



**REQUEST FOR PROPOSALS**  
**FOR**  
**FOOD AND BEVERAGE CONCESSIONS**  
  
**FOR**  
**CARTERET PERFORMING ARTS & EVENTS CENTER**

**ISSUE DATE: October 20, 2021**

**DUE DATE: February 1, 2022**

**ISSUED BY:**

**CARTERET BUSINESS PARTNERSHIP**  
**COUNTY OF MIDDLESEX, NEW JERSEY**

**CARTERET BUSINESS PARTNERSHIP  
BOROUGH OF CARTERET, MIDDLESEX COUNTY**

**NOTICE FOR  
REQUEST FOR PROPOSALS  
FOR  
FOOD AND BEVERAGE CONCESSIONS**

Notice is hereby given that the Carteret Business Partnership (the “**CBP**”) is seeking proposals from qualified individuals and firms to provide food and beverage concessions for the Carteret Performing Arts and Events Center (“**CPAC**”) located in the Borough of Carteret (the “**Borough**”) for a [two (2) year] term, with an optional third (3<sup>rd</sup>) year renewal. The intent of this Request for Proposals (“**RFP**”) is to select an individual or firm to provide these Services.

Sealed proposals for the Services (the “**Proposal**”) will be received by CBP on November 23, 2021 at 11 a.m. prevailing time (the “**Submission Date**”), addressed to Diana St. John, Director of Community Development (the “**Project Representative**”) at 61 Cooke Avenue, Council Chambers 3<sup>rd</sup> Floor, Carteret, New Jersey 07008.

Proposals for these Services will be received by mail or delivery service up until the date and time indicated above. CBP will not be responsible for packages not arriving at the time and place designated, irrespective of the date and time the package was mailed, posted or left with a delivery service. Respondent assumes any and all risk of late delivery of its Proposal. Proposals not received on time will be returned to Respondent unopened.

Specifications and Instructions to Respondents and Proposal Forms may be obtained by emailing [stjohnd@carterer.net](mailto:stjohnd@carterer.net) ; subject line: Food and Beverage Services. Proposals shall be submitted on the Proposal Forms provided in the manner designated therein and submitted to the Project Representative. Proposals shall be clearly marked on the outside “**SEALED PROPOSAL: CPAC FOOD AND BEVERAGE SERVICES**”.

All questions regarding the RFP must be submitted in writing to the Project Representative prior to November 2, 2021.

Proposals will be evaluated in accordance with N.J.S.A. 40A:11-4.1 et seq. by a selection committee appointed by the CBP (the “**Selection Committee**”). The Selection Committee will review each Proposal, and may, if necessary, conduct interviews with one or more of the Respondents as part of the final selection process. Respondents are required to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

Proposals may not be modified after submittal. Respondents may withdraw Proposals at any time prior to the opening of Proposals, by submitting a written request to Project Representative prior to the time designated for Proposal opening. No Proposal may be withdrawn within sixty (60) days after Proposal opening.

CBP will award a contract for the Services or reject all Proposals within sixty (60) days of receipt of the Proposals unless otherwise agreed by the parties.

CBP reserves the right to reject any or all Proposals or to waive any informalities in any Proposal received and to accept the Proposal which in its judgment, will best serve the interest of CBP.

## SECTION 1 GENERAL INFORMATION

### 1.1 Introduction and Purpose

The Carteret Business Partnership in compliance with N.J.S.A. 40A:11-4.1, seeks competitive proposals to secure an agreement (the “**Agreement**”) with a vendor to be responsible for the food and beverage service concession for CPAC. CPAC is located 46 Washington Avenue in the Borough. The Respondent awarded the Agreement (the “**Successful Respondent**”) will be required to perform all services described in this RFP, and in all Addenda issued during the Proposal period and as set forth in each Agreement.

### 1.2 Award of Contract

The award of the Agreement, if made, will be made to the Respondent which CBP, in its sole discretion, deems to best meet the requirements and needs of CBP based upon price and other factors. It is expected that the Agreement will be signed by the parties thereto and become effective by no later than January 1, 2022 (the “**Start Date**”).

If the Successful Respondent is not a resident of the State of New Jersey, any contract award will be conditioned upon Respondent designating a proper agent to accept service of process located within the State. Additionally, if the Successful Respondent is a corporation not organized under the laws of New Jersey, the award of contract shall be conditioned upon the corporation promptly filing a certificate of doing business in the State of New Jersey pursuant to N.J.S.A. 14A:13-2, providing CBP with proof of same, and complying with the provisions of N.J.S.A. 14A:13-4.

The Successful Respondent shall be required to execute the Concession Agreements and deliver required documents within ten (10) days after notification of the contract award.

The Successful Respondent will be required to comply with the requirements of N.J.S.A. 10:5-1 et seq., N.J.A.C. 17:27 and N.J.S.A. 40A:11-18.

### 1.3 Communications

Notwithstanding the participation of several of CBP’s professionals in the RFP process, all communications with CBP concerning this RFP, shall be directed to the Project Representative. In order to maintain the integrity of the procurement process, it is requested that all communications be in writing.

