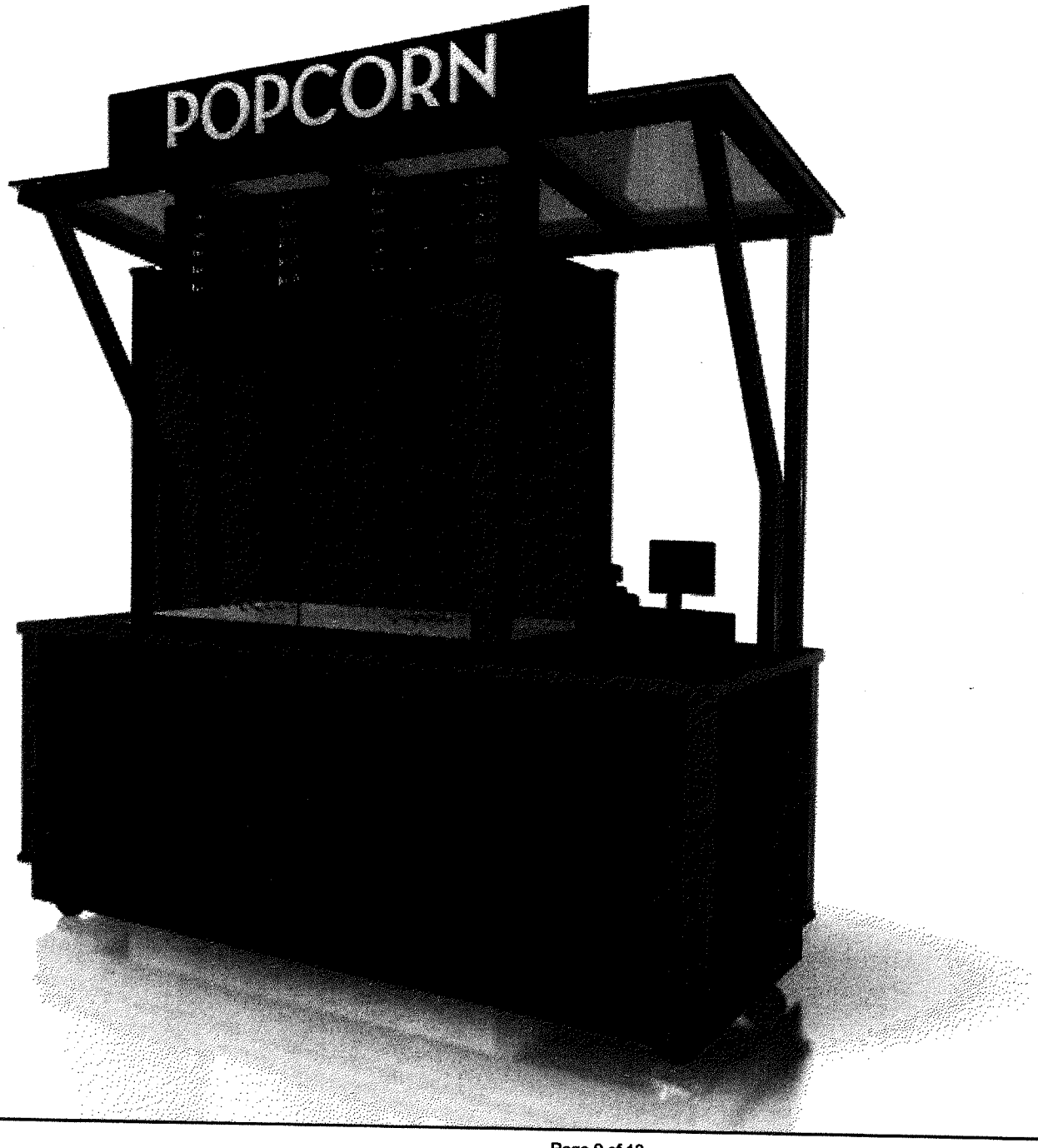
NOT TO SCALE

RENDERING NO. 7

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



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RENDERING NO. 8

1-08-13

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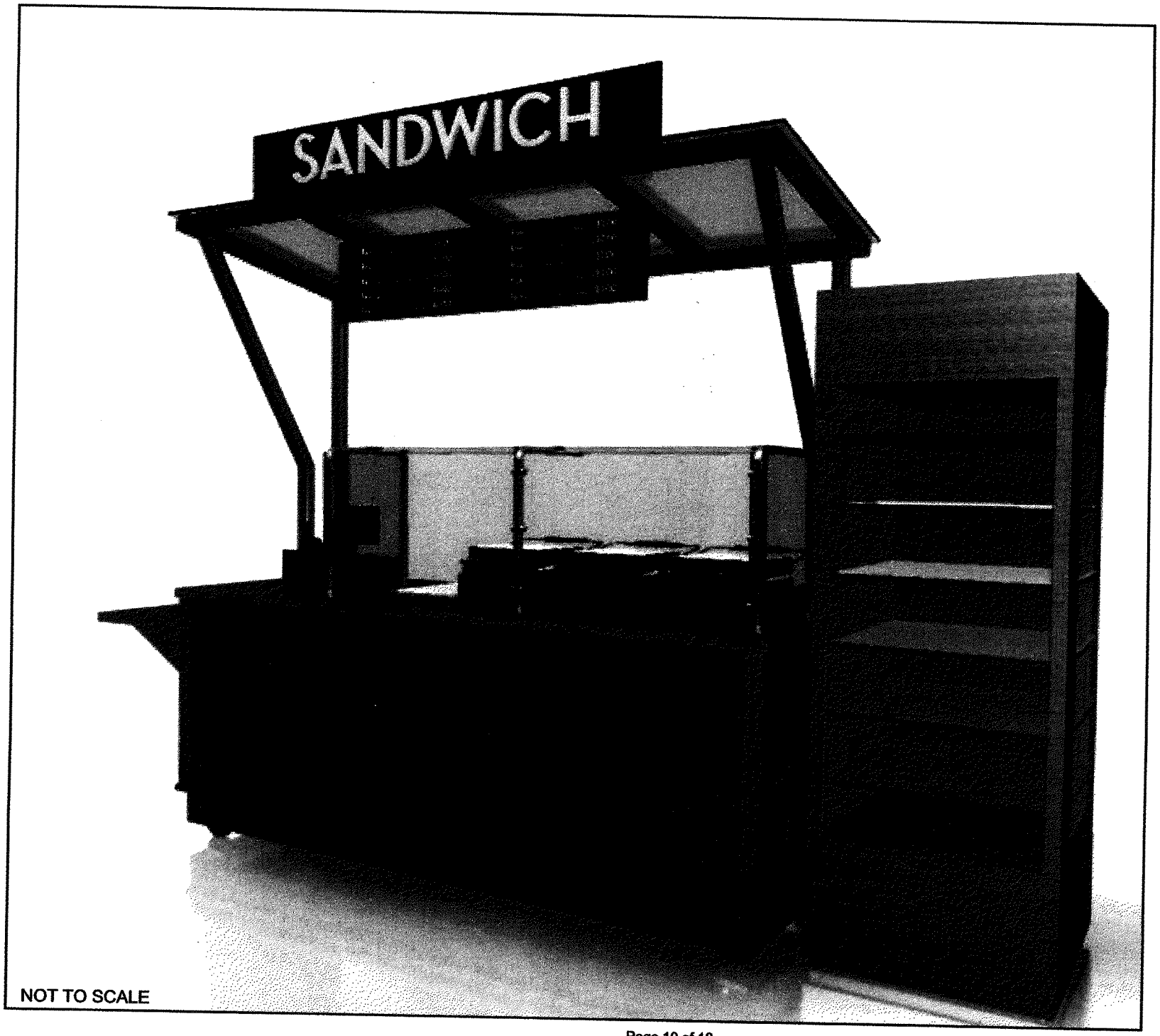


