



DAYTON

City of Dayton, Ohio
Department of Recreation

Kettering Field Sports Complex Concessionaire

REQUEST FOR PROPOSALS (RFP) No. 24-019REC

February 2024

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SECTION 1 – PROPOSAL INSTRUCTIONS

1.01 COMMUNICATIONS REGARDING THIS PROJECT. Please direct all communications regarding the RFP process to:
City of Dayton, Department of Recreation
Jermaine Isaac
101 West Third Street
Dayton, Ohio 45402
Telephone: (937) 333-3383
E-Mail: jermaine.isaac@daytonohio.gov

All communications/questions concerning this RFP must be submitted in writing referencing the specific paragraph and page number. The deadline for questions is listed in Section 1.02 (RFP Schedule). Written responses will be prepared by the City and posted on the City’s web site by the date listed in *Section 1.02*. Changes to this RFP will be made only by formal written correspondence issued by the City.

A copy of this RFP proposal and any additional documentation may be found at the City’s website at:

<http://daytonohio.gov/bids.aspx>

1.02 RFP SCHEDULE. The proposed RFP schedule is to be reviewed with City Purchasing and HRC, if required, and shall be mutually agreed upon. RFP schedule to be determined prior to finalization of RFP. The following is the anticipated schedule for the RFP Process:

Issue RFP:	February 20, 2024
Notify City of Intent to Attend Pre-Proposal Meeting	3:00 PM local (Dayton OH) time on Feb 26, 2024
Pre-Proposal Meeting	Meeting will be at Kettering Field, 444 North Bend Blvd., Dayton OH 45404 at 2:00 PM local (Dayton OH) time on March 1, 2024
Site Visit:	Site visit will be at Kettering Field - will immediately follow pre-proposal meeting
Last Day to Submit Questions:	12:00 PM local (Dayton OH) time on March 6, 2024
Written Responses to Questions:	5:00 PM local (Dayton OH) time on March 11, 2024
Due Date for Proposals:	2:00 PM local (Dayton OH) time on March 15, 2024

1.03 PRE-PROPOSAL MEETING. The City shall conduct a **VOLUNTARY** pre-proposal meeting. The date and location of the meeting is listed in Section 1.02 (RFP Schedule). The intent of the pre-proposal meeting is to:

- Review the Request for Proposal
- Answer questions

This may be the only opportunity for the Contractors to meet with the City. Each proposer should limit representation at this meeting to no more than 2 persons. Contractors shall notify the City as directed in Section 1.02 (RFP Schedule) if they will be attending the pre-proposal meeting and how many persons will attend.

1.04 SITE VISIT. The City shall conduct a Site Visit. The date and location of the site visit is listed in Section 1.02 (RFP Schedule). The intent of the site visit is to:

- Review the Location and site conditions
- Answer questions

This may be the only opportunity for the Contractors to visit the project location. Each proposer should limit representation at the site visit to no more than 2 persons. Contractors shall notify the City as directed in Section 1.02 (RFP Schedule) if they will be attending the site visit and how many persons will attend.

1.05 SUBMITTING A PROPOSAL. Each Consultant seeking consideration for performance of services related to this RFP must submit a proposal. All proposals shall be submitted as a PDF via electronic submission to bids@daytonohio.gov. The City has a 20meg limit for incoming e-mail message sizes (20meg includes e-mail itself and any attachments total). Should your company’s proposal document exceed this limit, your company will have to submit its document in multiple

parts (emails). Should bid documents require multiple emails, please designate in the "Subject" line of each email sent: RFP No 24-019REC Kettering Field Sports Complex Concessionaire, RFP No 24-019REC Part 1, RFP No 24-019REC Part 2, and so forth.

The bid opening will be facilitated using ZOOM with the following login information: [Join Zoom Meeting https://us02web.zoom.us/j/81994316767?pwd=L2h0NIRqbHZESEkyK2d2ODIPR1hPUT09](https://us02web.zoom.us/j/81994316767?pwd=L2h0NIRqbHZESEkyK2d2ODIPR1hPUT09)

Meeting ID: 819 9431 6767

Passcode: 358757

Sealed proposals must be received in the Procurement bid email in-box (BIDS@DAYTONOHIO.GOV) by 2:00PM on the date indicated in Section 1.02 (RFP Schedule). Proposals received after the scheduled date/time will not be considered. All supporting materials and documentation must be included with the proposal. The responsibility of timely delivery lies solely with the proposer.

The City reserves the right to reject any and all proposals, to waive any irregularities in a proposal, or to accept the proposal(s) which in the judgment of proper officials, is in the best interest of the City. The City reserves the right to accept a part or parts of a proposal unless otherwise restricted in the RFP or issue subsequent RFPs. The City reserves the right to approve or reject any sub-Contractors proposed for work under this proposal or waive any minor irregularities

The City reserves the right to select the successful vendor once all proposals are received, without seeking further information for clarification from proposers. Upon review of proposals, the City may designate the most qualified proposals as finalists. These finalists may be invited to make oral presentations and participate in a "question and answer" session with the City. The City shall have the right to visit selected user sites, should this be deemed necessary.

All federal, state, and local laws regarding competitive bidding, anti-competitive practices, and conflict of interest shall be applicable to this RFP.

The City does not guarantee that any contract will be awarded because of this RFP. If a contract award is made but the contract is not executed, the City does not guarantee that the contract will be re-awarded.