#### **1.4 Reservation of Rights and Options by CBP with Respect to the RFP**

By responding to the RFP, Respondents acknowledge and agree that CBP, in its sole discretion, reserves the following rights and options regarding any and all Proposals:

- (a) To abandon the RFP process, including the right to decline to award a contract for any reason.
- (b) To accept the Proposal that best serve the interests of CBP in CBP's sole judgment.
- (c) To waive any condition, requirement or informality which would otherwise constitute non-conformance of the Proposal with the provisions of this RFP.
- (d) To reject any or all Proposals.
- (e) To reject incomplete or non-responsive Proposals, or Proposals not signed by an authorized representative of the Respondent.
- (f) To change or alter the terms and conditions of this RFP so long as copies of such changes are sent to all the persons/entities who have received a copy of the RFP.
- (g) To undertake all steps necessary to obtain or clarify information as requested or provided by any Respondent.
- (h) To interview any and all Respondents.
- (i) To make investigations it deemed necessary to determine the responsibility and qualifications of Respondent and the ability of Respondent to perform the Services.

**1.4 CBP will provide a tour of CPAC facilities upon request by appointment by emailing [stjohnd@carteret.net](mailto:stjohnd@carteret.net)**

#### **1.5 Conditions of CBP with Respect to the RFP**

By responding to the RFP, Respondents acknowledge and consent to the following conditions relative to the submission, review and consideration of its Proposal:

- (a) to abandon the RFP process, including the right to decline to award the Concession Agreement for any reason.
- (b) to accept the proposal that best serves the interest of the Borough of Carteret and CBP in CBP's sole judgement.

- (c) to waive any conditions, requirement of informality which would otherwise constitute non-conformance of the proposal with the provisions of the RFP.
- (d) to waive any or all proposals.
- (e) to reject incomplete or non-responsive proposals, or proposals not signed by an authorized representative of the respondent.
- (f) to change or alter the terms and conditions of this RFP so long as copies of such changes are sent to all the persons/entities who have received a copy of the RFP.
- (g) to undertake all steps necessary to obtain or clarify information as requested or provided by any respondent.
- (h) to interview any and all respondents.
- (i) To make investigations it deemed necessary to determine the responsibility and qualifications of respondent and the ability of respondent to perform the services (defined herein).

## **1.6 CPAC Principal Spaces**

The CPAC includes the following principal spaces:

- (a) **Main Auditorium:** 1,605 seats. A “mainstage” concert venue, open space floor for boxing/wrestling, expositions, ice skating, wedding/banquets, and private events;
- (b) **Rooftop Lounge:** 180 seats. Rooftop stage; portable bar; flex-seating;
- (c) **Comedy/Jazz Club:** 250 seats (tables and chairs); and
- (d) **Gallery Space:** Open lobby space for strolling through art exhibitions and gathering; and
- (e) **Multipurpose Room:** Includes seats with conference tables and chairs (the total number of seats is to be determined).

Successful Respondent will be responsible for providing all food and beverage concessions and catering services for these principal spaces (the “**Spaces**”) including operations of the Rooftop Lounge, the Comedy/Jazz Club, and all concession locations throughout the CPAC. The floor plans for the CPAC are included in this RFP as **Exhibit B**.

## **SECTION 2 SCOPE OF SERVICES**

### **2.1 Services Being Procured**

The Successful Respondent will be required to enter into an Agreement in a form substantially similar to the Agreement attached to this RFP as **Exhibit A** if an award is made.

The Agreements will require the Successful Respondent to perform both: (1) Food and Beverage Concessions; and (2) Catering Services (collectively the “**Services**”) at the CPAC in compliance with all Applicable Laws and in accordance with the terms and provisions of this RFP.

### **2.2 Term of Agreement**

The Term of the Agreement shall begin on the Start Date and shall end on the last day of the month preceding the first anniversary of the Start Date. CBP may cancel this agreement, with cause, at any time, by giving the Successful Respondent thirty days’ notice of default and sixty days’ notice of termination should such default not be cured.

Upon termination of the Agreement, either through expiration of the term or by notice of termination, the Successful Respondent will relinquish occupancy of all concession and catering facilities to the CBP upon the effective date of termination, and will return all facilities, equipment, and other items furnished by the CBP in the condition in which received, reasonable wear and tear excepted. Successful Respondent will be responsible for all losses and damages to any facility within the CPAC resulting from its default, failure, or negligence during the term of the Agreement.

### **2.3 Financial Relationship**

The Successful Respondent will be an independent Concessionaire in relation to the CBP and the award of the Agreement shall not constitute a joint venture between the Successful Respondent and the CBP.

### **2.4 Food and Beverage Concessions**

Successful Respondent shall operate and manage all concession facilities in the CPAC, including: (i) all bars and concession facilities servicing patrons attending public events at CPAC; (ii) the Rooftop Lounge; and (iii) Comedy/Jazz Club located in the lower level of the CPAC (collectively the “**Concession Facilities**”).

#### **2.4.1 Concession Hours of Operations**

- (a) Event Hours of Operations. Successful Respondent shall open and operate the Concession Facilities during all scheduled events and performances at the CPAC.

- (b) Non-Event Hours of Operations. In addition to the required Events Hours of Operations, Successful Respondent shall open and operate the Rooftop Lounge and Comedy/Jazz Club as determined by the CBP.

## **2.5 Catering Services**

Successful Respondent shall also provide catering services for private events at CPAC including the preparation and service of food and beverages for guests attending the private events. Private events shall include all events utilizing the Principal Spaces at the CPAC which are not open to the public at large. CBP internal catering (catering paid for directly by CBP) shall be provided at discounted prices. The discounted prices shall be at least 80% of the price for private events.

### **2.5.1 Restrictions on Catering Exclusivity**

Successful Respondent shall have exclusive catering rights at the CPAC during the term of the Agreement, except as follows:

- (a) CBP may exercise six (6) mutually agreed upon carve-outs annually without penalty. Notwithstanding the above, the Successful Respondents shall retain the rights to serve alcoholic beverages at its list prices for catered events for such parties catered by others. Successful Respondent shall be entitled to a corkage fee for service of any wine for all exercised carve-out events paid for by a third party. Corkage fee shall not apply for service of any donated wines for internal events paid for by the CBP;
- (b) Backstage/Green Room Catering;
- (c) CBP Internal catering; and
- (d) Executive and Community Board meetings.

