

CITY OF CALDWELL

REQUEST FOR PROPOSALS

Alcohol Beverage Concession Services at the Caldwell Events Center

Release Date:
September 6, 2018

PROPOSAL DUE DATE:

October 1, 2018
at 4:00 p.m. MDT

REQUEST FOR PROPOSALS

Alcohol Beverage Concession Services at the Caldwell Events Center

The Caldwell City Council will receive and publicly open sealed and clearly marked proposals “**REQUEST FOR PROPOSAL: Alcohol Beverage Concession Services at the Caldwell Events Center.**”

Sealed proposals are to be delivered or mailed to the Caldwell City Clerk, 411 Blaine Street, P.O. Box 1179, Caldwell, Idaho 83606, and must be received no later than 4:00 p.m. MDT, on Monday, **October 1, 2018**. All proposals will be date and time stamped as they arrive in City Clerk’s Office. Proposals will be publicly opened and read aloud on Wednesday, **October 3, 2018**, at or about 9:00 a.m. MDT at the office of the Caldwell City Clerk, Caldwell, Idaho 83605. Information and specifications for the same may be obtained at the City Clerk’s Office, 411 Blaine Street, Caldwell, Idaho 83605, or may be accessed online, free of charge, at the Caldwell City Clerk’s website: <http://www.cityofcaldwell.org/departments/city-clerk>. The Caldwell City Council reserves the right to accept or reject any or all proposals.

Auxiliary aids or services for persons with disabilities are available upon request. Please contact the Caldwell City Clerk, 411 Blaine Street, Caldwell, Idaho 83605 or (208)455-4656 to make arrangements.

Publish: September 16, 2018 & September 30, 2018

REQUEST FOR PROPOSALS

ALCOHOL BEVERAGE CONCESSION SERVICES AT THE CALDWELL EVENTS CENTER

GENERAL INFORMATION

Hard copies of this Request for Proposals may be obtained at the Caldwell City Clerk's Office, 411 Blaine Street, Caldwell, Idaho 83605. Proposal packets are also available electronically at no charge and may be downloaded from the City Clerk's website, found at <http://www.cityofcaldwell.org/departments/city-clerk>.

I. OBJECTIVE

The City of Caldwell is soliciting competitive sealed proposals from qualified concessionaires to serve beer, wine and liquor (hereinafter, "alcohol beverages") during events to be held at designated portions of the Caldwell Events Center throughout the year, except during the Canyon County Fair. The selected concessionaire will be required to offer alcohol beverages for sale and to provide all necessary services and equipment needed to accomplish the same.

II. THE CALDWELL EVENTS CENTER

The Caldwell Events Center consists of five complexes. Three of the five complexes are owned and maintained by the City of Caldwell, to wit: O'Connor Field House, Simplot Stadium, and the Charolais Barn. Likewise, a nearby property, commonly known as Gabiola Field, is also owned and operated by the City of Caldwell. All references to the "Caldwell Events Center" in this Request for Proposals shall be read to refer ONLY to service of alcohol beverages at the city-owned and operated portions of the Caldwell Events Center, and, therefore, exclude those facilities owned and operated by other agencies or entities, and specifically exclude the Caldwell Night Rodeo Arena. A map has been enclosed with this packet and marked as **Exhibit "A"** to **ATTACHMENT 3** (a "Sample Agreement"), indicating the geographical areas to which the desired services will apply. A second map, marked as **Exhibit "B"** to **ATTACHMENT 3**, indicates the perimeter of the Caldwell Night Rodeo Arena, which will be expressly excluded from the geographical areas to which the desires services will apply.

III. ALCOHOL BEVERAGE OFFERINGS

The City desires that the successful candidate offer a variety of alcohol beverages to members of the public. Preference will be given to those candidates that offer a selection of beverage offerings including both popular national or global brands and local favorites.