1.06 REQUIRED PROPOSAL CONTENTS. All brochures and supplemental documentation shall be included with the original and all copies. If not, the proposal may be considered as non-responsive. Proposers are required to submit the following information in their proposal:

- **Letter of Transmittal:** The proposer shall provide a transmittal letter with authorizing signature for the proposal. The letter must briefly summarize the vendor's ability and willingness to perform the services required by the RFP. The letter must be on the form provided in Exhibit A.
- **Company Profile and Background:** Provide the following information:
 - **Location** – The street address of the proposer's company headquarters.
 - **Local Office of Proposer** – Provide the location of the proposer's office nearest to Dayton, Ohio. Include the local office, a contact name, address, telephone, and fax numbers.
 - **Company's Primary Business** – State the proposer's primary business, the number of years in the proposer's industry, and the number of employees assigned to these related activities.
 - **State the legal make-up** of your company: sole proprietorship, partnership, corporation, etc.
 - **Please list any Lawsuits that you are currently engaged in.** Please provide any and all suits either with the City of Dayton or any other Municipalities (include, but not limited to Federal, State, Local or other Municipalities and Governmental agencies).
- **Key Personnel Information:** Provide the name, title, mailing address, telephone number and e-mail address of the persons who will function as the City's primary contact and back-up contact person. Provide brief resumes/qualifications of personnel who will be primarily involved in this project. Include any certifications earned, special training taken, and memberships in professional groups. Complete Form found in Exhibit A.
- **Proposal Response** as per Section 2.
- **Statement of Exceptions to RFP requirements:** Provide a detailed description of any exceptions taken to the requirements of this RFP, including the City Standard Terms and Conditions in Section 3. Exceptions shall be referenced to the applicable RFP section/sub-section numbers. Any other departures from the city's RFP are to be identified and failure to do so shall make the proposal non-responsive. City's standard Terms for Payment are Net 30 days from date of invoice once the project is complete, unless otherwise negotiated.

If you cannot comply with this, please state any changes in the Statement of Exceptions to the RFP Requirements

- **References:** Provide a list of references on form provided as Exhibit B. The City is particularly interested in contacting your governmental clients in the state of Ohio.
- **Management Plan:** Outline the strategy for managing concessions at the main complex and in the isolated sections for Kettering Field Sports Complex.
- **Revenue Structure:** Propose annual guaranteed payment amount made to the City.
- **Menu:** Present a compilation of menu choices, corresponding prices, and the ingredients utilized.
- **Food License:** Provide a copy of companies' Montgomery County Food Service Operations License.
- **Alcohol Permit:** Provide a copy of companies' State of Ohio Alcohol Permit, if proposing to sale alcohol at Kettering Fields Sports Complex.

1.07 ITEMS THAT DISQUALIFY A VENDOR IMMEDIATELY.

- Incomplete or non-responsive proposal
- Failure to submit a proposal that addresses the minority hiring criteria identified throughout the RFP
- Inability to obtain Affirmative Action Assurance approval prior to award of the contract. See Section 3.06 for information on how to contact the Human Relations Council.

1.08 CRITERIA. The selection committee will evaluate each proposal submitted based on the following criteria. After receipt and review of the written proposal, the City may elect to have the proposal presented in person, or clarifications submitted in writing.

Proposers shall not assume that any information shared with the City prior to this RFP will be considered in the evaluation process of this RFP. Evaluation team may or may not have prior knowledge of any discussions and processes. **Evaluation will be completed on the information submitted in response to the RFP only.**

Evaluation Criteria for Goods and Services		
Item	Description	Points Possible
1	Project Approach, Overall Responsiveness to RFP, and Applicable Resources	20
2	Qualification, References, and Quality of Similar Work	20
3	Training & Policies	20
4	Guaranteed Annual Payment	15
5	Menu Pricing & Menu Variety	15
6	Dayton Local Business	5
7	PEP Certified Vendor	5
	Total Points	100

1.09 MISCELLANEOUS ITEMS.

All Contractors submitting a proposal will be notified, upon final determination by the City, of the firm or firms selected to perform the requested work.

Project Approach, Overall Responsiveness to the RFP, and Applicable Resources: Evaluate the firm's project approach and understanding of the Scope of Services required in the RFP as evidenced by its proposal. Consider whether all requested information was furnished by the firm in the format required by RFP. Evaluate the extent of applicable resources available to the firm to complete project(s) as listed in the proposal.

Qualifications, References, and Quality of Similar Work: Consider comparable experience and background of the specific personnel that shall be assigned to project(s) as outlined in the proposal. Also consider the specific involvement of those persons in projects noted in the proposal. Consider previous experience and references listed in the proposal. Is the firm experienced in providing services similar to that requested in the RFP?

Training & Policies: Evaluate the firm's personnel training policy, cash and record keeping policies, grease and greywater removal and disposal plan, and complaint handling policies. Alcoholic beverage personal training and serving policies (if applicable).

Guaranteed Annual Payment: Consider the specific dollar amount of the proposed guaranteed annual payment that the firm intends to make to the City. Proposed higher payment amounts will receive higher scores.

Menu Pricing & Menu Variety: Assess the firm’s menu pricing strategy and the diversity of food and beverage options available. Menu pricing and offerings that offer optimal value to patrons will receive higher scores.

Dayton Local Business: Dayton Local Business status will be determined by the address submitted on Exhibit A, which is the same address that will be used for the Contract. If the address is located within the City of Dayton Corporation Limit, the full five (5) points will be awarded.