NOT TO SCALE

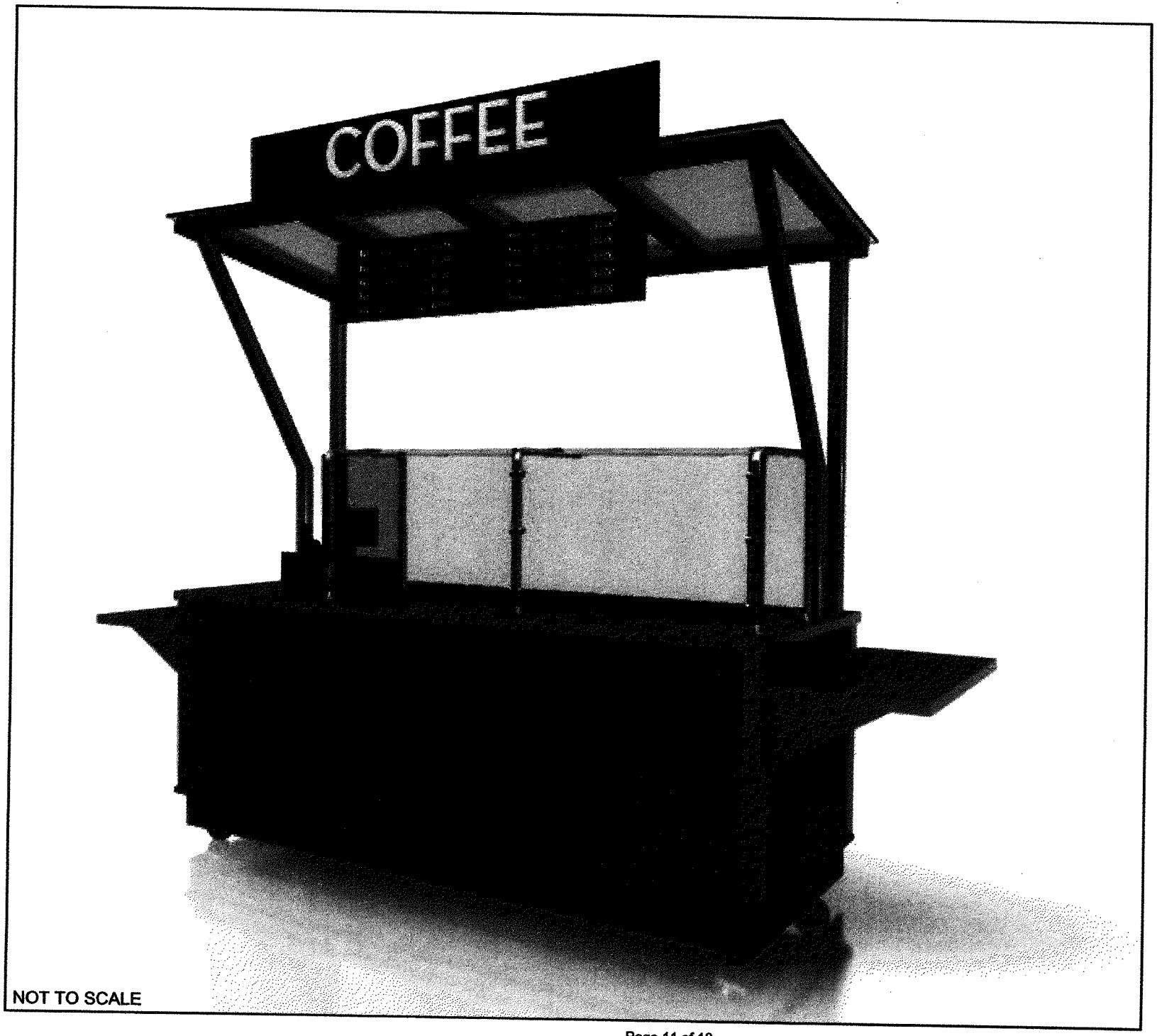
Portable Carts For Pinnacle Bank Arena

RENDERING NO. 9

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



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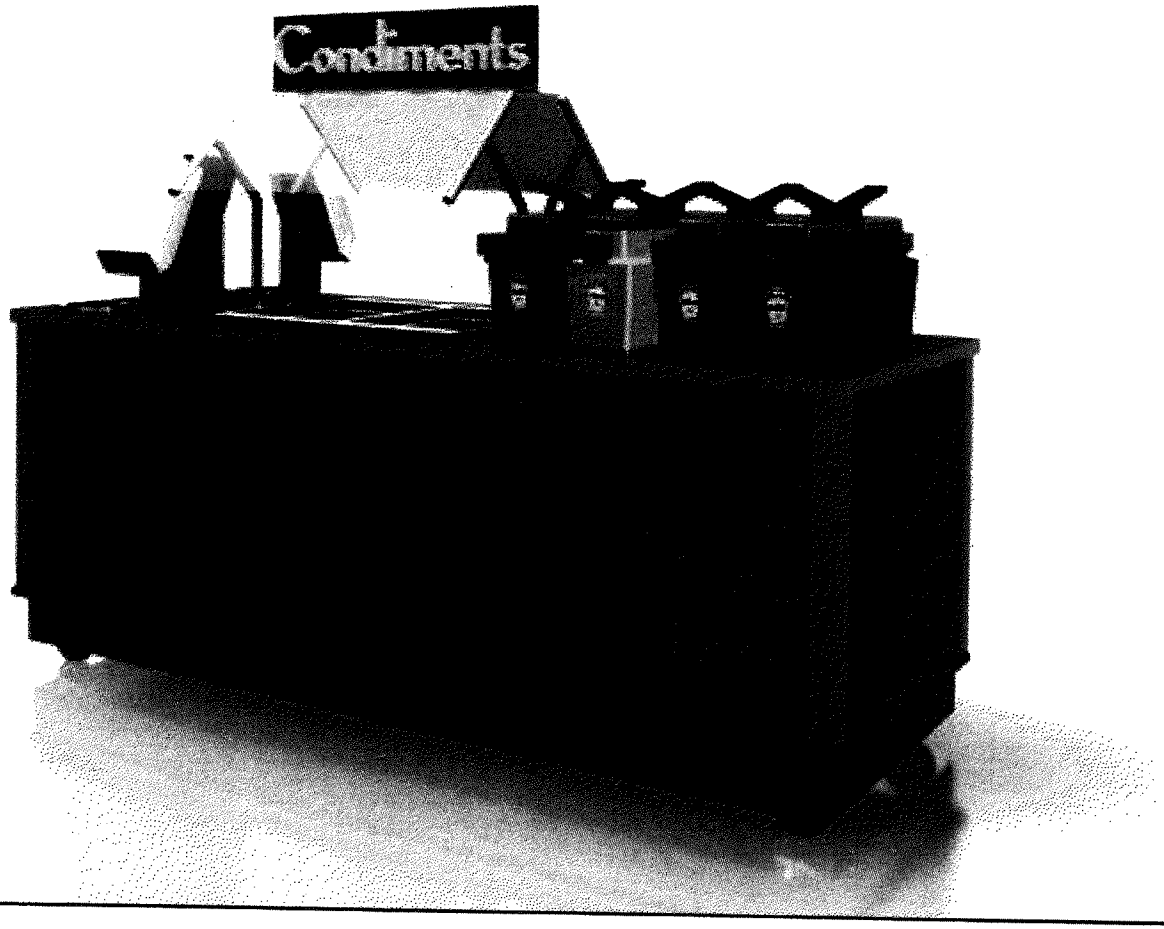
RENDERING NO. 10