IV. HOURS OF OPERATION; COMPLIANCE WITH LAW

The successful candidate will commit to be available to provide alcohol beverage services during any event held at the Caldwell Events Center, which hours will vary from event to event, and as may be limited by existing or hereinafter adopted local, state, or federal laws, rules, regulations, policies, resolutions or ordinances which may be adopted, from time to time.

V. EXCLUSIVITY

Upon execution of a written agreement with the City to provide the services described herein, the successful candidate will have the exclusive right to provide alcohol beverage concession services within the geographic area to which the agreement applies at the Caldwell Events Center. Please note that the rights granted to the successful proposer will not apply during the Canyon County Fair, which has the exclusive right to serve alcohol beverages at the Caldwell Events Center during the fair.

VI. PERCENTAGE OF NET SALES TO CITY

Each proposer shall submit the percentage of net sales (gross sales less product costs) he or she is willing to pay to the City of Caldwell for exclusive the right to provide the services described herein. For his or her proposal to be considered, the percentage of net sales to be paid to the City of Caldwell must be at least twenty-five (25%) percent of net sales. The proposer will be responsible for payment of any applicable Idaho sales and use taxes.

INSTRUCTIONS TO PROPOSERS

I. QUESTIONS AND ADDITIONAL INFORMATION

- A. Neither the City of Caldwell nor any of its officers, representatives, employees or agents will give verbal answers to any inquiries regarding the meaning of the Request for Proposal or provide verbal instructions prior to the award of a contract. Any verbal statement regarding same by any persons, prior to the award, shall be deemed unauthoritative.
- B. Any explanation desired by proposers must be requested of the Caldwell City Clerk, in writing, and if explanation is necessary, a reply will be made in the form of an addendum, a copy of which will be forwarded to each of the prospective proposers who have requested to receive a copy of each such addendum. All questions must be sent to the City Clerk by email, at dgeyer@cityofcaldwell.org, and received no later than **4:00 p.m., Wednesday, September 26, 2018**.
- C. All addenda issued to proposers prior to date of receipt of proposals shall become a part of this Request for Proposals and all proposals are to include the information described in all addenda issued. Each proposal submitted must specifically list and acknowledge receipt of all addenda.

II. INSURANCE REQUIREMENTS

Proposers should review the required insurance coverage and notice of policy cancellation requirements that will be part of the resulting contract(s). The anticipated insurance requirements are set forth in Section 6 of **ATTACHMENT 3** (a “Sample Agreement”). The selected proposer will be required to provide insurance certificates and endorsements meeting all requirements at the time of notification of conditional award.

III. LICENSING REQUIREMENTS

All proposers must possess the necessary state and local licenses required to sell beer, alcohol and liquor, and must provide proof of the same in their proposal. Any proposal that does NOT include proof of all necessary licenses shall be rejected as incomplete.

IV. PROPOSAL SUBMISSION

1. Sign and return the **Proposal Response Cover Sheet (ATTACHMENT 1)**. The form must be signed by a company representative authorized to bind the proposer contractually (see **Requirements for Signing Proposals**).
2. Submit all required information as outlined in the **Proposal Content & Evaluation Criteria** section of **ATTACHMENT 2**.
3. Written Proposals must be received by the Caldwell City Clerk, 411 Blaine Street, Caldwell, Idaho 83605 by **October 1, 2018, by 4:00 PM, MDT**. All proposals will be date and time stamped as they arrive in the City Clerk's Office. Vendors shall submit five (5) copies of the Proposal in a sealed envelope/package, which must be clearly marked "**RFP for Alcohol Beverage Concession Services at the Caldwell Events Center**" on the outside of the envelope/package. Proposal forms shall be used by the Vendor. The Proposal shall be enclosed in a sealed, opaque envelope. The only writing and/or marks allowed on the outside of the sealed envelope are:
 1. "*RFP for Alcohol Beverage Concession Services at the Caldwell Events Center;*"
 2. the address of the Caldwell City Clerk, as stated above; and
 3. the Vendor's name and address.

Proposals received after the due date and time WILL NOT BE CONSIDERED.