PEP Certified Business: PEP Certified Business will be determined by the company name on Exhibit A, which is the same company name that will be used for the Contract. If the company name is listed on the PEP Certified approved vendor list, the full five (5) points will be awarded.

SECTION 2 – SCOPE OF PROJECT

2.01 PURPOSE AND NEED / PROJECT DESCRIPTION.

The City of Dayton, Department of Recreation, Division of Sports seeks proposals from highly experienced and professional firms to perform Food and Beverage Concessionaire operations at Kettering Field Sports Complex.

These services require expertise and experience in the food and concession operation including but not limited to, furnishing all equipment (except those provided by the City), materials, supplies, labor, insurance, and licenses as necessary to provide a hands-on food and beverage service.

2.02 BACKGROUND INFORMATION.

The City of Dayton is located at the crossroads of America, where I-75 north/south meets I-70 east/west and is best known as the Birthplace of Aviation. The City features a fantastic array of big city amenities coupled with Midwestern charm and hospitality. The City is a community rich in talent and history, emerging today as a global technology hub and a City rich in innovation. With over 140,000 residents, the City is investing for the future while providing high-quality services to residents, neighborhoods, and business.

The Department of Recreation operates three recreation centers, one outdoor tennis complex, one sports complex, seven spray parks and one golf facility with two 18-hole regulation courses.

The Division of Sports is responsible for the management and operation of sports programs, and operates athletic fields at Kettering Field Sports Complex, Jim Nichols Tennis Center, Centennial Football Field, and Community Golf Club.

Kettering Field Sports Complex is located at 444 North Bend Blvd. and is the main complex for softball, baseball, and multipurpose athletic fields. In 2022, the City of Dayton purchased vacant land adjacent to the complex. This parcel of land also has Centennial Football Field installed in 2019.

Acreage – 93.5 acres

Current programs include approximately 1,200 league games and 35 tournaments are scheduled seasonally (April-October), which amounts to over 3,500 players and 90,000 spectators frequenting the complex multiple times over a seven-month season. Games could be scheduled seven days a week from 8 a.m. until dusk, or until the conclusion of the scheduled activity, whichever occurs first. It is the City’s belief that there is room for growth in concession services operation at the Kettering Field Sports Complex. Additional programs include youth soccer league, youth baseball league, youth flag football league, adult and senior softball, softball tournaments, adult kickball.

The City of Dayton is dedicated to enhancing the Kettering Filed Sports Complex, committing a substantial \$15 million investment toward its improvement and expansion. This initiative aims to attract more tournaments and elevate the overall experience for league participants. The project is set to commence in the fall of 2024 and is projected to conclude in 2026, showcasing a comprehensive effort to upgrade the sports facility.

2.03 SCOPE OF WORK.

The successful proposer is expected to operate during all games, tournament, and events through the end of the last game(s) played each day and is expected to provide concession services to all athletic fields including the four outer diamonds and Centennial Football Field at Kettering Field Sports Complex.

The City may grant exclusive right to use the concession stand to prepare, offer, sell, and distribute food and beverages to persons at the Kettering Field Sports Complex.

Proposer Responsibilities – Proposers agrees to the following:

KETTERING FIELD SPORTS COMPLEX FACILITY REQUIREMENTS

Maintain the premises, equipment, and any improvements, in a neat, clean, and presentable condition at all times and to the satisfaction of the City of Dayton, Department of Recreation.

During the term of the contract, the proposer can at their own expense, recommend any alterations to the concession stand as required for its concession business. The proposer may also recommend certain improvements to the concession area, including installation of fixtures and equipment. These alterations and recommendations will be made in writing and submitted to the City's Sports Division Manager for approval.

The proposer agrees, at its cost and expense, to procure from all authorities having jurisdiction over the operations of the proposer at the Kettering Field Sports Complex, all authorities, certificates, permits or other authorizations that may be lawfully required to conduct the concession stand.

Conduct its business and operations at the concession stand in a fair and business-like manner so that the same will be a credit to the City of Dayton, Department of Recreation Kettering Field Sports Complex.

Must require that agents, employees, and contractors obey such rules and regulations as may from time to time be promulgated by the City of Dayton, and will obey all federal, state, and local laws, including all ordinances of the City of Dayton.

GENERAL MAINTENANCE

Repair or pay for all damages to the City of Dayton's property, caused by wrongful or negligent acts or omission of the proposer, its agents, employees, and contractors, arising out of the proposers use or occupancy of the concession stand. Responsible for general maintenance and upkeep of the concession stand, but the City of Dayton, Department of Recreation will assume the responsibility to replace major structural items, including heating and air conditioning, major plumbing and electrical (within all areas) or problems related to defects of the Kettering Field Sports Complex building that are determined not to be related to negligence of the proposer, its agents, employees, or contractors.

PROPOSERS PERSONNEL

Maintain and operate the premises in a first-class manner. All food, beverages, confections, and other items sold or kept for sale as permitted under the contract will be of high quality, wholesome and pure, and must conform in all respects to federal, state, and local laws, and regulations. The concession and all food, beverages and other goods or merchandise kept for sale will be subject to inspection by the City of Dayton, Department of Recreation, and the Montgomery County Combined Health District at all times.

Retain an active, qualified, competent, and experienced supervisor at the concession stand who will represent and act for the proposer. The City will be advised at all times of the name of the supervisor or the person in charge of the concession stand.

Employees, contractors, and/or agents will be clean, courteous, efficient, and neat in appearance. Additionally, they are expected to adhere to a dress code requiring the wearing of a uniform. The proposer will not employ any person or persons who use improper language or acts in a loud or boisterous, discriminatory, offensive, or otherwise improper manner.