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



NOT TO SCALE

RENDERING NO. 11

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena

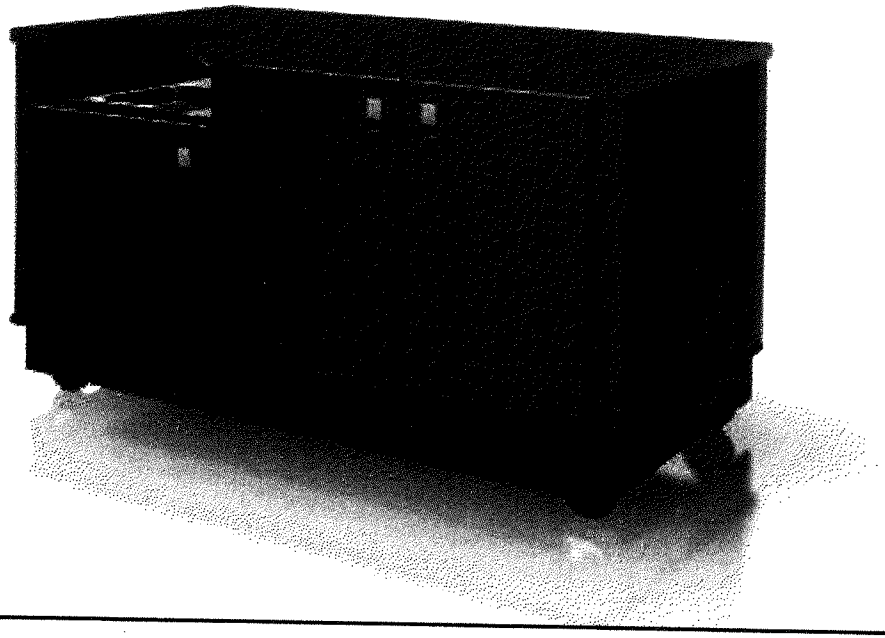
NOT TO SCALE

RENDERING NO. 12

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



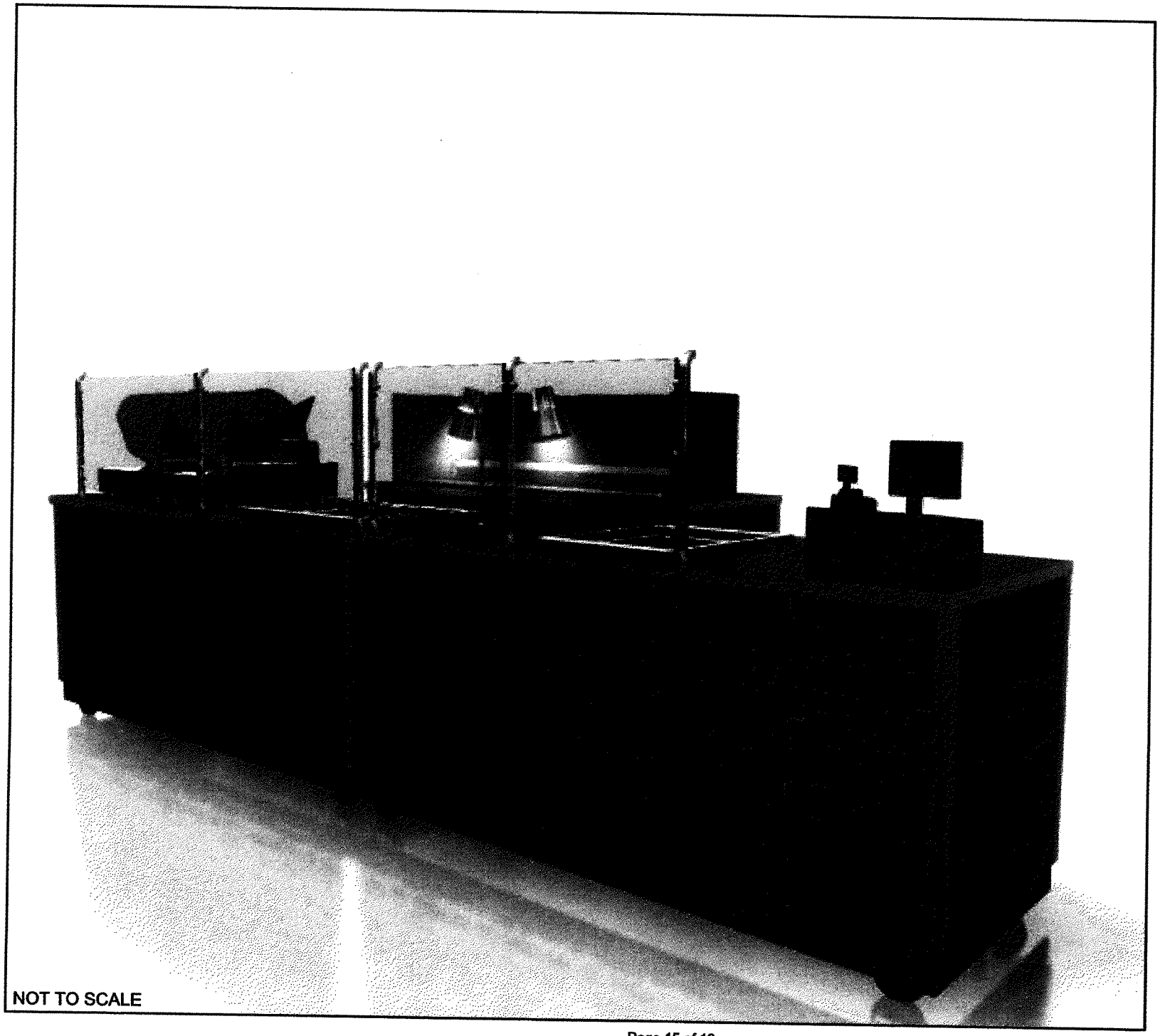
NOT TO SCALE

RENDERING NO. 13

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



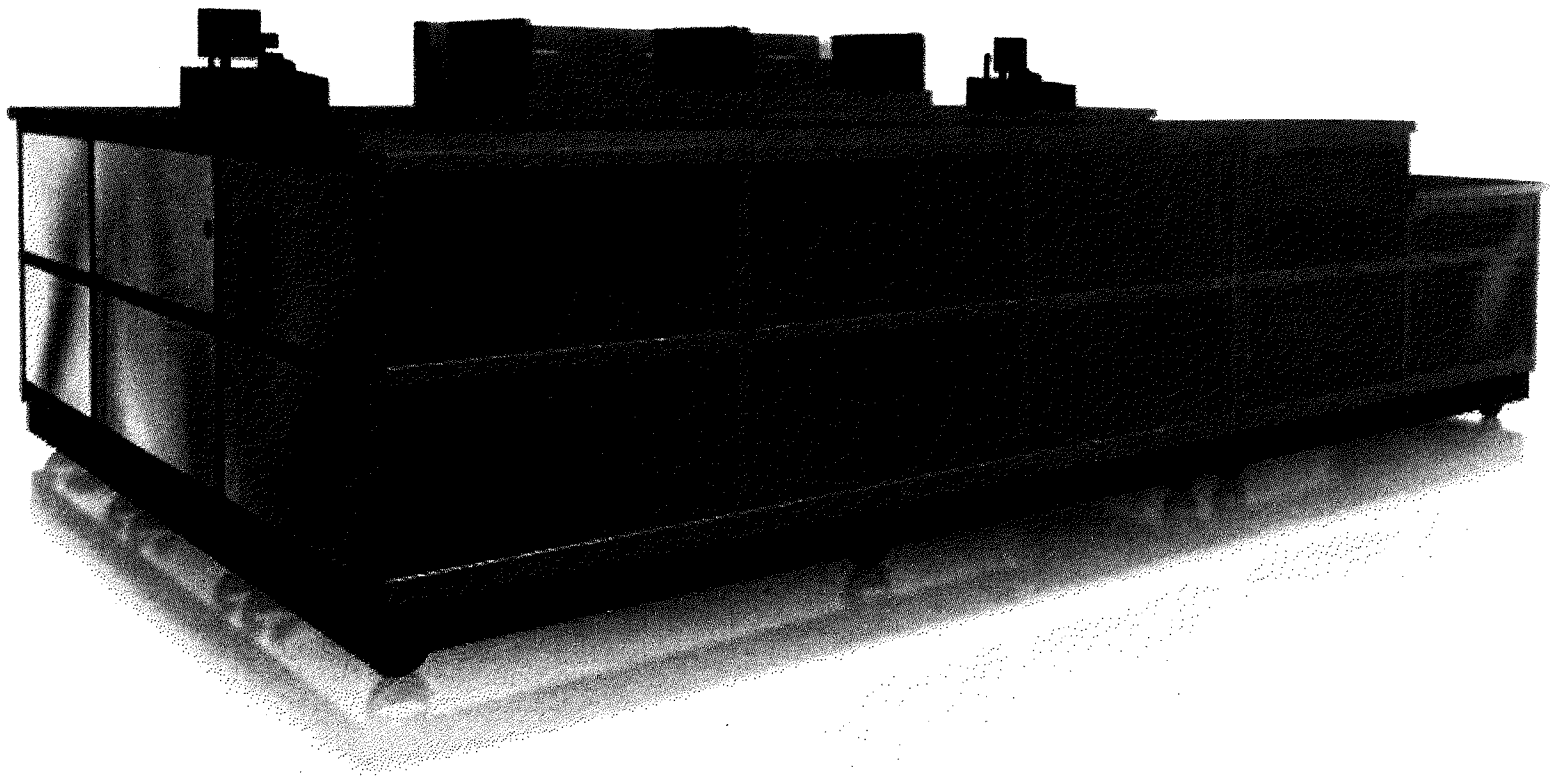
NOT TO SCALE

RENDERING NO. 14

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



NOT TO SCALE

RENDERING NO. 15

1-08-13

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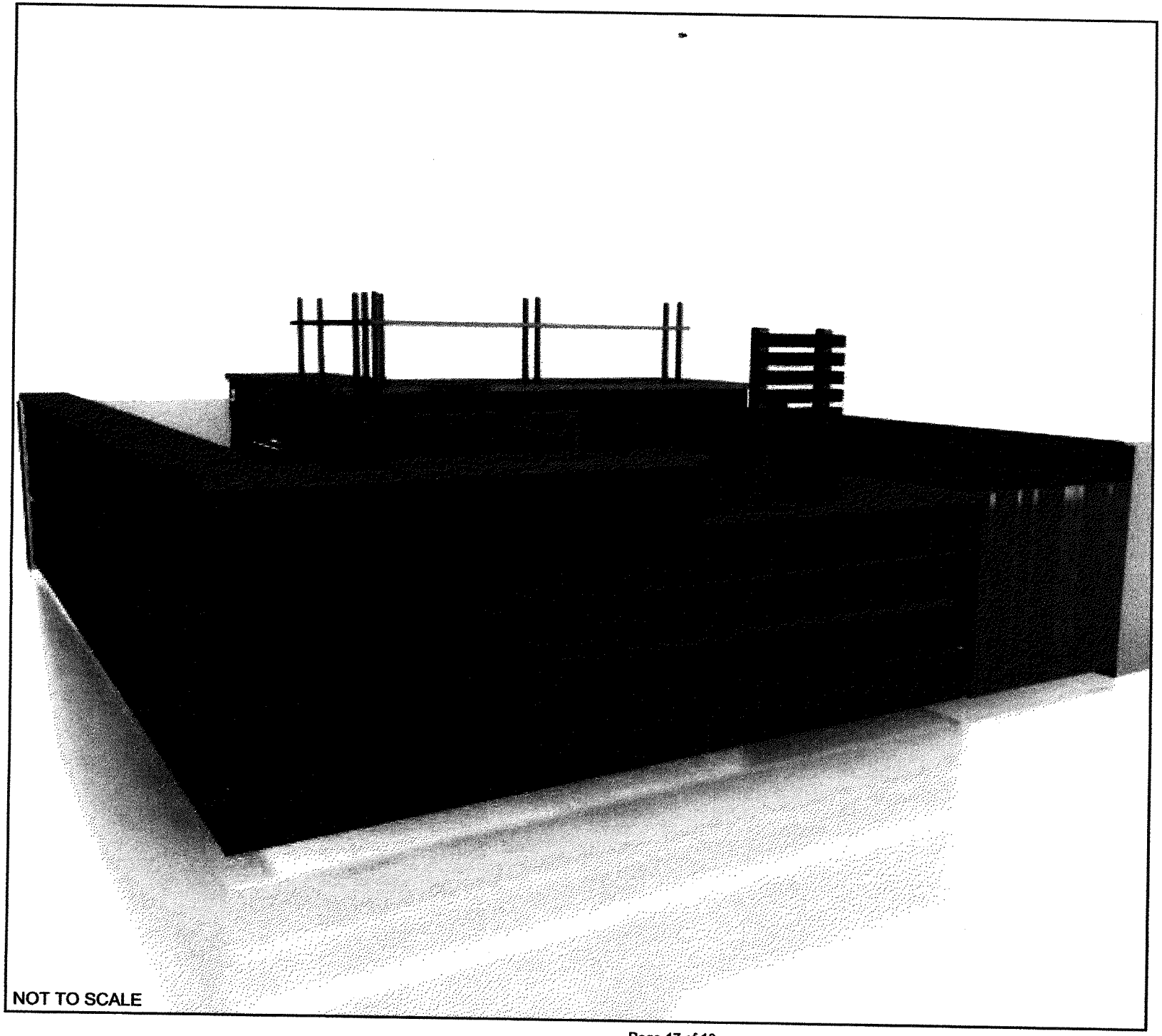


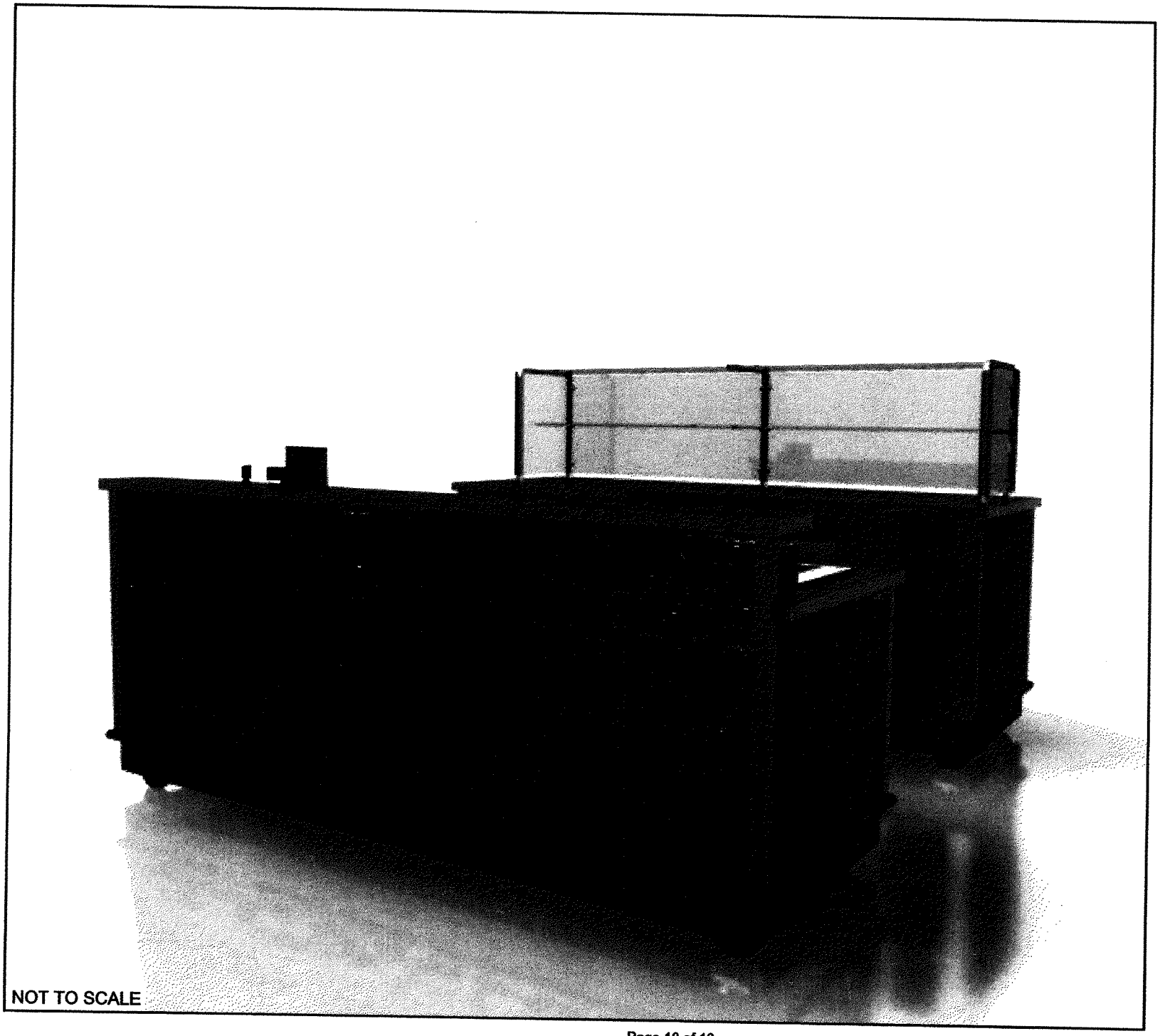
Portable Carts For Pinnacle Bank Arena

RENDERING NO. 16

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

Portable Carts For Pinnacle Bank Arena



RENDERING NO. 17

1-08-13

EXHIBIT A TO CONTRACT AGREEMENT

CARTS
OF COLORADO, INC.

4/10/2013

Quote

Project: Pinnacle Bank Arena carts
REV1

From: Carts of Colorado
5420 S. Quebec St.
Suite 204
Greenwood Village CO 80111
Phone: (303) 329-0101
Toll Free: (800)227-8634
Fax: (303)329-6577

Item	Qty	Description	Sell	Sell Total
1	1 ea	**DRAFT BEER CART** Carts of Colorado Model No. DRAFT BEER Draft beer cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have open storage. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Cart to have all convenience outlets as required and be wired with a cord and plug. The following buyout equipment will be provided.	$11,163.00	$11,163.00
	1 ea	Krowne Metal D2712-7 Krowne Drop-In Ice Bin, 27" x 20" OA, 10" Deep, w/Built-In 7-Circuit Cold Plate, 1" Drain, Fully Insulated, Stainless Steel Construction, Sliding Cover, NSF Approved (25-1/4" x 18-1/4" Cutout)		
	1 ea	Krowne Metal Ten circutie cold plate upgrade change # with suffix "-10"		
	2 ea	Micro Matic USA D4743DS Draft Tower, air cooled, (2) stainless steel faucets, 3" column, polished stainless steel finish		
	1 ea	Micro Matic USA 1 year parts & labor warranty, standard		
2	1 ea	**ICE CREAM CART** Carts of Colorado Model No. ICE CREAM Ice cream cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart	$10,984.00	$10,984.00