4. Proposals received in compliance with Request for Proposals will be publicly opened and acknowledged by the Caldwell City Clerk on **Wednesday, October 3, 2018, at 9:00 a.m. MDT**, in the **Office of the City Clerk**, located at 411 Blaine Street, Caldwell, Idaho 83605.
5. The Caldwell City Council reserves the right to accept or reject any or all Proposals.
6. No oral or telephonic proposals will be accepted.

V. REQUIREMENTS FOR SIGNING PROPOSALS

The following requirements must be observed in the signing of Proposals when submitted:

1. Proposals that are not signed by individuals making them shall have attached thereto a power of attorney evidencing authority to sign the proposal in the name of the person for whom it is signed.

2. Proposals that are signed for a Partnership shall be signed by all of the General Partners or by an attorney-in-fact. If signed by an attorney-in-fact, there shall be attached to the proposal a power of attorney evidencing authority to sign the proposal, executed by the General Partners.
3. Proposals that are signed for a Corporation shall have the correct corporate name thereof and the signature of the President or other authorized officer of the Corporation, manually written below the corporate name following the word By _____ (insert the officer's name). If an officer other than the President of the Corporation manually signs such a proposal, a document evidencing the authority of such officer to sign the proposal shall be attached to it. All Corporate proposals shall also bear the attesting signature of the Secretary of the Corporation.
4. Proposals that are signed for a Limited Liability Company shall have the correct company name thereof and the signature of the Manager(s), Member(s), or other authorized officer(s) manually written below the company name following the word By _____ (insert the officer's name). If such a proposal is manually signed by someone other than the Manager(s) or Member(s), as listed on the Idaho Secretary of State's website, a document evidencing the authority of such person to sign the proposal shall be attached to it.

VI. PREPARATION OF PROPOSALS

1. Failure to read the Request for Proposal and these instructions will be at the proposer's own risk.
2. Cost of Developing Proposals. All costs related to the preparation of the proposals and any related activities are the sole responsibility of the proposer. The City assumes no liability for any costs incurred by proposers throughout the entire selection process.

VII. PROPOSAL INFORMATION

- A. Discussions with Proposers. The City reserves the right to enter into discussions with the proposer(s) determined to be reasonably susceptible of being selected for award, or to enter into exclusive discussions with the proposer whose proposal is deemed most advantageous, whichever is in the City's best interest, for the purpose of negotiation. In the event that exclusive negotiations are conducted and an agreement is not reached, the City reserves the right to enter into negotiations with the next highest ranked proposer without the need to repeat the formal solicitation process.
- B. Equal Opportunity. The City will make every effort to ensure that all proposers are treated fairly and equally throughout the entire advertisement, review, and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.
- C. Rejection of Proposals:
 1. The City reserves the right to reject any or all proposals received. Furthermore, the City shall have the right to waive any informality or technical defect in proposals received when in the best interest of the City; and

2. No proposal shall be accepted from, or contract awarded to, any person, firm, partnership or corporation that is in arrears to the City upon a debt or contract, or that is in default, as surety or otherwise, upon any obligation to the City, or that may be deemed irresponsible or unreliable by the Caldwell City Council.

VIII. EXCEPTIONS TO REQUEST FOR PROPOSALS

If proposer takes exception to any term or condition set forth in this Request for Proposals including any of its Exhibits and Attachments, said exceptions must be clearly identified and submitted in writing to the Caldwell City Clerk no later than **4:00 p.m., Monday, September 24, 2018**. If the City omits anything from this RFP that is necessary for a clear understanding of the Request for Proposals, or if it appears that portions of the Request for Proposal are in conflict, then the Proposer shall request written instructions from the Caldwell City Clerk, seeking clarification, no later than **4:00 p.m., Wednesday, September 26, 2018**.