Terminate the services of any person whose conduct the City of Dayton, Department of Recreation believes is detrimental to the best interest of the City of Dayton. All personnel engaged or retained by the proposer will be approved by the Sports Division Manager.

Request for approval shall be submitted in writing to the Sports Division Manager, with written consent from the proposer and prospective employee(s) allowing the City of Dayton to conduct a background investigation, if necessary.

The City of Dayton, Department of Recreation will have the right of final approval of employment and termination of all employees, agents, or contractors of the proposer.

SANITARY

Provide a complete and proper arrangement for the adequate sanitary handling and disposal of all trash, garbage, and other refuse created as a result of the operation of its concession.

The proposer will use suitable receptacles for all garbage, trash, and other refuse on or in connection with the premises. Piling of boxes, cartons, barrels, or other similar items, in an unsightly or unsafe manner, on or about the premises, is forbidden. The proposer will be required to contract with a vendor for proper grease and greywater removal.

FACILITIES

The proposer will have the right to install and operate appropriate signs in harmony with the architectural treatment of the Kettering Field Sports Complex, in and upon the Kettering Field Sport Complex and concession stand for advertisement purposes. The cost of such installations and operation will be the responsibility of the proposer.

The proposer will not erect, install, operate, nor permit to be erected, installed, or operated in or upon the concession stand or Kettering Field Sport Complex, any sign or other similar, advertising device without first having obtained the consent and approval of the City of Dayton's, Sports Division Manager. The concession stand will be open for business on days and at hours mutually agreed upon by the proposer and the Sports Division Manager or their designee based on the submitted hours of operation in selected proposers' proposal.

CONCESSION EQUIPMENT

Upon termination of the contract, the proposer will remove any fixtures and/or equipment, which are exclusively owned by the proposer; and restore the concession stand to its original condition, ordinary wear and tear excepted. In the event the proposer fails to timely remove its wholly owned fixtures or equipment, such fixtures or equipment shall become the sole and exclusive property of the City of Dayton, Department of Recreation.

The proposer accepts the concession stand and equipment on an "as is" condition existing at the time of execution of the contract. The proposer's acceptance of the concession stand will be conclusive evidence that its condition is satisfactory to proposer. The City of Dayton, Department of Recreation makes no representation or warranty respecting the condition of the concession stand or equipment.

The City of Dayton, Department of Recreation grants the proposer the right to use, in conducting the sale of goods, all equipment located at or in the concession stand. All equipment located at or in the concession stand will remain the property of the City of Dayton, Department of Recreation. However, the proposer will, at its own expense, maintain and protect the City of Dayton, Department of Recreation equipment from loss or damage. Any equipment damaged or destroyed by the proposer, employees, contractors, and/or agents, through negligence, abuse or misuse will be promptly replaced or repaired by the proposer. In the event of any replacement, the equipment will be considered City of Dayton, Department of Recreation owned equipment.

The proposer agrees that it will not assign, sublet, or underlet all or any part of the concession stand operations without the express written consent of the City of Dayton, Department of Recreation. Any agreement, arrangement, contract, or other binding relationship with any vendor shall be void.

The proposer agrees that it will actively use the concession stand for the purposes of food and beverage services, and will not, at any time, cease operating services at the concession stand without the prior written consent of the City of Dayton, Department of Recreation. The proposer will not permit the concession stand to be used for any improper, immoral, unlawful, or illegal purpose. Agrees that the City of Dayton, Department of Recreation will have the sole and exclusive right to determine all food supply and beverages for the Kettering Field Sports Complex, including the concession stand.

The proposer agrees to abide by all such exclusive and/or non-exclusive agreements or contracts between such vendor and the City of Dayton, whether currently existing or executed at any time during the term of the contract.

CONCESSION MENU

The proposer is expected to serve quality food and beverages to meet the needs of the visiting public. Simple menu items, such as pizza, hamburgers, hot dogs, fries, and other snacks should be offered at competitive prices. Please detail the type of meat (i.e., Turkey, Beef, Pork, Veggie) used in menu options. Beverages should include sodas, juice drinks, sports drinks, and bottled water.

The proposer is expected to offer healthy food options to be included on menu. Therefore, the proposer agrees that it will not enter into any agreement, arrangement, contract, or other binding relationship with any vendor, without first seeking the approval of the City of Dayton's, Sports Division Manager.

REVENUE STRUCTURE

- The proposer shall pay the City of Dayton, Department of Recreation for the rights, privileges and use of the concession stand, an annual minimum guaranteed payment and a monthly concession stand fee.
- The guarantee total payment to the City shall be:
 - A minimum payment of **\$3,500** at the start of each contract year.
- The proposer agrees to pay the City of Dayton, Department of Recreation the agreed upon amounts at the start of each athletic season. The annual revenue and reports due to the City of Dayton, Department of Recreation must be received on or before December 15th of the contract year.
- The proposer will provide a profit and loss statement for services provided at the end of each season. The City of Dayton, Department of Recreation shall have the option to review awarded proposers Federal, State and Local tax returns for any year contract is awarded.
- The contract period will be for one (1) year, with an option to renew for up to two (2) additional years at the sole discretion of the City of Dayton, Department of Recreation.