## **2.6 Kitchen Facilities**

Successful Respondent shall also be responsible for use and operation of the kitchen facilities at the CPAC. There is no full-service production kitchen on-site. CPAC's kitchens include refrigerators, cooktops, and venting. There is a general kitchen on the upper level and a warming kitchen on the main level. Lower level contains a liquor cage, plus freezer and refrigerator walk-ins. Pantries are provided to support events in various locations within the facilities.

Successful Respondent acknowledges that CBP owns fixed equipment including bars, walk in cooler, holding & warming cabinets and icemakers. Successful Respondent shall be responsible for any repairs and replacement occasioned by its negligence. Successful Respondent

shall be responsible for scheduling and payment of all routine scheduled maintenance on equipment as directed by CBP.

There are various storage areas throughout the CPAC and one loading docks that, depending on the size of the delivery may be available for delivery of supplies for food and beverage concessions.

## **2.7 Marketing and Catering Management**

Successful Respondent shall also be responsible for all marketing efforts for the Rooftop Lounge and Comedy/Jazz Club and shall provide a minimum level of marketing. All marketing materials are subject to approval by the CBP.

Successful Respondent shall also supplement the CBP's efforts in booking private events at the CPAC.

## **2.8 Contract Fee**

Successful Respondent shall pay to the CBP Food and Beverage Fees, which shall be a percent of revenues generated from food and beverage concessions net of taxes. Catering Fees and Food and Beverage Fees must be at least 20% of revenues from each category of fees. Payment to CBP shall be made on a monthly basis no later than the fifteenth (15<sup>th</sup>) day following the last day of the month.

### **2.8.1 Monthly Accounting**

Successful Respondent must acknowledge and agree that it shall provide to the CBP a monthly accounting showing revenues from: (i) food and beverage concessions at the CPAC; and (ii) catering services at the CPAC. All monthly reports shall be due no later than the fifteenth (15<sup>th</sup>) day following the last day of the month.

### **2.8.3 Access to All Records**

Successful Respondent must acknowledge and agree that CBP shall have access to all books and records regarding the operation of food and beverage concessions at the CPAC and catering services at the CPAC. CBP shall have the right to require the performance of an audit of all financial records related to the operation of food and beverage concessions at the CPAC and catering services at the CPAC at the sole cost of the Successful Respondent.

### **2.9 Licenses and Permits**

Successful Respondent shall obtain all necessary licenses and permits for providing food and beverage concessions at the CPAC and shall furnish copies of such licenses to the CBP no less than thirty (30) days from the Start Date. The CBP will reasonably cooperate with the Successful Respondent in applying for, obtaining, and maintaining such licenses, permits, and accreditation.

### **2.10 Liquor License**

Respondents must be eligible to obtain a liquor license from the New Jersey Division of Alcoholic Beverage Control. Successful Respondent shall apply for a concessionaire liquor license necessary for the service of liquor at all food and beverage facilities at the CPAC that will be managed by the Successful Respondent. Successful Respondent will be responsible for all fees and compliance requirements as outlined by the State of New Jersey.

### **2.11 Trash and Recycling**

Successful Respondent shall be responsible for the removal of all wet and dry trash generated by its use of facilities at the CPAC, including all trash from the kitchen facilities and the facilities operated by the Successful Respondent pursuant to the Agreement. All trash and recycling shall be deposited at the locations designated by the CBP. Successful Respondent shall comply with recycling protocols which include single stream recycling. CBP shall arrange and pay for all regular trash pick-ups from the facility.

Successful Respondent has full responsibility for sanitation in all food preparation areas. Successful Respondent shall be responsible for cleaning floors, walls up to six feet above floor level, equipment and exhaust hoods and filters. Successful Respondent has full responsibility for regular daily cleaning in all food service and concessions areas. Successful Respondent is responsible for cleaning of all spaces following a catered event. Daily cleaning of such spaces includes cleaning of tables, chairs, and spills, removal of all garbage to designated location, cleaning of all bars, counter, cabinets, and other surfaces. Once-daily vacuuming, periodic carpet cleaning, and window washing is the responsibility of CBP

**2.12 Required Dining Inventory**

Successful Respondent shall maintain an inventory of china, glass, silver, catering wares, service wares, and small wares. Successful Respondent is responsible for maintenance of par levels and provision of items needed above par levels. CBP owns the high top and dining tables and chairs along with 6-foot banquet tables. All other tables and chairs for private events are rented.

**2.13 Signage and Menus**

Successful Respondent shall bear the costs and expense for all signage and production of menus for any and all the food and beverage concession facilities at the CPAC. CBP shall have the absolute right to deny or to remove any signage of the Successful Respondent, in the CBP’s sole discretion. Successful Respondent shall also bear the costs and expense to produce all catering menus.

**2.14 Emergency Protocols and Procedures**

Successful Respondent shall immediately notify emergency responders in the event of fire or another emergency by calling 911. Successful Respondent shall then immediately notify the CBP, immediately following notification to emergency services. Successful Respondent shall train all employees to respond to fire, civil defense, bomb threats, evacuations, and other emergencies based on procedures established by CBP. Successful Respondent’s staff will take part in CBP emergency training.