Initial: _____

EXHIBIT A TO CONTRACT AGREEMENT

Item	Qty	Description	Sell	Sell Total
		to have locking storage and accommodate two (2) rollin soft serve machines - PROVIDED BY OTHERS. A stainless steel equipment shroud will be mounted to the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Cart to have all convenience outlets as required and be wired with a cord and plug.		
3	1 ea	**NACHO CART** Carts of Colorado Model No. NACHO Nacho cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage, open storage with tray slides and aprons. A full service sneezeguard with glass top shelf, fronts and ends will be mounted on the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Two (2) stainless steel drop shelves will be mounted to the ends of the cart with heavy duty brackets. Cart to have all convenience outlets as required and be wired to a load center with a cord and plug. The following buyout equipment will be provided.	$12,430.00	$12,430.00
	1 ea	APW Wyott HFW-1D Hot Food Well Unit, drop-in, electric, EZ lock, insulated, individual pans, wet/dry type with drain, one-pan size for 12" x 20" pan, control panel with individual thermostat controls		
	1 ea	APW Wyott 1 year limited parts & labor warranty, std.		
	1 ea	APW Wyott 120v/60/1-ph, 1500w, 12.5 amps, DIRECT, std		
	1 ea	APW Wyott CFW-1D Cold Food Unit, Drop-in, EZ lock, iced cold pan, 1-pan full size 12" x 20", with drain, insulated pan, stainless steel inner liner & top, aluminized outer housing		
	1 ea	APW Wyott 1 year parts & labor warranty, std.		
4	1 ea	**COTTON CANDY CART** Carts of Colorado Model No. COTTON CANDY Cotton candy cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel	$10,065.00	$10,065.00

Initial: _____

EXHIBIT A TO CONTRACT AGREEMENT

Item	Qty	Description	Sell	Sell Total
		corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage. A full service sneezeguard with glass top shelf, front and sides will be mounted to the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Cart to have all convenience outlets as required and be wired with a cord and plug.		
5	1 ea	**BBQ CART** Carts of Colorado Model No. BBQ BBQ cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have an apron, locking storage and accommodate an undercounter heated cabinet. A full service sneezeguard with glass top shelf, display mid shelf, front and sides will be mounted to the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. A stainless steel drop shelf will be mounted to the end of the cart with heavy duty brackets. Cart to have all convenience outlets as required and be wired to a load center with a cord and plug. The following buyout equipment will be provided.	$16,118.00	$16,118.00
	1 ea	APW Wyott HFW-3D Hot Food Well Unit, drop-in, electric, EZ lock, insulated, individual pan design, wet or dry type, with drain & manifold, three-pan size for 12" x 20" pans, infinite controls		
	1 ea	APW Wyott 1 year limited parts & labor warranty, std.		
	1 ea	APW Wyott 208/240v/60/1-ph, 3600/4800w, 17.3/20.0 amps, DIRECT, std		
	1 ea	APW Wyott CFW-1D Cold Food Unit, Drop-in, EZ lock, iced cold pan, 1-pan full size 12" x 20", with drain, insulated pan, stainless steel inner liner & top, aluminized outer housing		
	1 ea	APW Wyott 1 year parts & labor warranty, std.		
	1 ea	Alto-Shaam 750-S Halo Heat® Low Temp Holding Cabinet, on/off simple control with adjustable thermostat, indicator light, capacity (10) 12" x 20" pans, (2) chrome plated side racks & (2) wire shelves, heavy duty 20 gauge stainless steel exterior, 3-1/2" casters; 2 rigid, 2 swivel with brakes, EcoSmart®, ANSI/NFS 4, cULus, CE, IP X3		
	1 ea	Alto-Shaam 120v/60/1, 9.0amps, 1.1kW, 5' cord, NEMA 5-15P,		

Initial: _____

Item	Qty	Description	Sell	Sell Total
		standard		
	1 ea	Alto-Shaam Doors hinged on right, standard		
6	2 ea	**POPCORN CART** Carts of Colorado Model No. POPCORN Popcorn cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage and accommodate a roll-in popcorn popper. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Cart to have all convenience outlets as required and be wired to a load center with a cord and plug. The following buyout equipment will be provided.	$19,954.00	$39,908.00
	2 ea	Gold Medal Products 2228ED Cornado Popcorn Bar, 48 oz. kettle, 48" enclosed cabinet, Bag-In-A-Box oil system, Big Eye Electronic Heat control, deep well, "Equi-Temp" heat diffuser, stainless steel construction, 7360 watts, 35 amps		
	2 ea	Gold Medal Products Parts warranty is two (2) years, labor is six (6) months - contact factory for more information		
7	1 ea	**PANINI CARTS** Carts of Colorado Model No. PANINI Panini cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage. A full service sneezeguard with glass top shelf, front and sides will be mounted to the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. A stainless steel drop shelf will be mounted to the end of the cart with heavy duty brackets. Cart to have all convenience outlets as required and be wired to a load center with a cord and plug. The following buyout equipment will be provided.	$19,286.00	$19,286.00
	3 ea	Nuova Simonelli P1L/FLT APL10T01E0 Deluxe Grill, (1) electric radiant		

Item	Qty	Description	Sell	Sell Total
		flat plate made of cast iron, (1) adjustable thermostat, pull-out tray, insulated handle, s/s construction, 1700W, 115v/60/1-ph, ETL		
	1 ea	True Food Service Equipment G4SM-23 Specialty Merchandiser, reach-in, one-section, 23 cu. ft., (4) shelves, copper aluminum finish with black trim exterior, white aluminum interior liner with 300 series stainless steel floor, (4) Low-E thermal glass sides including (1) hinged glass door, low UV emitting fluorescent lighting, bottom mounted self-contained refrigeration, 1/2 HP, 115v/60/1, 10.0 amps, MADE IN USA		
	1 ea	True Food Service Equipment Self-contained refrigeration standard		
	1 ea	True Food Service Equipment Warranty - 5 year compressor (self-contained only), please visit www.Truemfg.com for specifics		
	1 ea	True Food Service Equipment Warranty - 3 year parts and labor, please visit www.Truemfg.com for specifics		
	1 ea	True Food Service Equipment Exterior: Copper-aluminum, standard		
	1 ea	True Food Service Equipment Interior: White aluminum, standard		
	1 ea	True Food Service Equipment S-TD-11 Illuminated sign decal: S-TD-11 "Desserts" picture graphic, standard		
	1 ea	True Food Service Equipment Castors, 4", set of 4		
8	1 ea	**COFFEE CART** Carts of Colorado Model No. COFFEE Coffee cart to measure 96" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front side to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage and have a sink compartment with self-contained water system inside. A full service sneezeguard with glass top shelf, front and sides will be mounted to the countertop. A painted metal tubular awning structure with clear plexi roof, sintra signage and hanging menu board will be mounted on four (4) stainless steel poles. Two (2) stainless steel drop shelves will be mounted to the end of the cart with heavy duty brackets. Cart to have all convenience outlets as required and be wired to a load center with a cord and plug.	$11,880.00	$11,880.00
9	2 ea	**LARGE CONDIMENT CART** Carts of Colorado Model No. CONDIMENT Large condiment cart to measure 96" long x 36" deep x 39" high. Cart	$8,929.00	$17,858.00

Item	Qty	Description	Sell	Sell Total
		to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front and back sides to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Both ends of the cart to have locking storage. A buffet style sneezeguard will be mounted on the countertop. The following buyout equipment will be provided.		
	2 ea	Wells ICP-200 Cold Food Unit, drop-in, iced cold pan, 2-pan size with drain, insulated pan, stainless steel inner liner & top, steel outer liner, NSF		
	4 ea	Update International BM-350 Bain Marie, 3-1/2 quart, 6-5/16" dia., 7-1/16"H, 0.7 mm thick stainless steel		
10	5 ea	**SUPPORT CART** Carts of Colorado Model No. SUPPORT Support cart to measure 72" long x 36" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in Formica #271 Blackstone laminate. Customer front and back sides to have three (3) chemetal #380 Weathered Metal raised accent panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side to have locking storage and have a sink compartment with self-contained water system inside. Cart to have all convenience outlets as required and be wired with a cord and plug.	$5,999.00	$29,995.00
11	1 ea	**CARVERY CART #1** Carts of Colorado Model No. CARVERY Carvery cart #1 to measure 81" long x 34" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in rustic red faux brick panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have open and locking storage. A full service post and glass sneezeguard will be mounted on the countertop. Cart to have all convenience outlets as required and be wired with a cord and plug. The following buyout equipment will be provided.	$20,793.00	$20,793.00
	2 ea	Hobart 2612-2 Slicer, manual, angle feed, 12" s/s Stay Sharp knife, Poly-V-Belt drive, permanent ring guard, tilting removable s/s carriage & knife cover, top mounted sharpener, aluminum base w/tilt,		

Item	Qty	Description	Sell	Sell Total
		240/60/1, 1/2 hp		
	2 ea	Hobart Standard warranty - 1-Year parts, labor & travel time during normal working hours within the USA		
	1 ea	APW Wyott HFW-2D Hot Food Well Unit, drop-in, electric, EZ lock, insulated, individual pan design, wet or dry type, with drain & manifold, two-pan size for 12" x 20" pans, infinite controls		
	1 ea	APW Wyott 1 year limited parts & labor warranty, std.		
	1 ea	APW Wyott 208/240v/60/1-ph, 2400/3200w, 11.6/13.4 amps, DIRECT, std		
12	1 ea	**CARVERY CART #2** Carts of Colorado Model No. CARVERY Carvery cart #2 to measure 81" long x 34" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in rustic red faux brick panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have open and locking storage. A full service post and glass sneezeguard will be mounted on the countertop. Cart to have all convenience outlets as required and be wired with a cord and plug. The following buyout equipment will be provided.	$8,416.00	$8,416.00
	1 ea	Alto-Shaam CS-200 Hot Carving Shelf, 30-7/8" x 26" x 30-7/8", indicator light, infrared lamp, (3) position ON/OFF toggle switch, cutting board, recessed surface, 1" legs, 18 gauge stainless steel construction, EcoSmart®, cUL, CE, NSF		
	1 ea	Alto-Shaam 120v/60/1, 6.3 amps, 0.75kW, cord, NEMA 5-15P, standard		
	1 ea	Krowne Metal D2712 Krowne Drop-In Ice Bin, 27" x 20" OA, 10" Deep, 1" Drain, Fully Insulated, Stainless Steel Construction, Sliding Cover, NSF Approved (25-1/4" x 18-1/4" Cutout)		
13	1 ea	**CARVERY CART #3** Carts of Colorado Model No. CARVERY Carvery cart #3 to measure 86" long x 34" deep x 39" high. Cart to have a stainless steel countertop. Metal tubular frame body construction with metal exteriors finished in rustic red faux brick panels. Cart to have heavy duty casters, two (2) rigid and two (2) swivel with brakes, stainless steel corner trim, stainless steel bumper and a black rubber caster skirt. Operator side of the cart to have locking storage. A 3-sided sink shroud will be provided. A 3-compartment sink with faucet will be included. Cart to have all	$8,074.00	$8,074.00