RECORD REQUIRED OF THE PROPOSER

- Keep accurate records, daily, which will, among other things, show all sales made and services performed for cash, credit, or otherwise (without regard to whether paid), of all the business done within the concession stand.
- Provide a detailed report showing the gross receipts from the operation of the concession stand for the preceding calendar month by the fifth business day of each month. These reports shall show the detail and breakdown listed below:
- Cash Register Tapes - as required by the Internal Revenue Service (IRS)
- Statement of daily transactions and sales report on food and beverages. Statement shall show gross sales and all information relating to any transaction.
- Copies of Sales Tax Reports - estimated or final reports submitted to County and State of Ohio. Sales Tax shall reflect the percentage that is required by both county and state.
- Provide Profit and Loss statement covering April 1st through November 15th, no later than 2:00 P.M. local time on December 15th. A copy of the actual profit and loss statement submitted with federal tax

return shall be submitted to the City no later than May 31st of each contract year. These statements shall be required as designated for each contract year.

- The City of Dayton, Department of Recreation and its agents have the right to inspect and examine records, cash registers, books, and other data to confirm gross receipts.

CITY RIGHTS AND RESPONSIBILITIES

- The City has the right to adopt and enforce reasonable rules and regulations with respect to the use of the Kettering Field Sports Complex, which the Proposer, and its employees, agents and contractors agree to observe and obey.
- The City has, always, the unrestricted right to enter the concession stand for the purpose of inspecting all things deemed necessary for the proper general conduct and operation of the concession stand.
- The City reserves the sole and exclusive right to manage, control and operate the concession stand for the benefit of the public as the City determines advisable.
- The City has the sole and exclusive right to enter into exclusive or non-exclusive food or beverage proposer agreements, which may affect the types of food or beverages permitted to be offered or sold by the proposer at the concession stand.
- The City warrants all equipment or fixtures owned by the City and provided for the proposer's use in the operation of the concession stand at the Kettering Field Sports Complex is in good operating condition; and the proposer agrees to maintain all equipment and fixtures in good operating condition.
- The City shall bear, at its expense, minor repair costs of City owned equipment. A "minor repair cost" is a cost less than 50% of the replacement cost of the equipment due to ordinary use. However, the replacement cost of equipment damaged or destroyed by the proposer, or its employees, agents or contractors will be the responsibility of the proposer.
- The City shall maintain fire and casualty insurance for Kettering Field Sports Complex in such amounts as the City may deem appropriate. The City is under no duty or obligation to replace or repair any goods, items, fixtures, equipment or other personal possessions of the proposer or its employees, agents, or contractors in the event of a fire or other casualty, if not covered under the City's policy of insurance.
- The term of the contract will be for one (1) year beginning in the 2024 season and ending with the completion of the 2024 season with an option to renew for up to two (2) additional years at the discretion of the City of Dayton, Department of Recreation. In the event the City elects to exercise its right to renew the contract, it will notify the proposer in writing on or before **December 1, 2024**. No renewal, however, will be effective unless it is reduced to writing, is executed by a duly authorized representative of the City and the proposer, and approved by the City of Dayton.
- The City may renew the concession contract on substantially similar financial terms (i.e., proposer will be required to remit a minimum annual and monthly guarantee payment with amounts and percentages not to be less than, but may be greater than, those for the 2024 contract year).

2.04 PRICING STRUCTURE.

Pricing proposed will remain firm for acceptance within 180 calendar days after the RFP closing date. Pricing will be reviewed in accordance with the City's Ordinances and Charter in conjunction with the Ohio Revised Code.

SECTION 3 – REQUIREMENTS AND CONDITIONS FOR ALL PROPOSERS

3.01 TAX EXEMPTION. All items purchased under this contract will be exempt from the State of Ohio Sales Tax as provided for in Section 5739-02(b)(1) of the Revised Code of Ohio and will be exempt from the State of Ohio Use Tax, Section 5741.02(C)(2). Blanket Certification of Exemption Forms will be furnished to the Proposer by the Division of Purchasing.

3.02 PROPOSER AFFIDAVIT. If the successful proposer should be a corporation not incorporated under the laws of the State of Ohio, a certificate from the Secretary of State showing the rights of the successful proposer to do business in the State of Ohio shall be furnished. Each proposer is required to submit with their bid, an Affidavit stating that neither the proposer nor agents thereof, nor any other party of the proposer has paid or agreed to pay directly or indirectly, any person, firm or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the contract herein referred to, and further agreeing that no such money or reward will hereafter be paid.

3.03 PROCUREMENT ENHANCEMENT PROGRAM. It is the policy of the City to promote full and equal business opportunity to all persons doing business with the City. The City must ensure that businesses seeking to participate in contracting and procurement activities with the City are not prevented from doing so based on the race or gender of their owners. The City is committed to ensuring that it is not engaged in passive participation in any form of discrimination. (R.C.G.O. Section 35.32) It is the City of Dayton's position to encourage the greatest participation possible on all projects connected with any aspect of the City's auspices through the Procurement Enhancement Program (PEP). All contractors are encouraged to visit <http://daytonhrc.org/business-technical-assistance/certification/> to learn more about PEP and other certification programs, and to review the list of currently certified Minority-Owned, Woman-Owned and Small Business Enterprises.

3.04 PROPOSER'S FINANCIAL OBLIGATION TO THE CITY. No bid may be accepted, or contract awarded to any person, firm or corporation that is in arrears or in default to the City, or that is a defaulter of surety or otherwise upon any obligation to the City or has failed to perform faithfully any previous contract with the City.