Successful Respondent will give prompt written notice of any fire or other damage occurring to the facilities at the CPAC and a copy of all notices received by the Successful Respondent of any claim for bodily injury occurring within the building to a designated CBP representative. In addition, the Successful Respondent is required to give prompt notice of any injury sustained by any of its employees or agents.

**2.15 Allocation of Additional Responsibilities**

In addition to the requirements stated in this Section of the RFP, additional responsibilities shall be allocated between the Successful Respondent and the CBP as follows:

	<b>CBP</b>	<b>Successful Respondent</b>
Space for pre-performance dining, intermission bars, and catered events as described herein	X	
Structural repairs and maintenance to building, (including floors, membranes, walls, ceilings, plumbing, and electrical) unless caused by Provider negligence, excluding routine maintenance on kitchen equipment	X	

Public common area maintenance including window washing, re-lamping, and ceiling maintenance	X	
Kitchen equipment as currently exists	X	
Utilities	X	
Trash dumpsters and removal from facility	X	
Pest Control		X
POS Server, if needed		X
Existing china, glass and silver inventory		X
Existing catering wares and loose kitchen equipment		X
Security for special events	X	
Maintenance of reservation book for events	X	
Office/Desk space for Provider management and staff (for up to four)	X	
Provision of all concession services as outlined in this document		X
Provision of staff to facilitate food & beverage services as outlined in this document		X
Start-up and pre-opening costs		X
Operating Costs including but not limited to food, beverage, labor, supplies, linen, etc.		X
Sanitation and janitorial services as described below		X
Onsite Production Capacity		X
Scheduling of and payment for all regular maintenance on kitchen equipment including but not limited to cleaning of grease traps		X
Kitchen equipment repair occasioned by negligence		X
Provision of furniture and décor elements for Lobbies	X	
Provision of coat check for special catered events as required		X
China, glass, silver, small wares, or catering wares required above current inventory		X
Insurance as outlined below		X
Provision of all required office equipment including computer, printers and phones		X

**SECTION 3  
INSTRUCTIONS FOR PREPARATION AND  
SUBMISSION OF PROPOSALS**

**3.1 Submission Procedures**

**3.1.1 Time and Place of Proposal Opening**

Proposals shall be submitted to CBP no later than the Submission Date. An original and five (5) copies of each Proposal (together with a digital copy on a thumb drive) shall be enclosed in an opaque, sealed envelope or otherwise boxed, marked with the name and address of the Respondent, by hand delivery, mail/return receipt requested or overnight mail, directed to the Project Representative at the below address and clearly marked as follows:

Diana St. John  
Director of Community Development  
61 Cooke Avenue  
Carteret, New Jersey 07008

One copy of the Proposal must be clearly marked as the original and must contain the original signature forms, performance guarantees and other original documents. The remaining five (5) copies may be reproductions. Respondents shall sequentially number each set of documents (numbers 1- \_\_\_\_, with number 1 being the original) on the upper right-hand corner of each cover.

All Proposals submitted will be date and time stamped upon receipt. Any Proposals or portions thereof that are submitted and received after the specified deadline will be marked “received late” and will be returned unopened to the Respondent.

**3.1.2 Addenda or Amendments to the Proposal**

Questions pertaining to the RFP must be submitted in writing not later than the Proposal submission date. No oral interpretations and responses will be made. All written requests for interpretation or questions should be directed to the Project Representative.

During the period provided for the preparation of Proposals, CBP may issue addenda or amendments to the RFP. These addenda will be numbered consecutively and will be sent by certified mail, overnight courier or certified facsimile not later than seven (7) days (Saturdays, Sundays and holidays excepted) before the time of submission of the Proposal, to each person or entity that has received a copy of the RFP. The addenda will be issued by, or on behalf of, CBP and will constitute a part of the RFP. Each Respondent is required to acknowledge receipt of all addenda at the time of submission of the Proposal by submitting an executed acknowledgment form (**Exhibit C, Form C-5**). All Proposals shall be prepared with full consideration of the addenda issued prior to the Proposal submission date. Failure of the Respondent to receive any addenda shall not relieve the Respondent from any of the requirements of the RFP.

### **3.1.3 Withdrawal of Proposal**

A Respondent may withdraw its Proposal prior to the date and time set for the opening of the Proposals, provided that a written request to withdraw the Proposal is hand delivered to CBP, by or on behalf of, an Authorized Representative of the Respondent, or is delivered by certified means of delivery. The request to withdraw the Proposal must be received by CBP prior to the commencement of Proposal opening. Once the Proposals have been opened, Respondents may not withdraw their Proposals for a period of sixty days.

### **3.3 Submission Requirements**

#### **3.3.1 Proposal Security**

Respondent shall provide as part of its Proposal submission to CBP, Proposal Security in the amount of \$2,500.00. Security shall be either a certified check, a cashier's check or a Bid Bond by a surety licensed to conduct business in New Jersey. If a Bid Bond is to be provided, Respondent shall use the form of Bid Bond set forth in **Exhibit C, Form C-**.

The Successful Respondent's Proposal Security will be retained until the Respondent has executed the Agreement and furnished the required proof of insurance and performance bond. CBP reserves the right to retain the Proposal Securities of up to three (3) responsive Respondents until three (3) days (Sundays and holidays excepted) after the awarding and signing of the Agreement with the Successful Respondent or until sixty (60) days after the Proposal opening, whichever occurs first. If a Respondent fails to enter into the Agreement and furnish the required proof of insurance within ten (10) days after it has received notice of acceptance of its Proposal, CBP will retain that Respondent's Proposal Security as liquidated damages, not as a penalty.