Item	Qty	Description	Sell	Sell Total
		convenience outlets as required and be wired with a cord and plug.		
14	1 ea	**BAR** Carts of Colorado Model No. BAR Bar to measure 15'-0" long x 8'-8" deep x 3'-7" high. Kiosk to be made from multiple modules. All modules to have stainless steel countertops. Metal tubular frame body construction with milky white acrylic exteriors with color changing LED back lights and brushed aluminum grid accents. All units have heavy duty casters, stainless steel corner trim, stainless steel bumper and black rubber caster skirts. Units to have locking storage compartments. Compartments to have adjustable shelving. A swing gate is provided. Kiosk to have all convenience outlets as required and be wired to a load center with a cord and plug. The following buyout equipment will be provided.	$32,677.00	$32,677.00
	3 ea	Krowne Metal D2712 Krowne Drop-In Ice Bin, 27" x 20" OA, 10" Deep, 1" Drain, Fully Insulated, Stainless Steel Construction, Sliding Cover, NSF Approved (25-1/4" x 18-1/4" Cutout)		
	3 ea	Krowne Metal RS-30 Royal Series, Speed Rail, 30" long, Single, built-in, sound deadened, stainless steel		
	1 ea	Perlick Corporation GMDS24X72 Glass Merchandiser Ice Display, 24" x 72" long, (208) bottle capacity, glass and stainless steel construction, center partition, dual drain system		
	1 ea	Perlick Corporation LMDS2-72R Lighted Merchandise Display, 72", raised 2 tier, right end location of power cord and on/off switch (order GMDS Glass Merchandise Display separately) (10 day lead time) (custom - no returns for credit) 100-240v/50/60/1-ph, 1.2 amps, 5' cord, NEMA 215		
	1 ea	Beverage Air BB78G-1-B Refrigerated Backbar Storage Cabinet, 3-section, 78" W, 37-1/4" H, 33.0 cu. ft., (3) glass doors, snap-in door gasket, (6) epoxy coated steel shelves, (4) 1/2 barrel kegs, interior fluorescent lighting with manual on/off switch, black exterior finish, 2" stainless steel top, with stainless steel floors & galvanized interior, left-mounted self-contained refrigeration, 1/3 hp, UL, cUL, UL-EPH, NSF, MADE IN USA		
	1 ea	Beverage Air Limited Warranty: 3 yr parts and labor		
	1 ea	Beverage Air Additional 2 yr compressor warranty, standard		
	1 ea	Beverage Air 115v/60/1-ph, 7.2 amps, standard		
	1 ea	Beverage Air 115v/60/1-ph, 7.4 amps, 8' cord, NEMA 5-15P, standard		
21	1 ea	**ESTIMATED FREIGHT** FREIGHT Model No. FREIGHT ESTIMATED FREIGHT: WE CANNOT GUARANTEE THIS RATE DUE TO	$14,425.00	$14,425.00

Initial: _____

Pinnacle Bank Arena carts REV1

Item	Qty	Description	Sell	Sell Total
		CURRENT ECONOMIC CONDITIONS. Estimated freight is based on three (3) padded trucks with blanket wrapped equipment quoted to Lincoln, Nebraska. FREIGHT QUOTE IS ONLY GOOD FOR 30 WORKING DAYS DUE TO THE FUEL VOLATILTY. THE FINAL INVOICING MAY HAVE AN ADDITIONAL FUEL SURCHARGE. Truck will be required to pick up passes to park curb side for unloading.		
22	1 ea	**ESTIMATED INSTALLATION** INSTALLATION Model No. INSTALLATION Estimated installation	$3,850.00	$3,850.00
		Total		**$267,922.00**

All prices are in U.S. dollars.

Carts of Colorado Terms and Conditions

Credit Terms: Net 30

Delivery Date of August 1, 2013

Lead Time: To meet your ship date, the acceptance of order - sign off on CAD drawing and progress payment must be received as soon as possible as our lead times are generally 4-8 weeks after sign off and progress payment.

Artwork: Artwork must be camera ready - black & white slick sheets or disc per our specifications.

Approvals: Unless otherwise stated, it is the customer's responsibility to check all building, vending, local health, fire and any other agencies codes before ordering.

Rush Charges: Rush charges may apply to meet customer required delivery dates; all rush charges that we incur from vendors on the customers' behalf will be charged.

Design Changes: Customer initiated design changes may result in additional charges and longer lead times.

Assembly: Units that require assembly (not just "roll-off & use") must be installed by a Carts of Colorado representative, or the warranty is null & void.

CO State Sales Tax: Colorado sales tax will be collected for all Colorado shipments.

Initial: _____

EXHIBIT A TO CONTRACT AGREEMENT

Storage Charges: Any product left in or warehouse after four weeks from designated ship date will be subject to a daily storage charge. Payment of product is due within thirty days of completion.

Warranty: Material and workmanship for twelve (12) months after delivery of goods. Note: Most products are mobile units - it is the customer's responsibility to secure on site to prevent rolling and damage to the unit. Note: Installation by buyer may void warranty. All buyout equipment will carry the original manufacturers' warranty.

Cancellation: all custom orders are non cancelable and are subject to a substantial cancellation fee. Deposits may be forfeited.

Freight: FOB Destination Pre pay and Add. Freight must be inspected for damage immediately upon receipt (concealed and otherwise). All freight damage must be reported to the freight carrier without delay. A failure to report damage on a timely basis to the freight carrier may result in denial of the claim. Goods damaged by a freight carrier are the responsibility of the carrier.

Delivery: customer is responsible to insure unit(s) can be properly delivered to the desired location. Customer is responsible to insure doorway, ceiling heights, elevator openings, dock clearances, etc. will allow for the proper delivery and use of unit.

Carts of Colorado Artwork Specification

Digital Prints

Scanned artwork should be provided at a minimum of 300 DPI at 100% (if possible, a higher resolution is preferred). Acceptable file formats in PC format only are:

- Tagged Image Format File (TIFF)

Applied Graphics

We have the capacity to accept the following vector file types in PC format only:

- Adobe Illustrator (AI)
- Encapsulated PostScript (EPS)
- CorelDraw (CDR)

Menu Boards

Menu copy should be submitted by email, fax or hard copy along with graphics.

Pinnacle Bank Arena carts REV1

Submitting Artwork

When emailing artwork, please include company name and job number in the subject line of your email. Please provide a color printout (proof) of your artwork as you intend it to be reproduced. For proper color reproduction/matching, indicate any items you intend to use as an exact color proof. When working with solid colors, please specify them in your files using a PMS number. The closest CMYK, 4 color match will be printed.

Acceptance: _____ Date: _____

Printed Name: _____

EXHIBIT B

Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012)

Approved by Law
4-16-2013

INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS

1. INDEMNIFICATION

A. **Indemnification of JPA**

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

C. The obligations of indemnification herein shall not include or extend to:

(1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and

(2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.

D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.

C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.

D. **Certificates Showing Coverage**. Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

F. **Other Requirements**. Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence of willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit, or other employee benefit acts;

(2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;

(3) Claims customarily covered under personal injury liability coverage;

(4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;

(5) Claims arising out of ownership, maintenance or use of any motor vehicle;

(6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	**Listing**	**Min Amt**	**Notes**
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	$500,000	each accident
	Bodily Injury by disease	$500,000	each employee
	Bodily Injury	$500,000	policy limit

C. **Commercial General Liability Insurance.**

(1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	$5,000,000/$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	$ 100,000	any one fire
Medical Damage Limit	$ 10,000	any one person

(2) The required Commercial General Liability Insurance shall also include coverage for the following:

- Bodily injury and property damage.
- Fire legal liability
- Coverage for all premises and operations.
- Personal and advertising injury.
- Operations by independent contractors.
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted.
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
- Contractual liability coverage.

(3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.

- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
- Endorsement to provide the general aggregate per project endorsement.
- Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
- Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
- Separation of insureds.
- Additional insured endorsement in favor of and acceptable to the JPA.

(4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. **Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor or and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. **Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. **Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of $5,000,000 per occurrence, $10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

G. **Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.

B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.

B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be $5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.

C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.

D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

EXHIBIT C

Supply Bond

Approved by Law
4-16-2013

Bond No. _____

SUPPLY BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, **Carts of Colorado, Inc.** as **Principal**, and _____ _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Nebraska, as **Surety**, are held and firmly bound unto the **West Haymarket Joint Public Agency,** as **Obligee**, in the penal sum of Two Hundred Sixty-Seven Thousand Nine Hundred Twenty-Two Dollars ($267,922), lawful money of the United States of America and to the faithful payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators (or, assigns), firmly by this presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That:

WHEREAS, Principal has entered into the West Haymarket Joint Public Agency (JPA) Portable Concession Carts Contract ("Contract") dated May 3, 2013, (an original of which is on file in the Office of the City Clerk of the City of Lincoln, Nebraska) which provided for the procurement, delivery and installation of the portable concession carts as set forth in the Bid Documents.

NOW, THEREFORE, if Principal shall timely procure, deliver and install the portable concession carts in accordance with the Contract, as require the execution of this Supply Bond, then this obligation shall become void, otherwise to remain in full force and effect. In the event Principal shall be declared by the Obligee to be in default under the above obligation, the Obligee may relet or otherwise complete the purchase, delivery and installation of the portable concession carts. Surety shall promptly indemnify and save harmless the Obligee to the limit of the penal amount of this bond from any loss, including but not limited to the Obligee's reasonable cost of such reletting or completion including the increased cost, if any, for the purchase, delivery and installation of the portable concession carts and delay damages due to the Principal's failure to timely procure, deliver and install the portable concession carts.

Signed and dated this ____ day of _____, 2013.

CARTS OF COLORADO, INC. Principal

By: _____
Name: _____
Title: _____

_____, Surety

By: _____
Title: Attorney-in-Fact

(Accompany this Bond with Attorney-in-Fact's authority from Surety to execute this bond, certified to include the date of the Bond)

WH 13-48 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the attached Allowable Fill Restriction Agreement between the City of Lincoln and the West Haymarket Joint Public Agency to treat the proposed Breslow Ice Center site, the City's 901 Building site and the West Haymarket Parking Lot and Festival Space as a single development area and to define the maximum amount of fill allowed on each site, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Agreement on behalf of the West Haymarket Joint Public Agency.

The City Clerk is directed to return an original Agreement to Rick Peo, Chief Assistant City Attorney for filing with the Lancaster County Register of Deeds.

Adopted this _____ day of _____, 2013.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

ALLOWABLE FILL RESTRICTION AGREEMENT

THIS ALLOWABLE FILL RESTRICTION AGREEMENT ("Agreement") is made and entered into by and between the **City of Lincoln, Nebraska**, a municipal corporation ("**City**"), and the **West Haymarket Joint Public Agency**, a political subdivision of the State of Nebraska created by the Nebraska Joint Public Agency Act, Neb. Rev. Stat. § 13-2501 *et seq.* ("**JPA"**), as of the date of the last execution of this Agreement by the City or JPA as the case may be.

RECITALS

I. The City is the Owner of Lot 1, Block 1, and Lot 2, Block 1, West Haymarket Addition, Lincoln, Lancaster County, Nebraska ("Lot 1" and "Lot 2", respectively).

II. The JPA is the Owner of Lot 3, Block 1, West Haymarket Addition, Lincoln, Lancaster County, Nebraska ("Lot 3").

III. Lot 1 is the proposed Breslow Ice Center site. Lot 2 is the site of the City's 901 Building. Lot 3 is the site for the JPA's West Haymarket Parking Lot and Festival Space.

IV. Lots 1, 2 and 3 are located in the Salt Creek Flood Storage Area which is defined in Lincoln Municipal Code Section 27.52.020 to mean "a portion of the Salt Creek floodprone area that stores floodwaters along the stream reach adjacent to the Salt Creek levee and is assigned a percentage of allowable fill, as shown on the Salt Creek Floodprone Area and Salt Creek Flood Storage Area Detail Maps adopted by resolution of the City Council, copies of which are on file with the Department of Building and Safety."

V. Lots 1, 2 and 3 are located in Flood Storage Area 9 as shown on the Salt Creek Flood Storage Area Detail Map adopted by Resolution No. A-84280, adopted by the City Council of the City of Lincoln, Nebraska on March 5, 2007. A copy of said Map is attached hereto marked as Exhibit 1. The percentage of allowable fill assigned to Flood Storage Area 9 is 40%.

VI. The development of Lots 1, 2 and 3 is subject to the Standards for Salt Creek Flood Storage Area as set forth in Lincoln Municipal Code Section 27.52.035. Section 2752.035 provides in pertinent part that:

> (a) No development or improvement shall occur within any Salt Creek flood storage area unless the applicant has demonstrated that the total amount of flood storage volume to be eliminated by the development within the development area does not exceed, on a volumetric basis, the same percentage of allowable fill assigned to that flood storage area. The allowable fill shall be a percentage of the total flood storage volume available in the development area as of the effective date of this ordinance.
>
> (1) For the purposes of the Salt Creek Flood Storage Area Standards, the development area may include adjacent or non-adjacent parcels within the same flood storage area. Within a single flood storage area, the allowable fill for an entire development area will be considered on a net basis. Individual parcels within a development area may have an amount of fill that is greater than the percentage of allowable fill assigned to that flood storage area, provided a permanent conservation easement or permanent deed restriction to protect the flood storage is dedicated over another parcel or parcels within the development area, such that the net percentage of fill does not exceed the percentage of allowable fill.