IX. CONFIDENTIALITY

- A. Data and information contained in the proposal, and all documentation provided therein, become the property of the City and the data and information become public information upon opening the proposal.
- B. If the proposer wishes to have any information withheld from the public, such information must fall within an exemption to the Idaho Public Records Act, which exemption must be specifically identified by proposer by citation to the Idaho Code. Proposer agrees and acknowledges that all other portions of the proposal are a disclosable public record.
- C. All proprietary information the proposer wishes the City to withhold must be submitted in a sealed package, which is separate from the remainder of the proposal. The separate package must be clearly marked, on the outside of the package, "Proprietary" and cite the statutory authority upon which proposer relies in claiming an exemption to the Idaho Public Records Act. Each page inside the package must also be clearly marked as proprietary. Should the City of Caldwell be challenged in court by a third party for a decision to withhold or redact information identified as proprietary by proposer, proposer agrees to indemnify, defend, and hold harmless the City of Caldwell for any judgments, attorney fees, and/or court costs associated with asserting the documents contain proprietary information.
- D. The City of Caldwell reserves the right to make an independent discretionary decision whether or not the documents marked as proprietary contain trade secrets and to disclose the contents thereof pursuant to the Public Records Act. All documents not marked as proprietary are subject to release in compliance with the Public Records Act.

X. PROCESS OF REVIEW AND AWARD BY WRITTEN AGREEMENT

- A. After the proposals are opened, the City Clerk will review the proposals for completeness and compliance with the Request for Proposals, and local and state law. All proposals that meet the requirements listed in this Request for Proposal will then be evaluated by the Selection Committee, made up of the City Attorney, the City Clerk, the City Finance Director, the Caldwell Events Center Supervisor, and Mark Davis, former Caldwell Events Center Supervisor.
- B. The Selection Committee will review all written Proposals that meet the requirements of this Request for Proposal. The review process may involve personal interviews. The Selection Committee may also require that a list of expected alcohol beverage offerings be provided. **From that review process, the Selection Committee will rank the Proposals using the established Evaluation Criteria listed in Attachment 2.** After that review, a written recommendation will be made to the Caldwell City Council.
- C. The Selection Committee will recommend that a contract be awarded to the responsive proposer achieving the best score on the evaluation criteria. Each criterion will be given a weight of 25%.
- D. The selected proposer shall be required to enter into a written agreement on or soon after **Tuesday, November 13, 2018**, in substantially the form as shown in the attached SAMPLE AGREEMENT (ATTACHMENT 3), which shall be the basic form used to develop and negotiate the final agreement.
- E. Signature on the Proposal Cover Sheet acknowledges that the proposer is willing to enter into the agreement if awarded the contract. Proposers are advised to read thoroughly the Sample Agreement, as the selected proposer will be required to comply with its requirements.
- F. If proposer has any exceptions to any of the terms or conditions of the Sample Agreement, the proposer must object to said terms or conditions by following the procedures stated under Paragraph VIII, EXCEPTIONS TO REQUEST FOR PROPOSALS.

ATTACHMENT 1

ALCOHOL BEVERAGE CONCESSION SERVICES AT THE CALDWELL EVENTS CENTER

PROPOSAL RESPONSE COVER SHEET

TO: THE CALDWELL CITY COUNCIL

The undersigned, having becoming fully acquainted and familiar with the requirements of the Request for Proposal pertaining to Alcohol Beverage Concession Services at the Caldwell Events Center, issued by the City of Caldwell, Idaho, hereby proposes to furnish said services in accordance with the requirements of said proposal and the enclosed response.

ACKNOWLEDGEMENT OF ADDENDA RECEIVED #1____ #2____ #3____ #4____
(Initial each, if applicable)

Services will be performed at the rates set forth in said proposal.

In submitting this proposal, it is understood that the right is reserved by the Caldwell City Council to reject any and/or all proposals.

ATTACHMENT 2

ALCOHOL BEVERAGE CONCESSION SERVICES AT THE CALDWELL EVENTS CENTER

PROPOSAL CONTENT & EVALUATION CRITERIA

Instructions: When preparing your response to the request for proposals, reply to each of the following proposal content & evaluation criteria in the order listed. In your response, please restate each numbered point listed below followed by your response in full, narrative sentences and provide any requested materials.