#### **3.3.2 Consent of Surety and Performance Bond**

Each Respondent shall submit with its Proposal a Consent of Surety, substantially similar in form to **Exhibit C, Form C-**, including a Power of Attorney as necessary, executed by a surety Respondent or companies qualified to do business in New Jersey, who shall, at the time of submission of the Proposal, agree that in the event of an award to such Respondent, the surety shall furnish a Performance Bond consistent with the requirements of this RFP

The Successful Respondent shall give a Performance Bond, substantially similar in form to **Exhibit C, Form C-**, in the amount of \$250,000 from a surety Respondent or companies qualified to do business in New Jersey, for the faithful performance of the obligations under the Contract; said bond to be for the term of the Contract for the Services. The Performance Bond shall have the following applicable credit rating: If a surety, then a credit rating of A+ from A.M. Best & Co.; if a bank, then a credit rating of A from Standard & Poor's Corporation, Moody's Investor Service or Fitch; and if a guaranty, then an investment grade rating for the guarantor from Standard & Poor's Corporation, Moody's Investor Service or Fitch

### **3.3.3 Organization**

Each Proposal submitted in response to the RFP shall consist of the following:

Section I.	Cover Letter (Form C-1)
Section II.	General Information (Including all <u>required</u> forms, <b>Exhibit C</b> )
Section III.	Management Information
Section IV.	Financial Information
Section V.	Information Concerning Proposed Services
Section VI.	Supplemental Information
Section VII.	Proposal (including C-6)

### **3.3.4 Form**

Respondent shall provide the appropriate information required in accordance with the following content and format requirements.

- (a) All related information shall be bound as a single document, unless that is impractical.
- (b) The responses shall be concise, clear, factual, and complete with a minimum of extraneous material.
- (c) The Proposal shall be indexed and sectioned and shall be prefaced with a table of contents.

## **3.4 Specific Requirements for Each Proposal**

### **3.4.1 Cover Letter and Signature Requirements (Section I)**

CBP must receive, together with each Proposal, the one original cover letter on Respondent's official letterhead (in form and content exactly as set forth in **Exhibit C, Form C-1**), which acknowledges, among other things, that the Respondent has completely reviewed and understands and agrees to be bound by the requirements of the RFP, and commits the Respondent, if selected, to carrying out the provisions of the RFP. The entity submitting the Proposal also must, unless otherwise agreed to by CBP, be the same entity that executes the Agreement covered by the Proposal.

The cover letter must be signed by an Authorized Representative who is empowered to sign the Proposal and commit the Respondent to the obligations contained in the Agreement. A certificate attesting to such authorization must be attached to the cover letter. If Respondent is a partnership, the Proposal shall be signed in the name of the firm by one or more of the general partners. If Respondent is a corporation, the authorized officer shall sign his name and his title beneath the full corporate name, and the Proposal shall also bear the seal of the corporation. If Respondent is a joint venture, the joint venture authorized to execute the Proposal by the terms of the joint venture agreement must execute the Proposal, and a copy of the joint venture

agreement must be submitted as part of the Proposal. Anyone signing the Proposal as agent must file with it, legal evidence of his or her authority to execute such Proposal.

All forms that require signatures of the Respondent shall be signed by the same individual(s) signing the cover letter in **Exhibit C, Form C-1**.

### **3.4.2 General Information (Section II)**

Section II of the Proposal shall contain the following general information about the Respondent:

- (a) The name, address, telephone number, and email address for the Respondent's primary business office.
- (b) The years the Respondent has been in business under its present business name.
- (c) The parent company and any subsidiary or affiliated companies of the Respondent, giving the names, addresses and telephone numbers of each such company.
- (d) If Respondent is a corporation, date of incorporation, State of incorporation, president's name, vice president's name(s), secretary's name, treasurer's name.
- (e) If Respondent is a partnership, date of organization, type of partnership, name(s) of general partner(s).
- (f) If the organization is individually owned, date of organization and name of owner.
- (g) State whether Respondent ever failed to complete any contract awarded to it.
- (h) State whether within the last five (5) years, any officer or principal of the Respondent has ever been an officer or principal of another organization when it failed to complete a contract.
- (i) State whether there are any judgments, claims, arbitration proceedings or lawsuits pending or outstanding against your Respondent or its officers.
- (j) State whether Respondent filed any lawsuits or requested arbitration regarding any contracts within the last five (5) years.
- (k) Identify whether any owner made a claim against Respondent which resulted in arbitration or litigation within the past five (5) years.
- (l) Provide a complete list of all criminal charges brought against Respondent and the disposition of all such criminal charges.

- (m) Submit a non-collusion affidavit pursuant to N.J.S.A. 52:34-15 (Form C-3).
- (n) Submit a certificate indicating that Respondent will afford equal opportunity in performance of the Agreement in accordance with an affirmative action program approved by the State Treasurer (Form C-4).
- (o) Submit a New Jersey Business Registration Certificate.

### **3.4.3 Management Information (Section III)**

Section III of the Proposal shall include the following information concerning the Respondent and its management:

- (a) Respondent shall provide resumes for its key personnel including names, years of experience and specialized training, as applicable.
- (b) Respondent shall provide a project management plan, including a proposed staffing chart indicating the number of employees it anticipates utilizing in performance of the Agreement.
- (c) A listing of all restaurants, bars, catering business or other similar facilities/businesses Respondent has owned or operated within the past five (5) years. Included in this list shall be the name of the business/facility, the location of the business/facility, and annual budget of the food and beverage operations, and the annual number of patrons at the facility.
- (d) Respondent shall describe briefly any occasion in which Respondent, any officer or principal of the Respondent, with a proprietary interest therein, has ever been disqualified, removed, or otherwise prevented from bidding on, participating in, or completing a Federal, state, or local governmental project because of a violation of law, administrative code provision or safety regulation.
- (e) Respondent shall describe briefly any occasion in which Respondent has been in a position of default in a Federal, state or local government project, such that payment proceedings and/or execution on a payment, performance or bid bond, letter of credit, surety or guaranty have been undertaken.
- (f) Respondents shall provide in their Proposal a proposed timeline for implementation of the Agreement.