3.05 PROPOSER'S INCURRED COSTS. Each proposer shall be responsible for all costs incurred in preparing a response to this RFP. All materials and documents submitted by the proposer in response to this RFP shall become the property of the City and shall not be returned. Respondents selected for further negotiations, as well as the proposer ultimately selected to enter into a contractual agreement with the City, shall be responsible for all costs incurred by it during negotiations.

3.06 AFFIRMATIVE ACTION ASSURANCE (AAA). The selected Contractor must electronically submit an Affirmative Action Assurance application via the City's online vendor portal (citybots.com) and obtain approval from the Human Relations Council (HRC) to do business with the City. You may contact the HRC for the Rules and Regulations regarding AAA certification at:

Human Relations Council
371 West Second Street, Suite 100
Dayton, Ohio 45402
(937) 333-1403 (Office)
(937) 222-4589 (Fax)

Failure to maintain active AAA certification with the HRC may result in termination of the contract and/or denial of future contract awards from the City. AAA certification must be updated annually via citybots.com.

3.07 STANDARD AGREEMENT TERMS FOR PROFESSIONAL SERVICES – These are standard terms are subject to change by the City prior to the award of the contract.

ARTICLE 1. TERM

The Agreement shall commence upon execution by the City and shall terminate upon expenditure of all funds provided herein. The City of Dayton is seeking an agreement for a period of one (1) year, with an option to renew for up to two (2) additional years.

ARTICLE 2. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor shall provide all services necessary to complete the Services that are described in the Scope of Work above, which is incorporated herein by reference.

ARTICLE 3. COMPENSATION

Contractor shall submit invoices, not more frequently than monthly, for payment of the Services provided. Such invoices shall state the invoice period, total amount requested, and Services provided during the invoice period. The City will, unless disputed, remit payment of all undisputed amounts of invoices within thirty (30) days from receipt thereof.

ARTICLE 4. CITY'S RESPONSIBILITIES

The City will furnish Contractor, at no cost or expense, all reports, records, data that might be necessary or useful to complete the Services required under this Agreement.

ARTICLE 5. STANDARD OF CARE

Contractor shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances. Contractor shall have no liability for defects in the Services attributable to Contractor's reliance upon or use of data or other information furnished by the City or third parties retained by the City.

If, during the one-year period following completion of the Services, it is shown there is an error in the Services caused by Contractor's failure to meet such standards and City has notified Contractor in writing of any such error within that period, Contractor shall perform, at no additional cost to City, such Services within the original Project as may be necessary to remedy such error.

ARTICLE 6. INDEMNIFICATION

Contractor shall indemnify and defend the City and its elected officials, officers, employees and agents from and against all claims, losses, damages, and expenses (including reasonable attorneys' fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or non-performance of this Agreement and/or the acts, omissions, or conduct of Contractor and its agents, employees, contractors, sub-contractors and representatives in undertaking and performing the Services.

This Article shall survive early termination or expiration of this Agreement.

ARTICLE 7. INSURANCE

During the term of this Agreement, Contractor shall maintain, at its sole cost and expense, no less than the following insurance issued by an insurance company authorized to conduct business in the State of Ohio and having an "A" rating or better by A.M. Best:

- (1) General Liability Insurance, having a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate.
- (2) Automobile Liability Insurance, having a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
- (3) Employers' Liability Insurance, having a limit of \$500,000 for each occurrence.
- (4) Professional Liability Insurance, having a limit of \$1,000,000 annual aggregate.
- (5) Contractor shall maintain errors and omissions insurance in the amount of \$1,000,000.00.

Current certificates of insurance for all policies and concurrent policies required to be maintained by Contractor pursuant to this Article shall be furnished to the City. All such insurance policies, excluding Professional Liability Insurance, shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, but only to the extent of the extent of the policy limits stated herein. All policies of insurance required hereunder shall contain a provision requiring a minimum of thirty (30) days advance written notice to the City in the event of cancellation or diminution of coverage. Contractor also shall maintain Workers' Compensation Insurance in such amounts as required by law for all employees and shall furnish to the City evidence of same.

ARTICLE 8. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided in this Agreement, documents and reports prepared by Contractor as part of the Services shall become the sole and exclusive property of the City upon payment. However, Contractor shall have the unrestricted right to their use.

Contractor shall retain its rights in pre-existing and standard scripts, databases, computer software, and other proprietary property. Rights to intellectual property that is not specifically designed or created exclusively for the City in the performance of this Agreement shall also remain the property of Contractor.

ARTICLE 9. TERMINATION

This Agreement may be terminated by the City upon written notice in the event of substantial failure by Contractor to perform in accordance with the terms of this Agreement. Contractor shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City may terminate or suspend performance of this Agreement for the City’s convenience upon thirty (30) days prior written notice to Contractor. In the event of termination by the City hereunder, the City will pay Contractor for Services provided up to the date of termination.

Any such termination shall not relieve the vendor of any liability to the City for damages sustained by any breach by the vendor. The City will be under no further monetary obligation or commitment to the vendor. The City may terminate this contract at any time upon 30 days written notice to the vendor. In the event of termination, the City may, at its option, exercise any remedy available to it, including the Uniform Commercial Code, according to Ohio law.

ARTICLE 10. STANDARD TERMS

A. DELAY IN PERFORMANCE

Neither the City nor Contractor shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either the City or Contractor under this Agreement, provided the aforementioned circumstances are not due to the negligence or fault of the asserting party or any of its agents, employees, contractors, sub-contractors and/or representatives.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

B. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws. Any arbitration, litigation or other legal matter regarding this Agreement or performance by either party must be brought in a court of competent jurisdiction in Montgomery County, Ohio.