I. QUALIFICATIONS

- A. A statement of the individual's or firm's experience and qualifications to perform the services described in this request. Include a general overview and history of your company or business, number of years in business, number of employees, type of business, and where you do business.
- B. Identify proposed key staff members who would be involved in providing the services and submit statements or resumes of the owner and proposed on-site manager detailing his or her qualifications.
- C. Provide three references (including names, titles and telephone numbers) of previous clients who can speak to the individual's or firm's ability to provide the alcohol beverage services described in this request. By providing such references, you agree that neither the City nor the clients referenced shall have any liability regarding the provision of such references, or the City's use of such references, in making selections under this request for proposal.
- D. Is your company currently involved in mediation, arbitration and/or litigation for any reason? If so, please elaborate.
- E. Have you or your company ever filed, voluntarily or involuntarily, for reorganization or bankruptcy during the past five years? If so, please provide dates and resolution.
- F. Current financial statement of the proposer including certified profit/loss, net income and balance sheet statements. If you cannot submit such documentation, provide a written statement detailing the reason or reasons.

II. PROPOSED APPROACH TO PROJECT

- A. A description of the proposed approach to provide alcohol beverage services including, at a minimum, the following.
1. A detailed description of proposed selections of beer, wine and liquor you intend to offer, including proposed menu prices.
 2. A detailed description of the type of serving arrangement, which the proposer proposes to provide, and how it could be used or adapted to the various locations within the Caldwell Events Center.
 3. A detailed description of the services, furnishings, equipment and capital improvements that the proposer proposes to provide. (Example: appliances, serving equipment, furnishings, tables, chairs, stools, etc.) NOTE: The selected concessionaire will have to provide their own furnishings. The City reserves the right to approve or reject proposed furnishings. All costs for new furnishing will be borne by the concessionaire.
 4. A statement that you are willing to provide the services described in this request during the hours of any event held at the Caldwell Events Center at which your services may be necessary.
- B. Statement of market or investment value of proposed services, furnishings, equipment and capital improvements.
- C. A written statement concerning the use of a vehicle or vehicles in providing the services requested herein. If a vehicle is to be used state whether you will be able to provide the vehicle insurance required in Section 6 of the attached Sample Agreement.
- D. In addition to the specific service proposals specified above, identify and/or recommend any additional, innovative, or unique beverage products or related services which could be provided by your firm that may be related to or helpful to the overall services provided at the Caldwell Events Center. If you are aware of a better way for the City to package or define the services that it has requested herein in order to obtain better revenue generation or service, please explain what modifications would be necessary to achieve such better revenue generation and/or service.

III. PROPOSED PERCENTAGE OF NET SALES TO CITY

Please indicate clearly the percentage of net sales (gross sales less product costs) that you are willing to pay to the City of Caldwell for the exclusive right to provide the alcohol beverage services described in this request for proposals. In order for your proposal to be considered, the percentage of net sales to be paid to the City of Caldwell **must be at least twenty-five (25%) percent of net sales.** “Net sales” shall be defined as gross sales of alcohol beverages at the event, less the actual cost of said alcohol beverages to you. The successful proposer shall be responsible for payment of any and all applicable local, state and federal sales, excise and use taxes, which taxes shall not be considered in calculation of “net sales” or cause any reduction in the amount due to Caldwell.

IV. EVALUATION CRITERIA

- A. Proposals will be evaluated on a weighted basis (each criterion will be given a weight of 25%) with equal weight being assigned to each of Four categories: 1) qualifications, including financial stability and experience, 2) beverage menu offerings, 3) pricing, 4) the percentage of net sales to be paid to the City of Caldwell.

NOTE: ORAL INTERVIEWS AND SITE VISITS MAY BE CONDUCTED WITH ONE OR MORE PROSPECTIVE CONCESSIONAIRES. THE DECISION OF THE CITY'S SELECTION COMMITTEE SHALL BE FINAL AND CONCLUSIVE.