#### **3.4.4 Financial Information (Section IV)**

Section IV of the Proposal shall provide the necessary records for the CBP to determine that the Respondent has the sufficient financial capacity to perform the requirements of the Agreement including:

- (a) A description of all major financial commitments presently outstanding and their bearing on Respondent's financial ability to provide the Services. Provide a list of Respondent's liabilities and contingent liabilities. List contracts that have been executed and contracts that are currently under negotiation for such projects. For each executed contract, provide the contract price.
- (b) A bank reference letter.
- (c) If the Proposal is submitted by a partnership and/or joint venture, provide:
  - (1) An executed copy of the partnership and/or joint venture.
  - (2) The date of the creation of the joint venture or partnership.
  - (3) The name of the entity that will be guaranteeing contract performance.

#### **3.4.5 Information Concerning Proposed Services (Section V)**

Section V of the Proposal shall include the following information related to the provision of the Services by Respondent:

- (a) A narrative description of food and beverage concessions or catering services routinely provided by Respondent.
- (b) A narrative description of experience in food and beverage concessions.
- (c) A narrative description of experience in providing catering services.
- (d) A sample menu for food and beverage concessions with sample prices.
- (e) A sample catering menu with a sample price list.
- (f) A listing of all professional organizations of which Respondent or Respondent's employees are members, along with any honors or awards bestowed upon the Respondent or Respondent's employees related to food and beverage concessions, catering services, or culinary achievements.
- (g) A proposed marketing plan for the Rooftop Lounge and the Comedy/Jazz Club.

### **3.4.6 Supplemental Information to be Provided at Respondent's Option (Section VI)**

Respondent may include in Section VI any other information that it deems relevant or useful for CBP to consider in qualifying the Respondent. Superfluous information should be avoided. If Respondent does not wish to submit additional information, indicate by the word "None".

### **3.4.7 Proposal – Contract Fee (Section VII)**

Section VII shall include the applicable Proposal Form and the following information:

- (a) Proposed Contract Fee, including: (i) the proposed Food and Beverage Fee; and (ii) the proposed Catering Fee.
- (b) Estimated Annual Revenues for: (i) food and beverage concessions; and (ii) catering services.
- (c) Acknowledgment of submission of all required forms.

## SECTION 4 EVALUATION OF PROPOSALS

### 4.1 General

The objective of CBP in seeking responses to this RFP is to enable it to select an entity that will provide the most complete, dependable and responsive Services. Each Section of the Proposal will be evaluated in terms of the reasonableness of the claims and/or commitments made, the completeness of the data provided, the ability of Respondent to perform, and conformance with the requirements of the RFP. All Proposals submitted in accordance with the requirements of this RFP will be reviewed for completeness and responsiveness. PROPOSALS FROM FIRMS THAT DO NOT MEET THE MINIMUM QUALIFICATIONS CRITERIA WILL BE CONSIDERED BY THE CBP TO BE NON-RESPONSIVE, UNLESS SUCH QUALIFICATIONS ARE OTHERWISE WAIVED BY THE CBP. CBP, in its sole discretion, will decide if a Respondent meets the Minimum Qualifications.

### 4.2 Evaluation Process

Proposals will be evaluated by the Selection Committee appointed by CBP. Each Proposal will be evaluated based on the enumerated criteria weighted to meet CBP's needs in accordance with N.J.S.A. 40A:11-4.4(b). An Agreement will be awarded to the Respondent whose Proposal is the most advantageous to CBP, price and other factors considered.

The following criteria shall be considered and weighted in accordance with the following:

1. Proposed Contract Fees/Cost Criteria: 40%
2. Financial Capacity of the Respondent: 10%
2. Management Criteria: 30%
3. Technical Criteria: 20%

Each category listed in 1 through 4 above shall be evaluated based on a 1 to 10 scale (ten being the most favorable) and then multiplied by the weighted factor to determine a total score. CBP shall also take into account (i) the ability of Respondent to demonstrate a clear understanding of the Services and CBP's objectives as identified in the RFP, (ii) the extent of the completeness and overall responsiveness of the proposal to the requirements of the RFP, (iii) Respondent's responses to the information requested in these specifications and (iv) the information submitted by Respondent, as required by these specifications.

### **4.3 Interviews (Optional)**

CBP may, at its discretion, schedule interviews, after review of the Proposals, with any or all Respondents for the purpose of further evaluation of Respondent's capabilities, qualifications and expertise to provide these Services.

### **4.4 Additional Information**

CBP reserves the right to request additional documentation from Respondents, after receipt of Proposals.

## EXHIBIT A

### AGREEMENT

This AGREEMENT ("Agreement"), made as of this day of \_\_\_\_\_, 2022, and effective as of \_\_\_\_\_, 2022 (the "Effective Date"), is entered into by the Carteret Business Partnership, hereinafter referred to as "CBP" and \_\_\_\_\_, hereinafter referred to as "Concessionaire" (together, CBP and Concessionaire, the "Parties").