C. COMMUNICATIONS

Any written communication or notice required or permitted by this Agreement shall be made in writing and shall be delivered personally, sent by express delivery, certified mail or first-class U.S. mail, postage pre-paid to the address specified below:

Company Name: _____
Address: _____
City, State Zip Code _____
Attention: _____
Title: _____

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Contractor and the City.

D. EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, lay-off, termination, rates of pay or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances of the City of Dayton constitutes a material condition of this Agreement as fully and as if specifically, rewritten herein and that failure to comply therewith shall constitute a breach thereof entitling the City to terminate this Agreement at its option and may bar Contractor from receiving future City contracts.

E. WAIVER

A waiver by the City or Contractor of any breach of this Agreement shall be in writing. Such a waiver shall be effective only in the specific instance and for the specific purpose for which it is given and shall not affect the waiving party's rights with respect to any other or further breach.

F. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the portion or provision.

G. INDEPENDENT CONTRACTOR

By executing this Agreement for professional services, Contractor acknowledges and agrees that it will be providing services to the City as an "independent contractor". As an independent contractor for the City, Contractor shall be prohibited from representing or allowing others to construe the parties' relationship in a manner inconsistent with this Article. Contractor shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

Contractor, its employees, and any persons retained or hired by Contractor to perform the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City of Dayton. Further, Contractor shall be responsible to withhold and pay, or cause such agents, contractors, and sub-contractors to withhold and pay, all applicable local, state, and federal taxes. Contractor acknowledges its employees are not public employees for purposes of Ohio Public Employees Retirement System ("OPERS") membership.

H. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement without the prior written consent of the City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent Contractor from employing independent Contractors, associates, and subcontractors to assist in the performance of the Services.

I. THIRD PARTY RIGHTS

Except as expressly provided in this Agreement, nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Contractor.

J. AMENDMENT

The parties may mutually agree to amend this Agreement. However, no such amendment shall be effective unless it is reduced to a writing, which references this Agreement, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City of Dayton, Ohio.

K. POLITICAL CONTRIBUTIONS

Contractor affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.

L. INTEGRATION

This Agreement represents the entire and integrated agreement between the City and Contractor. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

This Agreement represents the entire and integrated agreement between the City and Contractor. This Agreement supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

M. PCI COMPLIANCE

Bidder/proposer (“Offeror”) represents and warrants that, for the entirety of any agreement resulting from this solicitation that involves processing credit and/or debit card revenue transactions on behalf of the City of Dayton that the solution is clearly defined to warrant the following:

1. All computer software, hardware, firmware, payment card processing policies, procedures and related services proposed to be utilized to process City of Dayton revenue transactions shall be:
 - a. Completed by a qualified professional payment card processing firm acceptable and approved by the City of Dayton; and,
 - b. Fully compliant with standards established by the PCI Security Standards Council (<https://www.pcisecuritystandards.org/index.shtml>).
2. Offeror shall provide and agrees to maintain the PCI compliance reporting Attestation of Compliance (“AOC”) Form(s) in its/their latest version(s), or within the year of record as requested and/or in an annual transmittal to the City of Dayton. (https://www.pcisecuritystandards.org/documents/PCI-DSS-v3_2-AOC-Merchant.docx?aggrement=true&time=1493826893795 or <https://www.pcisecuritystandards.org/documents/PCI-DSS-v3-AOC-Offeror.docx?agreement=true&time=1493826893795>).

Selection one of the following and initial on the adjacent line:

- Not Applicable (“N/A”) _____
- Offeror, reviewed, understands, and hereby acknowledges and affirms that its offer to the City of Dayton satisfies these requirements and shall continue to satisfy these requirements for the duration of any resulting agreement; current and relevant AOC’s are attached to demonstrate satisfaction of these requirements at the time of offer to the City of Dayton. _____

N. LIVING WAGE ORDINANCE

“I certify the proposing entity complies with the City of Dayton Ordinance #30829-09 and the City’s Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages.”

- YES NO



City of Dayton, Ohio
 Department of Recreation
 Kettering Field Sports Complex Concessionaire
 RFP No. 24-019REC
 February 2024

EXHIBIT A – LETTER OF TRANSMITTAL

The undersigned hereby certifies that items furnished as a result of this proposal will be in full accordance with the City of Dayton specification applying thereto unless exception is stated above.

The Proposer’s name and address exactly as it would appear in a contract:

Entity Name: _____

Street Address: _____

City, State, Zip: _____

Proposer’s Phone Number: _____

Proposer’s Fax Number: _____

Proposer’s E-mail Address: _____

Form of Ownership Sole Proprietorship Franchise Partnership Corporation
 Joint Venture LLC Other (Specify): _____

If a corporation, state of incorporation: _____

Federal Identification Number (or SSN if sole proprietorship): _____

Please include your IRS Form W9 with your proposal.

I certify the proposing entity complies with City of Dayton Ordinance #30829-09 and the City’s Revised Code of General Ordinances Section 35.70 through 35.74 regarding Living Wages. Yes No

SIGNATURE: _____

PRINTED NAME AND TITLE: _____

By signing this page, you state that you are an authorized representative, and have reviewed and are presenting this proposal on behalf of your business entity. Please continue completing this exhibit on the next page.