VII. Pursuant to Section 27.52.035(a)(1), the parties desire to subject Lots 1, 2 and 3 to a permanent deed restriction requiring Lots 1, 2 and 3 to be developed as a single flood storage area in order to allow Lots 1 and 2 to be developed with an allowable percentage of fill that is greater than the 40% which would otherwise be individually assigned to the lots.

NOW, THEREFORE, in consideration of the above Recitals and the covenants contained herein, the parties agree as follows:

1. Pursuant to the Salt Creek Flood Storage Area Standards in Lincoln Municipal Code Section 27.52.035, Lots 1, 2 and 3 shall constitute and be developed as a single development area.

2. Lot 1 may be developed with a total amount of fill not to exceed 35,801 cubic yards of fill; Lot 2 may be developed with a total amount of fill not to exceed 10,620 cubic yards of fill; and Lot 3 may be developed with a total amount of fill not to exceed 22,941 cubic yards of fill as more particularly described on the Flood Storage Summary Map attached hereto marked as Exhibit 2.

3. The terms and conditions of this Agreement shall run with the land and the terms and conditions of this Agreement shall be binding upon the parties and their successor and assigns.

CITY OF LINCOLN, NEBRASKA

By: _____
Chris Beutler, Mayor of Lincoln

Execution Date: _____

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
Chris Beutler, Chairman of the Board of Representatives of the West Haymarket Joint Public Agency

Execution Date: _____

STATE OF NEBRASKA)
) ss:
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this _____ day of_____, 2013, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

_____
Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this _____ day of_____, 2013, by Chris Beutler, Chairman of the Board of Representatives of the West Haymarket Joint Public Agency, a Nebraska Joint Public Agency.

_____
Notary Public

EXHIBIT 1

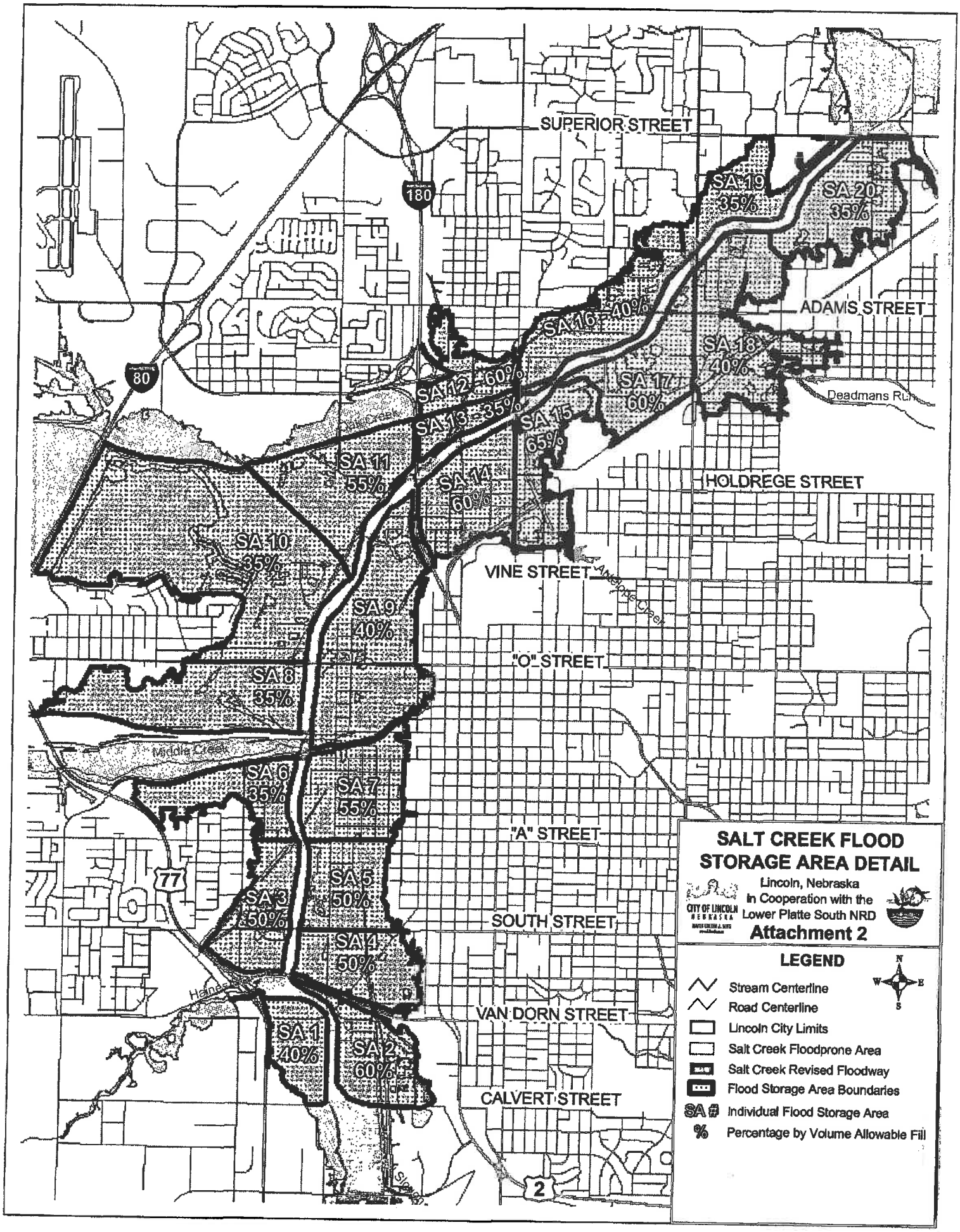
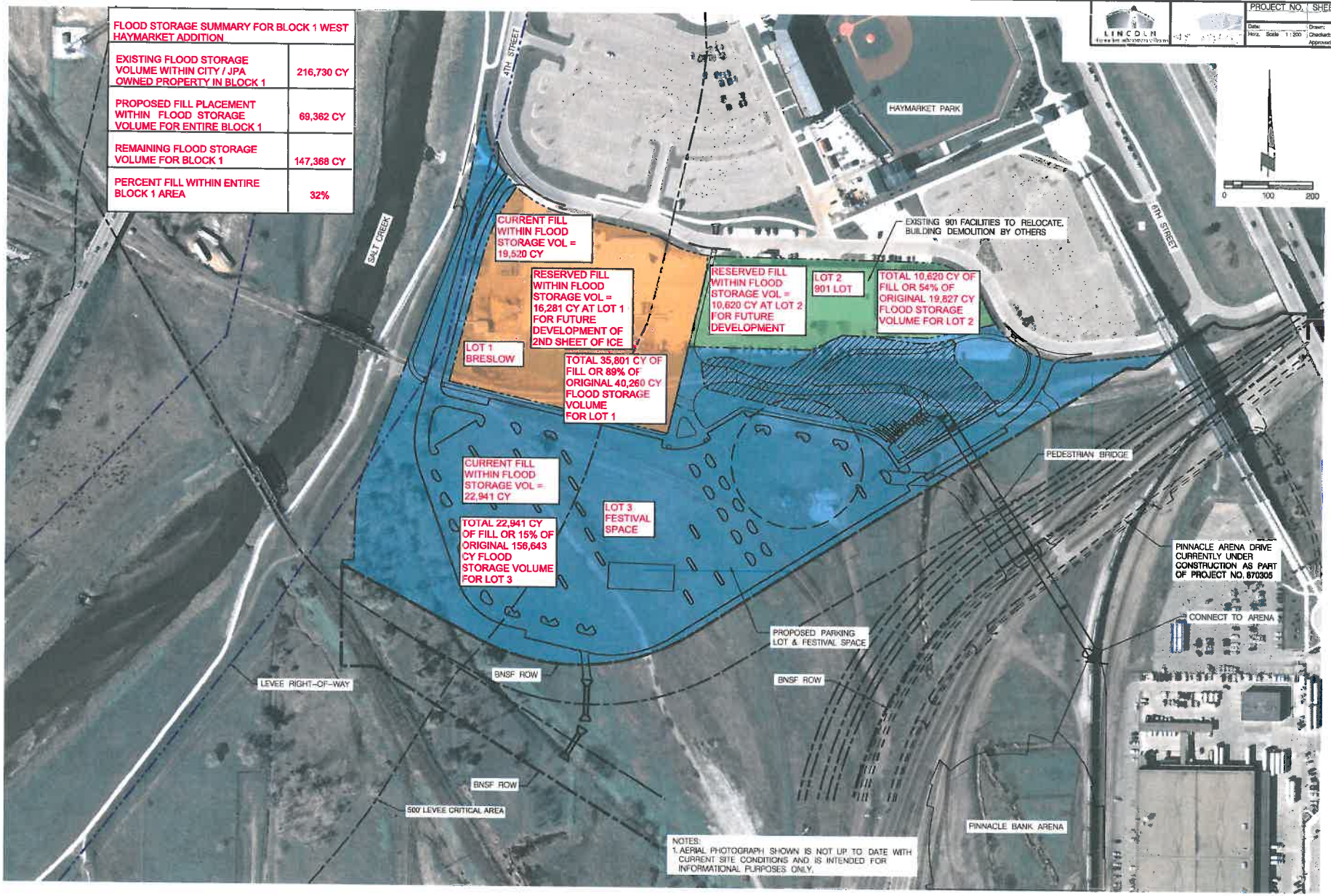

SUPERIOR STREET
ADAMS STREET
HOLDREGE STREET
VINE STREET
"O" STREET
"A" STREET
SOUTH STREET
VAN DORN STREET
CALVERT STREET
Deadmans Run
Antelope Creek
Middle Creek
Haines Branch
Stevens
180
80
77
2
SA 1 40%
SA 2 60%
SA 3 50%
SA 4 50%
SA 5 50%
SA 6 35%
SA 7 55%
SA 8 35%
SA 9 40%
SA 10 35%
SA 11 55%
SA 12 60%
SA 13 35%
SA 14 60%
SA 15 65%
SA 16 40%
SA 17 60%
SA 18 40%
SA 19 35%
SA 20 35%
SALT CREEK FLOOD STORAGE AREA DETAIL
Lincoln, Nebraska
In Cooperation with the
Lower Platte South NRD
Attachment 2
CITY OF LINCOLN NEBRASKA
LEGEND
Stream Centerline
Road Centerline
Lincoln City Limits
Salt Creek Floodprone Area
Salt Creek Revised Floodway
Flood Storage Area Boundaries
SA # Individual Flood Storage Area
% Percentage by Volume Allowable Fill
N
W
E
S

EXHIBIT 2

PROJ: Wsel_Haymarket.cfg
FILE: ...\Haymarket\Haymarket_PENTABLE.tbl
USER: jwebster
DATE: 10/4/2012
DGN: ...\Design\Levees\401 Plot.dgn

FLOOD STORAGE SUMMARY FOR BLOCK 1 WEST HAYMARKET ADDITION	
EXISTING FLOOD STORAGE VOLUME WITHIN CITY / JPA OWNED PROPERTY IN BLOCK 1	216,730 CY
PROPOSED FILL PLACEMENT WITHIN FLOOD STORAGE VOLUME FOR ENTIRE BLOCK 1	69,362 CY
REMAINING FLOOD STORAGE VOLUME FOR BLOCK 1	147,368 CY
PERCENT FILL WITHIN ENTIRE BLOCK 1 AREA	32%



WH 13-49 Introduce: 5-16-13

RESOLUTION NO. WH- _____

BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That the Chairperson of the Board of Representatives is hereby authorized to execute, on behalf of the West Haymarket Joint Public Agency, a Storage Space Lease Agreement between the West Haymarket Joint Public Agency and TDP Phase One LLC and TDP Phase Two LLC (collectively "TDP") substantially in the form attached hereto with such revised exhibits and other minor changes to the Agreement as shall be approved by the Chairperson and Legal Counsel for the West Haymarket Joint Public Agency. The Agreement provides for TDP's lease of Storage Room 104 in the JPA Deck 1 Parking Garage.