**WHEREAS**, CBP owns the Carteret Performing Arts and Events Center ("CPAC") located in Carteret, New Jersey; and

**WHEREAS**, the CBP prepared and advertised a Request for Proposal (the "RFP") seeking proposals for a contract for food and beverage concessions at the CPAC; and

**WHEREAS**, following receipt, evaluation, and scoring proposals, the proposal submitted by Concessionaire (the "Proposal") was the highest scored proposal; and

**WHEREAS**, Concessionaire and CBP have agreed to enter into this Agreement, incorporating the terms and conditions of the RFP and the Proposal, which will be effective on the Effective Date for providing the food and beverage concession services at CPAC by Concessionaire under the financial terms as set forth herein: and

**WHEREAS**, Concessionaire and CBP desire to reduce to writing their understanding concerning the food and beverage concession services at CPAC by Concessionaire commencing on the Effective Date.

**NOW, THEREFORE**, in consideration of the mutual covenants, hereinafter specified to be kept and performed by the Parties hereto, IT IS HEREBY AGREED, by and between CBP and Concessionaire as follows:

1. **TERM OF AGREEMENT:** The term of this Agreement shall commence on the Effective Date and shall expire on the second anniversary of the Effective Date (the "Term").
2. **INCORPORATION OF THE RFP AND PROPOSAL:** The Parties agree that this Agreement, incorporated the terms and conditions set forth in the RFP issued by the CBP and the Proposal submitted by Concessionaire. To the extent that the terms contained in this Agreement conflict with either the RFP or Proposal, the Agreement shall govern. If the terms of the RFP and the Proposal conflict, then the RFP shall govern.
3. **SERVICES PROVIDED BY CONCESSIONAIRE:** Subject to the terms of this Agreement, Concessionaire, as an independent Concessionaire, shall have the sole and exclusive right to perform: (i) food and beverage concessions at CPAC; and (ii) catering services at the CPAC, except as provided for in Section 2.5.1 of the RFP (collectively the "Services"). The Parties agree that the scope of the Services shall be consistent with requirements described and set forth in the RFP. CBP and Concessionaire agree that they shall cooperate reasonably with

each other to permit Concessionaire to carry out its duties under this Agreement. Concessionaire shall oversee, coordinate, organize, manage, direct, and facilitate these Services as more particularly set forth herein and in accordance with the terms of this Agreement, including the RFP and the Proposal. Concessionaire shall perform the Services on a day-today basis and shall maintain all facilities utilized for food and beverage concessions and catering services in a high-quality, efficient, economical, and business-like manner. Concessionaire agrees to keep these facilities in good order and condition. During the Term, and subject to the provisions hereof, Concessionaire shall perform, without limitation, the following;

- A. Food and Beverage Services. Concessionaire shall manage and operate the food and beverage concessions at the CPAC pursuant to the standards and conditions set forth in Section 2 of the RFP, including the required hours of operation. Concessionaire shall offer a reasonable priced array of food and beverage items for sale to the patrons of CPAC.
- B. Emergency Contacts. Concessionaire will provide CBP with the names and telephone numbers of at least two qualified persons who can be called by CBP representatives when emergency conditions occur during hours when Concessionaire's normal work force is not present. CBP shall call for such assistance only in the event of a genuine and substantial emergency.
- C. Equipment and Supplies. Subsequent to the Effective Date, Concessionaire shall furnish all necessary equipment, supplies and materials of good quality and in sufficient amounts to fulfill the requirements of this Agreement not already provided by the CBP and consent with the additional responsibilities as allocated in Section 2.15 of the RFP. Concessionaire will replace and repair such items as necessary.
- D. Employees. Concessionaire agrees to recruit, hire, pay, train, supervise and discharge all employees necessary for the performance of its obligations under this Agreement including, but not limited to, the food and beverage manager. All employees shall be the employees or independent Concessionaires of Concessionaire and not of CBP. All matters pertaining to the employment of such employees or independent Concessionaires shall be the sole responsibility of Concessionaire, and CBP shall bear no responsibility or liability, therefore. Concessionaire shall establish, administer, and maintain the payroll procedure and systems for Concessionaire's employees at CPAC and shall be responsible for overseeing the benefits to, and handling the appropriate payroll deductions for, individual employees. Benefits shall be limited to vacations, sick leave, medical insurance coverage, and 401(k) plan, as determined by Concessionaire in its sole discretion. Concessionaire shall fully comply with all applicable laws and regulations concerning workers' compensation, social security, unemployment, tax withholding and reporting, hours of labor, wages, working conditions and all other laws affecting or respecting the employment of such employees or independent Concessionaires. Concessionaire shall have no authority to enter into

any employment Agreement which purports to be on behalf of CBP, or which otherwise obligates CBP in any respect. Concessionaire shall comply with Federal and State employment laws.