ATTACHMENT 3

ALCOHOL BEVERAGE CONCESSION SERVICES AT THE CALDWELL EVENTS CENTER

SAMPLE AGREEMENT

This Sample Agreement will be subject to review and modification by the City Attorney's Office, but represents the basic terms expected to be entered into with the successful proposer.

(SAMPLE AGREEMENT)

**AGREEMENT FOR ALCOHOL BEVERAGE CONCESSION SERVICES
AT THE CALDWELL EVENTS CENTER**

This Agreement for Alcohol Beverage Concession Services at the Caldwell Events Center ("Agreement") is made and entered into this ____ day of _____, 2018, by and between the CITY OF CALDWELL, IDAHO, an Idaho municipal corporation, of 411 Blaine Street, Caldwell, Idaho 83605, hereinafter referred to as "Caldwell," and _____, of _____, hereinafter referred to as the "Concessionaire."

WITNESSETH

WHEREAS, Caldwell owns and operates the Caldwell Events Center in Caldwell, Idaho;

WHEREAS, upon the terms and conditions of this Agreement, Caldwell desires to grant to Concessionaire exclusive rights to offer a variety of alcohol beverages to members of the public at events held at certain portions of the Caldwell Events Center and nearby property, as described more particularly below; and

WHEREAS, Concessionaire wishes to provide the request services in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the covenants, representations and warranties herein contained and the Recitals set forth above, which are a material part of this Agreement, and for other good and valuable consideration, the parties agree as follows:

1. **LOCATION:** The terms of this Agreement shall apply to the following portions of the Caldwell Events Center: O'Connor Field House, Simplot Stadium, Charolais Barn, and Gabiola Field (for purposes of this Agreement, all references to "Caldwell Events Center" shall refer to these properties, as designated in the attached map marked as **Exhibit "A"**, and shall exclude the Caldwell Night Rodeo Arena, as designated in the attached map marked as **Exhibit "B"**).

2. **TERM; NON-APPLICABILITY DURING CANYON COUNTY FAIR:** This Agreement shall be for a term of five (5) years, commencing on January 1, 2019, and terminating at 11:59 p.m. on December 31, 2023, unless terminated prior to said date. However, the terms of this Agreement shall not apply and shall grant no rights to Concessionaire during the Canyon County Fair, traditionally held in late July of each year at the Caldwell Events Center.

3. **EXCLUSIVE RIGHT TO PROVIDE ALCOHOL BEVERAGE CONCESSIONS:** Concessionaire is hereby granted the exclusive right, during the term of this Agreement (*except* during the Canyon County Fair), to provide alcohol beverage concession services during any event held at the Caldwell Events Center, which hours will vary from event to event, and as may be limited by existing or hereinafter adopted local, state, or federal laws, rules, regulations, policies, resolutions or ordinances which may be adopted, from time to time. Said right does not apply to any

(SAMPLE AGREEMENT)

event where Caldwell, or the person or entity holding the event, does not require or desire the service of alcohol beverages.

4. **CONCESSION REVENUE:** Concessionaire agrees to pay to Caldwell, within seven (7) days of providing alcohol beverage concession services to any event at the Caldwell Events Center, a sum equal to _____% of the “net sales” occurring at such event (defined as gross sales of alcohol beverages at the event, less the actual cost of said alcohol beverages to Concessionaire). Concessionaire shall be responsible for payment of any and all applicable local, state and federal sales, excise and use taxes, which taxes shall not be considered in calculation of “net sales” or cause any reduction in the amount due to Caldwell under this Agreement.

5. **REQUIRED LICENSING AND PERMITTING:** Concessionaire shall keep and maintain all requisite local, state and/or federal permits and licenses required in order to lawfully provide the services set forth herein, whether now in existence or hereafter required by changes in the law. Should Concessionaire fail, for any reason, to maintain all such necessary licenses and permits, whether by lapse, by revocation, or for any other reason, whether voluntary or involuntary, or whether intentional or unintentional, such a condition shall cause an immediate and incurable default under this Agreement, and shall cause the termination of this Agreement effective the moment said license or permit is lost or revoked.