Adopted this _____ day of _____, 2013.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Chris Beutler, Chair

_____
Tim Clare

_____
Eugene Carroll

STORAGE SPACE
LEASE AGREEMENT

This Storage Space Lease Agreement ("Agreement") is entered into by and between the West Haymarket Joint Public Agency ("JPA") and TDP Phase One, LLC and TDP Phase Two, LLC (collectively "TDP") as of the date of execution by JPA below. In consideration of the mutual covenants and promises contained herein, JPA and TDP do agree as follows:

1. LEASE. JPA hereby leases to TDP and TDP hereby leases from the JPA the right to occupy the approximately 1,689 square foot storage room (104) located in the northeast corner on the first floor of the JPA Deck 1 Parking Garage located at 555 R Street on property legally described as Lot 1, Block 4, West Haymarket Addition, Lincoln, Lancaster County, Nebraska (the "Premises").

2. TERM. The term of this Agreement shall commence on September 1, 2013 ("Commencement Date") and shall continue for the useful life of the JPA Deck 1 Parking Garage or the useful life of the TDP building improvements located on Lots 2 and 3, Block 4 and Lot 1, Block 5, West Haymarket Addition, Lincoln, Lancaster County, Nebraska (collectively "TDP Property"), whichever period of time is lesser, subject to earlier termination as provided in Section 14 below.

3. SURRENDER; HOLDING OVER. Upon expiration of the Lease or earlier termination of TDP's right to possession, TDP shall immediately vacate the Premises, remove all property therefrom and leave the Premises in a clean, broom-swept condition free of damage in excess of normal wear and tear. Any property not removed shall be deemed abandoned and TDP shall be liable for all costs of removal. If TDP remains in possession of the Premises, or any part thereof, after expiration of the term hereof, such occupancy shall be a tenancy from month to month until terminated by either party giving the other party thirty (30) days written notice of termination. Any hold over month-to-month tenancy shall be subject to the provisions of this Agreement.

4. **RENT**. TDP agrees to pay Base Rent and Additional Rent as provided for herein.

A. Base Rent. Base Rent shall be calculated at the rate of $5.00 per square foot on an annual basis, i.e. 1,689 sq. ft. x $5.00/sq. ft. = $8,445.00/year. Base Rent shall be payable in equal semi-annual installments of $4,222.50 subject to annual modification as provided in Subsection B below. Said Base Rent payments shall be paid in advance on or before September 1, 2013 and March 1, 2014 and on or before the first day of each September and March thereafter during the term of this Agreement.

B. Escalation of Base Rent. Commencing on September 1, 2016 and on September 1 every three (3) years thereafter (each such date a "Rent Adjustment Date"), the Base Rent then in effect shall be adjusted, upward only, by a percentage equal to the percentage increase in the Consumer Price Index presently designated as the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers, U.S. City Average, (Base 1982-1984 equals 100) ("CPI-U") for the month of May immediately prior to the Rent Adjustment Date compared to the CPI for the month of May three years prior thereto. For example, on September 1, 2016, the rent shall be increased by a percentage equal to the percentage increase between the May 2013 CPI-U and the May 2016 CPI-U. In the event that the statistics are not available or in the event that publication of the CPI-U is modified or discontinued in its entirety, the adjustment provided for herein shall be made on the basis of an index mutually agreed upon by the parties to be a comparable and recognized index of purchasing power of the United States consumer dollar published by the U.S. Department of Labor or other governmental agency.

C. Additional Rent. TDP further agrees, as additional rent, to reimburse the JPA for the JPA's cost to remove the existing door, cut a new hole and install a roll-up door for the approximately 767 square foot south storage room also located on the first floor of Deck 1. Said new door is needed in order for the JPA to store a garage sweeper in this smaller space which was originally intended to be stored in the Premises. Said payment shall be paid to the JPA within thirty (30) days from the date TDP receives a request for said reimbursement. The estimated cost for the work to install the roll-up door is $3,000.00.

D. Payment of Rent. All payments of Base Rent and Additional Rent shall be delivered to the JPA c/o the City of Lincoln, Nebraska Finance Director, 555 South 10th Street, Suite 103, Lincoln, NE 68508.

E. Delinquent Payments. If any payment of Base Rent or Additional Rent is not paid within ten (10) days after the same becomes due under the terms of this Agreement, then such unpaid rent shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid in full.

5. <u>USE OF PREMISES</u>.

A. The Premises shall be used solely for the storage of personal property owned by TDP or TDP's tenants occupying rental units in the building improvements located on the TDP Property. TDP shall provide JPA a written list of the names and addresses of all TDP tenants who have been granted permission by TDP to store items of personal property in the Premises leased by TDP. TDP shall promptly furnish JPA with an updated list as tenancies change.

B. The Premises may not be subleased in its entirety without the written consent of JPA.

C. The Premises may not be altered or improved except as provided in this Agreement without the written consent of JPA.

D. No flammable, corrosive, organic, biological, chemical, odorous, obnoxious, or other dangerous or hazardous materials shall be generated, released, stored or disposed of in or around the Premises.

E. No trash, rubbish, items omitting odors, plants, or any other thing which harbor insects, rodents, or other pests shall be stored in the Premises.

F. No firearms or ammunition shall be stored in the Premises.

G. No animals or pets shall be left unattended in the Premises.

H. No business may be conducted in the Premises.

I. The Premises shall be kept in a clean and sanitary condition.

J. No food or beverages shall be stored in the Premises.

6. <u>CONDITION OF PREMISES</u>. The Premises is a base shell having exterior walls with an unfinished interior and is lacking plumbing, heating, ventilation and air conditioning but does have florescent lighting. Except as otherwise provided in this Agreement, TDP has inspected and hereby accepts the Premises As Is.

7. <u>FFE, ALTERATIONS AND IMPROVEMENTS</u>.

7.1 FFE. All furnishings, fixtures and equipment ("FFE") needed for TDP's use of the Premises shall be provided by TDP at its own cost and expense.

7.2 Alterations and Improvements. TDP shall, at its own cost and expense, modify the interior of the Premises to provide lockers for individual tenant storage areas as shown on the drawing attached hereto as Exhibit "A". Such work shall include a permanent barrier to block pedestrian traffic where head clearance is below 6' 8" as noted on the drawing attached hereto as Exhibit "B". TDP shall make no other alterations or additions to the Premises without first obtaining written consent by JPA. All alterations or other improvements made in or to the Premises shall become part of the Premises with title

vesting in the JPA upon expiration or early termination of this Agreement without any additional compensation to TDP.

8. REPAIR AND MAINTENANCE. TDP agrees to maintain the Premises throughout the term of this Agreement in as good a condition and state of repair as the Premises existed at the time of commencement of this Agreement, normal wear and tear excepted. TDP shall promptly pay JPA for any repairs or damage caused by TDP. TDP shall be responsible for replacing light bulbs, spraying for insects/pest infestations and disposing of trash.

9. UTILITIES. City agrees to arrange and pay for electricity for the lighting installed in the Premises. No other utilities shall be provided.

10. SECURITY MEASURES. If requested, JPA at TDP's own cost and expense shall install a card reader on the door to the Premises to restrict access to the Premises. TDP agrees that JPA shall have no obligation whatsoever to provide guard or security services and that the card reader and any other security measures (if any) provided by JPA shall not be treated as a guarantee against crime or a reduction in the risk of crime. TDP agrees to and does hereby assume all responsibility for protection of TDP, its tenants and their property from acts of third parties. JPA shall not be liable to TDP or TDP's tenant users of the Premises for any damage or loss to personal property caused by criminal conduct to their persons or property including theft, burglary, assault, vandalism, or other crimes.

11. INSURANCE.

A. General Liability Insurance. TDP shall maintain General Liability Insurance at its own expense during the life of this Agreement, naming and protecting TDP and JPA, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by TDP and TDP's agents.

1. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

i.	All Acts or Omissions	$1,000,000 each Occurrence; $2,000,000 Aggregate;
ii.	Bodily Injury/ Property Damage	$1,000,000 each Occurrence; $2,000,000 Aggregate;
iii.	Personal Injury Damage	$1,000,000 each Occurrence;
iv.	Contractual Liability	$1,000,000 each Occurrence;

v.	Products Liability and Completed Operations	$1,000,000 each Occurrence;
vi.	Medical Expenses (any one person)	$10,000;
vii.	Fire Damage (any one fire)	$100,000.

2. A Certificate of Insurance for its General Liability Insurance shall be provided and attached to this Agreement by TDP. The JPA shall be specifically named as an additional insured on the General Liability Insurance.

3. TDP is required to provide JPA with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance as required by this Agreement.

4. All commercial general liability and other property policies maintained by TDP shall be written as primary policies, not contributing with and not supplemental to the coverage that JPA may have.

B. Renter's Insurance. TDP is encouraged to obtain a Renter's Insurance Policy to cover TDP while occupying the premises. Such policy shall include coverage for damage/theft, etc. and personal liability coverage to protect TDP against injury claims from guests or its users of the Premises.

12. INDEMNIFICATION. To the fullest extent permitted by law, each party shall indemnify, defend, and hold harmless the other party, its officers, agents and employees from and against claims, damages, losses, and expenses, including but not limited to attorney fees, arising out of, or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom to the extent that is caused by the intentional or negligent act or omission of such party or anyone for whose acts such party may be liable. Notwithstanding any provision above to the contrary, the JPA does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.

13. ENTRY. TDP shall permit JPA and JPA's agents to enter the Premises at all reasonable times upon at least two (2) calendar days' prior notice, except for emergencies or abandonment in which case, no notice shall be required in order to inspect the Premises for compliance with the terms and conditions of this Agreement.

14. <u>TERMINATION</u>.

14.1 Termination by TDP. TDP may terminate this Lease for any reason or no reason upon ninety (90) days written notice to JPA.

14.2. Termination by JPA.

A. In the event of any default in or breach of this Agreement or any of the terms or conditions by TDP, the JPA may immediately terminate this Agreement; provided, however, JPA shall provide TDP with written notice of such default in or breach of this Agreement or any of its terms or conditions and such default or breach is not cured by TDP within thirty (30) days after receipt of such notice.

B. The JPA may terminate this Agreement in the event the JPA (by declaring the JPA Deck 1 surplus) reasonably determines the Parking Garage is no longer required to serve the reasonable needs of the then existing uses located in the West Haymarket Area due to changes in the mode of transportation so that the operations of Deck 1 becomes unnecessary or impracticable.

15. <u>RESPONSIBILITIES OF TDP</u>. TDP agrees to apply for and obtain any and all necessary permits, licenses, variances and approvals required by any applicable law or regulation that relate to the use of the Premises. TDP agrees to conduct all activities related to this Agreement in a lawful manner. TDP shall pay all real property taxes applicable to the Premises and all personal property taxes assessed against and levied upon any personal property of TDP located upon the Premises. TDP shall bear, pay for, and discharge all other costs, charges and expenses of every kind and nature whosoever which must be paid in order to accomplish the purposes of the Lease.

16. <u>NEBRASKA LAW</u>. This Agreement shall be governed and interpreted by the laws of the State of Nebraska.