EXHIBIT A – LETTER OF TRANSMITTAL (continued)

COMPANY PROFILE AND BACKGROUND

Name of Proposing Company: _____

Company’s Primary Business - State the proposer’s primary business, the number of years in the industry, and the number of employees assigned to these related activities:		
Primary Business	# Of Years	# Of Employees Assigned

If a corporation, state of incorporation: _____

Current Pending Lawsuits: Please provide all suits either with the City of Dayton or any other Municipalities and Government Agencies; including, but not limited to Federal, State, Local or other Municipalities and Governmental Agencies:

Local Office of Proposer: Office in/nearest to Dayton, Ohio: _____

Federal Identification Number (or SSN if sole proprietorship): ##-#####

Key Personnel:

Name	Title	Contact Information: Mailing address, telephone number, fax number and email address	Designated as Primary Contact for the City of Dayton? YES / NO



City of Dayton, Ohio
Department of Recreation
Kettering Field Sports Complex Concessionaire
RFP No. 24-019REC
February 2024

EXHIBIT B – REFERENCES FOR PROPOSING COMPANY

Name of Proposing Company: _____

List company names, addresses, and telephone numbers for at least three references presently or previously served by your Company for RFP No. 24-019REC. Do not use the City of Dayton as a reference.

Company Name: _____

Address: _____

Contact Person: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Company Name: _____

Address: _____

Contact Person: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

Company Name: _____

Address: _____

Contact Person: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____



City of Dayton, Ohio
Department of Recreation
Kettering Field Sports Complex Concessionaire
RFP No. 24-019REC
February 2024

EXHIBIT C – PRODUCT MANUFACTURE LABOR STANDARDS: VENDOR COMPLIANCE FORM

By informal resolution 31876-21, the City of Dayton is prohibited from purchasing, leasing, renting, or taking on consignment goods for use or for resale by the City which were produced under sweatshop conditions.

The City of Dayton requests the following information concerning the products you intend to provide to the City because of this bid. This information will allow us to determine your products’ compliance with the standards outlined in informal resolutions 31876-21.

We require that you make a good faith effort to ascertain the following about the factories which manufacture the products you intend to supply to the City and that you make information available to us for our verification of your claims.

Child Labor. The factory or producer does not employ anybody younger than the legal age as established by the jurisdiction in which such factory or producer is located for children to work or participate in the production.

Forced Labor. The factory or producer does not use forced labor of any kind-prison labor, indentured labor, or bonded labor. However, goods produced by prisoners and/or patients as part of a formal rehabilitation or treatment program shall not be considered “forced labor” under the terms of this section.

Wages and Benefits. The factory or producer pays and/or provides at least the minimum wages and/or benefits as required by law in the jurisdiction in which the factory or producer is located.

Hours of Work. Employees are not required to work more hours than the maximum allowed by law for the jurisdiction in which the factory or producer is located.

Worker Rights. The factory or producer makes available to its employees such rights and procedures as required by law for the jurisdiction in which the factory or producer is located.

Health and Safety. The factory or producer provides at least the minimum safe and healthy working environment as required by law for the jurisdiction in which the factory or producer is located.

Notice to Employees. The factory or producer provides all applicable notices to its workers as required by law for the jurisdiction in which the factory or producer is located.

Anti-Genocide. The factory or producer does not purchase goods or services from countries or suppliers that have any involvement in the act or acts of genocide.

This compliance form must be submitted with your bid. If at any time your products are found to be out of compliance with these standards, or if you refuse to provide information to the City for our verification of compliance, the City reserves the right to terminate contracts for those products.

City of Dayton Ref. No.: _____
Bidding Company: _____
Address: _____

Signature/Title: _____
Federal I.D.#: _____
Phone No.: _____
Fax No.: _____



EXHIBIT D- BUSINESS INCOME TAX QUESTIONNAIRE

Business Income Tax Questionnaire

The following information is required to determine your City of Dayton, Ohio income tax liability, if any, and to set up your account if required.



Type of Tax Filing: (check all that apply)

- 1. Employee Withholding FEIN #
2. Corporate Earnings FEIN #
3. Individual Ownership Earnings SSN #
4. Partnership Earnings FEIN #

Company Name Phone #

Mailing Address City St. Zip

Local Business Address City St. Zip

Check the jurisdictions that we administer that you operate in:

- Dayton City Limits Dayton Wright Brothers Airport Dayton International Airport NONE

Date Business Started in Our Taxing Jurisdiction

Your Accounting Period? Calendar Year or Fiscal Year ending on

Withholding Information *Quarterly Withholding cannot exceed \$600.00

- Do you have employees? Yes or No Date First Employee Started Working in Our Jurisdiction
Do you submit withholdings QUARTERLY* or MONTHLY?
Is this a courtesy withholding for your employees who are residents of the above cities only? Yes or No

Do you rent or sublease property or space in the Dayton jurisdiction to another business or individual? Yes No

If so list Names, Addresses, and Tax ID below. If Yes, do they have employees working at that location? Yes No

Do you use Subcontractors? Yes No If so list Names, Addresses, and FEIN or Social Security Numbers below.

If you have filed returns with our office before, show Name and Tax ID #s used, and for what tax years you filed.

Full name of Owner of Company

If this is a change of ownership, please provide the date of change, the name, address, and phone number of former owner

If you are not liable to pay taxes in our jurisdiction, please explain why.

Signature Title Date

Thank you for your cooperation in this request. For more tax information is available at www.daytonohio.gov

Please return by MAIL or by FAX to: City of Dayton, Division of Revenue & Taxation, 101 West 3rd Street, P.O. Box 2806, Dayton, Ohio 45401 (937) 333-3500 ~ Fax (937) 333-4280

CS-25c