5. **HOUSEKEEPING:** Concessionaire shall keep all concession areas clean and sanitary and free from hazards and debris at all times, including its own equipment, dishes, countertops, and other areas which may come in contact with the public or the beverages it may serve, all in accordance with applicable standards and requirements promulgated by local, state or federal agencies and authorities, including Southwest District Health.

6. **INSURANCE:** Concessionaire agrees to obtain and keep in force during the term of this Agreement a comprehensive general liability insurance policy, applicable to their concession stand and service area, and immediately surrounding area, wherever it may be located within the geographical areas included within the terms of this Agreement, in the minimum amount of \$1,000,000, which policy shall name and protect Concessionaire, Concessionaire’s employees, and which shall name Caldwell as a “Certificate Holder” and “Additional Insured.” Concessionaire shall also maintain a “Liquor Liability” or “Alcohol Beverage” insurance policy, in the minimum amount of \$1,000,000, which policy shall name and protect Concessionaire, Concessionaire’s employees, and which shall also name Caldwell as a “Certificate Holder” and “Additional Insured.” Said policies shall require that the insurer notify the Caldwell City Clerk, in writing, at least ten (10) days prior to any cancellation or termination of said policy. Concessionaire shall provide proof of all required insurance coverages to Caldwell prior to commencement of its performance as herein provided, and shall provide proof of ongoing coverage at any time requested by the Caldwell City Clerk. If Concessionaire will use a vehicle or vehicles in providing the services requested herein, Concessionaire shall also provide proof that said vehicles are and remain adequately insured during the term of the Agreement.

(SAMPLE AGREEMENT)

7. **COMPLIANCE WITH LAWS:** Concessionaire agrees to comply with all federal, state, and local laws, ordinances, rules and regulations, in performance of the services described in this Agreement.

8. **INDEMNIFICATION:** Concessionaire agrees to indemnify, defend, and hold harmless Caldwell, including its officers, officials, employees, agents and representatives, from and against any and all claims, losses, actions, or judgments for damages or injury to persons or property arising out of or in connection the acts, omissions and performances of services described or related to this Agreement, by Concessionaire, including its officers, officials, employees, agents and representatives.

9. **CONCESSIONAIRE'S INDEPENDENT CAPACITY; WORKER'S COMPENSATION INSURANCE:** Concessionaire, including its officers, officials, employees, agents and representatives, is and shall remain a licensee of Caldwell, and is not an officer, employee, agent, independent contractor, partner, joint venturer, or volunteer of Caldwell. Concessionaire shall procure and maintain during the term of this Agreement Worker's Compensation Insurance, as prescribed by the laws of the State of Idaho.

10. **SIGNAGE:** Concessionaire shall have the right to post reasonable signage, sufficient to identify its business and to alert those in attendance as to the nature of the services it provides, subject to the right of Caldwell, or the holder of any event, to object to or request the removal or covering of any such signage.

11. **UTILITIES:** Caldwell will provide or make available electricity and water for use during Concessionaire's provision of services under this Agreement, and will bear the reasonable costs of the same.

12. **TERMINATION:** Caldwell may terminate this Agreement immediately for breach by Concessionaire, and either party may terminate this Agreement for any reason by giving thirty (30) days written notice of termination to the other party.

13. **WASTE PROHIBITED:** Concessionaire shall not commit waste upon or damage any real or personal property located at the Caldwell Events Center, nor permit any such waste by its customers, employees, agents, assigns, contractors or those persons entering upon the Caldwell Events Center for the purpose of doing business with Concessionaire.

14. **ATTORNEY'S FEES:** In the event an action is brought to enforce any of the terms or provisions of this Agreement, the prevailing party to such action or collection shall be entitled to recover from the unsuccessful party reasonable attorney's fees and associated costs, including any costs or fees incurred on appeal.