17. <u>CAPACITY</u>. The undersigned person representing TDP does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind TDP to this Agreement.

18. <u>NOTICES AND DEMANDS</u>. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, in the case of TDP, to TDP Phase One, LLC, 440 N. 8th Street, Suite 140, Lincoln, Nebraska 68508; and, in the case of the JPA, to City Attorney, 555 South 10th Street, Suite 300, Lincoln, Nebraska 68508; or at such other address with respect to either party as that party may from time to time designate in writing and forward to the other as provided in this Section.

IN WITNESS WHEREOF, JPA and TDP do hereby execute this Agreement.

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
Chris Beutler, Chairman of the Board of Representatives of the West Haymarket Joint Public Agency

TDP PHASE ONE, LLC

By: From Lincoln for Lincoln I, LLC, Manager of TDP Phase One, LLC

By: WRK Management, LLC, Manager of From Lincoln for Lincoln I, LLC

By: WRK, LLC, Manager of WRK Management, LLC

By: _____
William D. Scott, Co-Manager of WRK, L.L.C.

By: _____
Robert E. Scott, Co-Manager of WRK, L.L.C.

TDP PHASE TWO, LLC

By: WRK Management, LLC, Manager of TDP Phase Two, LLC

By: WRK, L.L.C., Manager of WRK Management, LLC

By: _____
William D. Scott, Co-Manager of WRK, L.L.C.

By: _____
Robert E. Scott, Co-Manager of WRK, L.L.C.

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by Chris Beutler, Chair of the Board of Representatives of the West Haymarket Joint Public Agency, a political subdivision and corporate body politic of the State of Nebraska, on behalf of the West Haymarket Joint Public Agency.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by William D. Scott, Co-Manager of WRK, L.L.C. on behalf of TDP Phase One, LLC, a Nebraska limited liability company.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by Robert E. Scott, Co-Manager of WRK, L.L.C. on behalf of TDP Phase One, LLC, a Nebraska limited liability company.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by William D. Scott, Co-Manager of WRK, L.L.C. on behalf of TDP Phase Two, LLC, a Nebraska limited liability company.

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by Robert E. Scott, Co-Manager of WRK, L.L.C. on behalf of TDP Phase Two, LLC, a Nebraska limited liability company.

_____
Notary Public

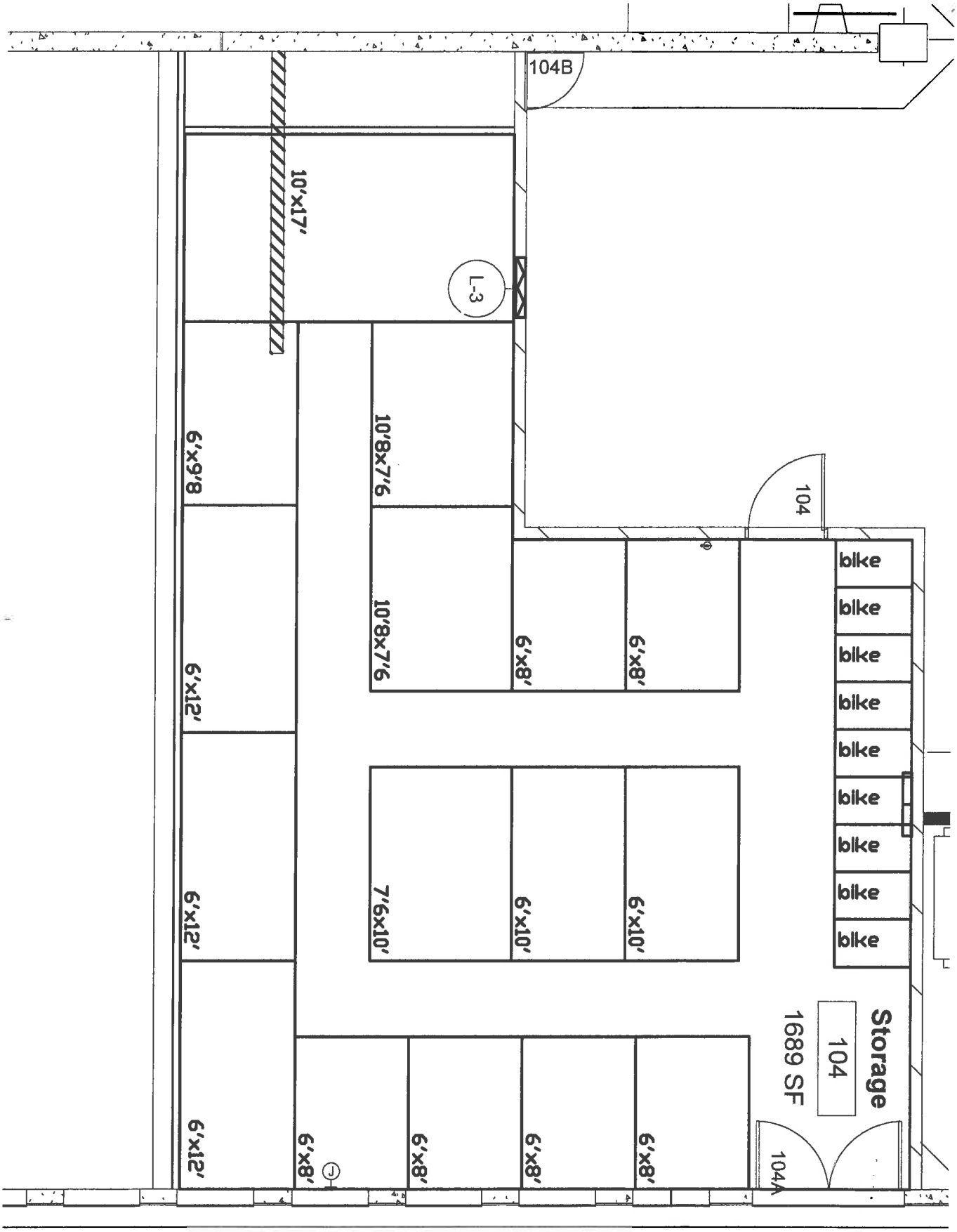
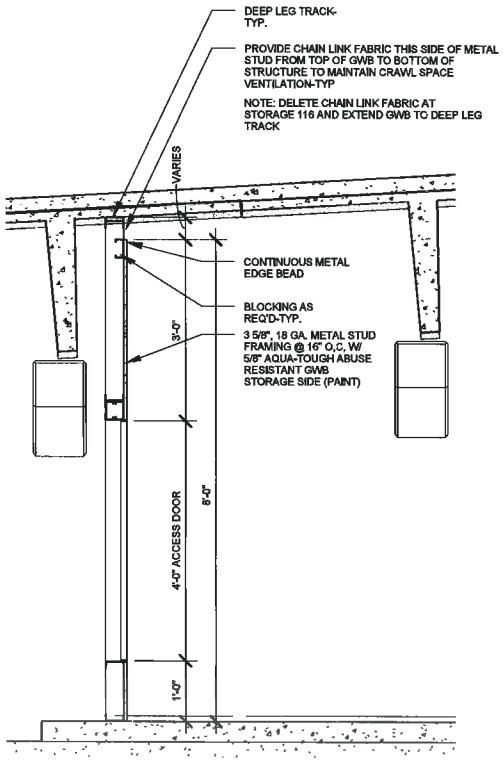
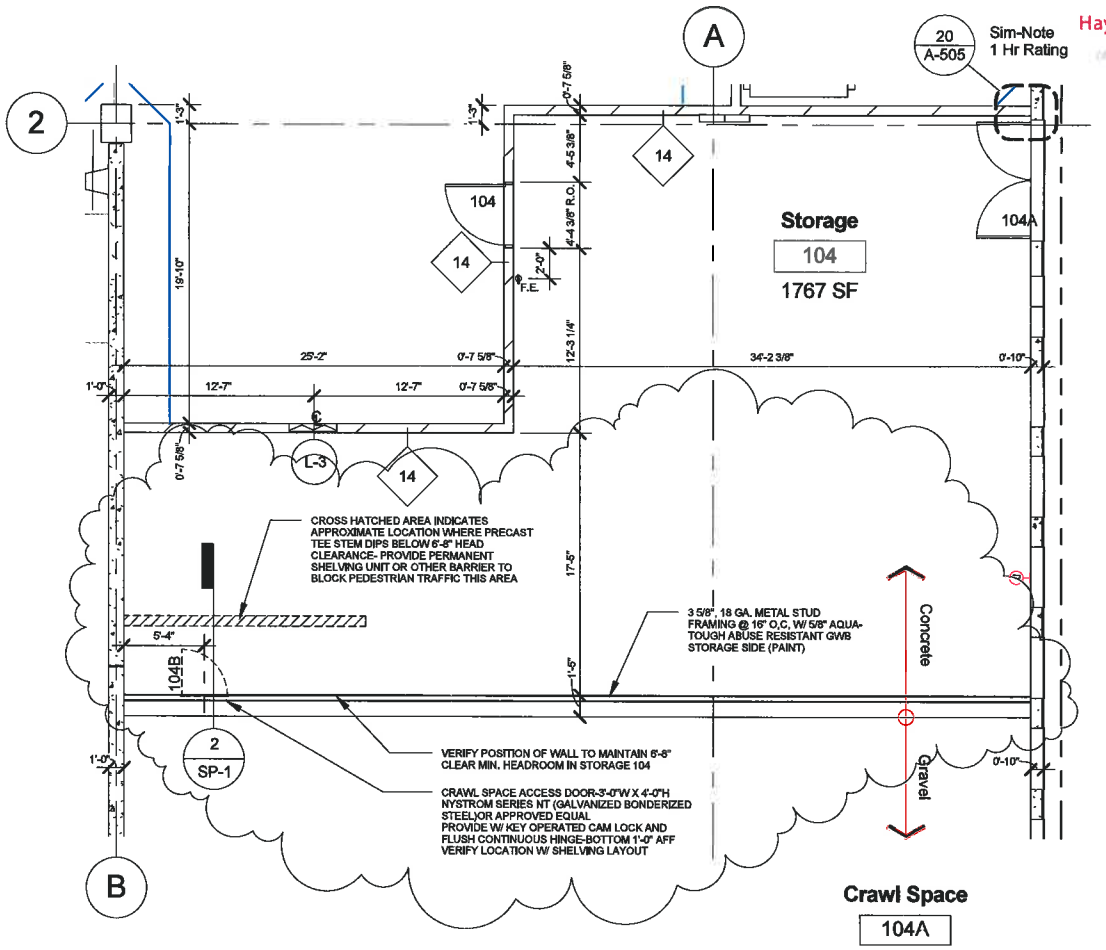

104B
10'x17'
L-3
6'x9'8
10'8x7'6
104
6'x12'
10'8x7'6
6'x8'
6'x8'
bike
bike
bike
bike
bike
bike
bike
bike
bike
6'x12'
7'6x10'
6'x10'
6'x10'
Storage
104
1689 SF
104A
6'x12'
6'x8'
6'x8'
6'x8'
6'x8'

EXHIBIT A

EXHIBIT B



2 Wall Section
1/2" = 1'-0"



1 Enlarged Plan Storage 104
1/8" = 1'-0"

LINCOLN
Haymarket Infrastructure Team

DAVIS
1221 N Street, Ste 600, Lincoln NE 68508
Phone: 402-476-9700
Fax: 402-476-9722

CLIENT INFORMATION
West Haymarket Joint Public Agency

PROJECT INFORMATION
West Haymarket Parking Deck 1

Lincoln Haymarket Infrastructure Team

Issue Date:	03/27/13
Job #	11-0049
Drawn by:	Author

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Drawing Title
Storage 104 Revisions

From Sheet

for CA use:

Drawing #
SP-1