15. **NOTICES:** All notices required to be given to each of the parties hereto under the terms of this Agreement shall be given by depositing a copy of such notice in the United States

(SAMPLE AGREEMENT)

mail, postage prepaid and registered or certified, return receipt requested, to the respective parties hereto at the following address:

Caldwell:

Caldwell City Clerk
CITY OF CALDWELL
411 Blaine Street
Caldwell, Idaho 83605

Concessionaire:

or to such other address as may be designated by writing delivered to the other party. All notices given by certified mail shall be deemed completed as of the date of mailing except as otherwise expressly provided herein.

16. **REPRESENTATIONS:** It is understood and agreed by and between the parties hereto that there are no verbal promises, implied promises, agreements, stipulations, representations or warranties of any character excepting those set forth in this Agreement.

17. **BINDING EFFECT:** The provisions and stipulations hereof shall inure to the benefit of and bind the heirs, executors, administrators, assigns and successors in interest of the respective parties hereto.

18. **MISCELLANEOUS PROVISIONS:**

a. The failure of a party hereto to insist upon strict performance or observance of this Agreement shall not be a waiver of any breach of any terms or conditions of this Agreement by the other parties.

b. In the event any provision or section of this Agreement conflicts with applicable law or is otherwise held to be unenforceable, the remaining provision shall nevertheless be enforceable and carried into effect.

c. This Agreement shall be governed and interpreted by the laws of the State of Idaho.

(SAMPLE AGREEMENT)

d. No party may assign this Agreement or any interest therein without written consent of the other parties, and in the event of assignment, this Agreement shall inure to and be binding upon the parties hereto as well as their successors, assigns, departments and agencies.

e. No amendment, alteration or modification of this Agreement shall be effective unless made in writing and duly executed by the parties hereto.

f. This Agreement constitutes the legal, valid, and binding obligation of each party hereto. Each of the persons signing this Agreement represent and warrant that he or she has been duly authorized by his or her respective party to execute this Agreement. Each party further represents and warrants that its execution, delivery, and performance of this Agreement, or its fulfillment of or compliance with the terms and conditions of this Agreement (1) does not require any further consent, waiver, approval, license, or authorization of any person, entity or public authority; and (2) will not violate its governing organizational documents or any judgment, order, writ, injunction, or decree statute, or regulation applicable to the respective party.

g. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior understandings, agreements, representations, and warranties, if any, with respect to such subject matter.

IN WITNESS WHEREOF, the City of Caldwell and Concessionaire do execute this Agreement the day and year first above written.

THE CITY OF CALDWELL
an Idaho municipal corporation

Garrett Nancolas
Mayor

Attest:

City Clerk

"Concessionaire"

By: _____
Its: _____

(SAMPLE AGREEMENT)

City of Caldwell / Alcohol Contract Perimeter

City
of
Caldwell

EXHIBIT "A"

Legend

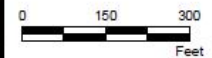
Permittee

-  City
-  Railroad

Imagery: 2018

Print Date: 13 Aug 2018

DISCLAIMER
The information represented on this map results from the compilation of a variety of source materials. Its intended use is as a reference for the City of Caldwell Staff. The City of Caldwell makes no representation or warranty as to the accuracy of this product, and in particular, its accuracy as to labeling, dimensions, property boundaries, or placement or location of any map features thereon. THE CITY OF CALDWELL DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR WARRANTY FOR FITNESS OF USE FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO THIS PRODUCT. Any user of this product accepts the same AS IS, WITH ALL FAULTS, and assumes a responsibility for the use thereof.



1 inch = 300 feet



(SAMPLE AGREEMENT)

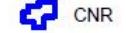
City of Caldwell / Alcohol Contract Perimeter

City
of
Caldwell

EXHIBIT "B"

Legend

Permittee



CNR



Railroad

Imagery: 2018

Print Date: 13 Aug 2018

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