- E. Discounts. Concessionaire shall utilize any national purchase discounts which it may obtain from vendors for products or services in performance of the Services under the Agreement, which may include inventory, equipment, supplies, insurance coverage, food and beverage goods, and retail hard and soft goods.
- F. Supervision. Concessionaire shall supervise its on-site staff charged with executing all or part of the Services described in this Agreement.
- G. Equipment. Concessionaire shall, pursuant to its preparation of the Annual Budget and Program, develop a list of required equipment and a purchase/lease schedule and maintain in good working condition and order the physical plant and equipment, and all equipment necessary to perform the Services described herein in the normal course of business.
- H. Consultation. Concessionaire shall, as part of its Services hereunder, make its regional and corporate staff available to CBP for consultation regarding operating procedures, pro shop, food and beverage service, management and operation, marketing, capital improvements, and driving range operation.
- I. Marketing Plan. Consistent with the requirements described in Section 2.7 of the RFP, Concessionaire shall create and implement an annual marketing plan for the Rooftop Lounge and Comedy/Jazz Club and shall provide a minimum level of marketing including social media marketing, printed menus for display and distribution at CPAC. All marketing materials are subject to approval by the CBP. Concessionaire shall also supplement the CBP's efforts in booking private events at the CPAC. The marketing plan will include a program of editorial coverage, public relations, and promotion to increase public awareness of these Services. The marketing plan shall include provisions for special events, paid advertising (including print, cable, internet, and radio), barter opportunities, direct mail, and media and public relations campaigns. Concessionaire shall also coordinate and oversee other third-party Concessionaires' work in connection with the design, content, layout and production of advertising and collateral materials for use in promotion of the Services.
- J. Operations and Inventory. Concessionaire will operate and manage catering and food and beverage concessions at CPAC. All food and beverage supplies and inventory shall be the sole property of Concessionaire during the Term of the Agreement and Concessionaire will be solely responsible for providing funds for purchase of all supplies and inventory related to either catering or food and beverage concessions. Concessionaire shall provide a receipt for all customer transactions.

- K. Revenue Collection. Concessionaire will collect all revenue from the food and beverage concessions and catering services and shall maintain an accurate record of all transactions.
- L. Cash Register/Point of Sale System. Concessionaire will record all receipts derived from the operation of the food and beverage concessions, from whatever source, on cash registers and/or point of sale systems capable of recording detailed daily transaction information. Original detailed transaction information must be retained for three (3) years. This information shall be shared with CBP upon request, in paper and/or electronic format. The cost of purchasing and maintaining the cash register/point of sale system shall be the sole responsibility of Concessionaire.
- M. Accounting. Concessionaire, shall provide all separate budgeting, bookkeeping and reporting services for the Services. Further, all software, programs, manuals and the like related to the point-of-sale and accounting systems shall remain the property of Concessionaire pursuant to any licensing, use, or purchase agreements entered by Concessionaire:
- i. Concessionaire agrees to maintain accurate daily records of Revenues, and CBP's designated agents or employees shall have the right, on reasonable prior notice to Concessionaire, to examine or extract memoranda from the point-of-sale records, accounts or books of the Revenues collected by Concessionaire. These records shall separately list all Revenues from: (i) food and beverage concessions; and (ii) catering services.
  - ii. Concessionaire shall prepare and deliver to a CBP representative for its review, no later than January 15 of each year (except for the first full calendar year when Concessionaire shall prepare and deliver to CBP no later than sixty (60) days after commencement of this Agreement) for the duration of this Agreement for the following calendar year: (a) an annual operating budget, including a comparison to the annual operating budget for the immediately preceding year (if available) and a projection of anticipated monthly revenues for the Services for the following calendar year, broken down between catering services and food and beverage concessions, including, without limitation, a reasonable contingency and anticipated working capital requirements for the facilities within the CPA utilized by Concessionaire in performing the Services for the year; (b) a capital improvements budget for the next calendar year, and (c) a general marketing and operational program with respect to the Services, including, without limitation, operating policies, standards for operations and quality of service standards (collectively, the "Annual Budget and Program").
- N. Meeting with CBP Representatives. Concessionaire shall, at the request of either party, periodically consult with CBP regarding the Services and its operations at a time, date and place designated by CBP. CBP shall designate an individual or a

Committee to consult and meet with Concessionaire monthly or more frequently as reasonably requested by CBP. Concessionaire will be available to meet with CBP representatives during CBP's annual budget cycle.

- O. Operating Expenses. Except as provided for to the contrary herein. Concessionaire shall be responsible for paying all expenses incurred in performing the Services under this Agreement. Operating expenses shall include, but not be limited to: all Concessionaire staff payroll, insurance costs, payroll taxes, professional memberships, expenses for catering operations, food and beverage operation, accounting, marketing, license fees, equipment leases, equipment maintenance, custodial maintenance, the cost of all inventory, utilities costs (including telephone, cable, trash removal, and electric). Provided however, Concessionaire shall not be responsible for the payment of real estate/property taxes (other than Concessionaire-owned property) and/or debt service attributable to any current or future indebtedness secured by CPAC these obligations shall be solely the responsibility of CBP during the Term of the Agreement.
  
- P. Standards of Operation. Concessionaire shall operate facilities at the CPAC utilized in performing the required Services under this Agreement in a professional, competent and cost-effective manner, consistent with the management of other facilities courses of the same size and quality in the area.
  - i. Concessionaire recognizes that, although it is operating the food and beverage concession for profit, Concessionaire, its agents and employees will devote its efforts toward rendering courteous service to the public with a view of adding to the enjoyment of the patrons at the CPAC.
  - ii. Concessionaire shall operate and manage the catering services at the CPAC in a business-like manner and will not permit any acts or conducts on the part of its employees that would be detrimental to the CPAC or the CBP.
  - iii. Settlements of disputes with customers regarding sale or service shall in the first instance be under the control of Concessionaire and shall be handled in accordance with the policy prevailing in Concessionaire's business.
  - iv. Concessionaire's staff shall be required to wear uniforms.
  
- Q. Custodial and Security. Each day, Concessionaire shall be responsible for opening and closing of all facilities utilized in: (i) food and beverage concessions; and (ii) catering services.

4. **CBP'S RESPONSIBILITIES:** During the Term of this Agreement, CBP's responsibilities shall be as follows: CBP shall permit Concessionaire to occupy CPAC and cooperate with Concessionaire to enable them to accomplish the tasks and services set forth in

this Agreement. CBP shall monitor and evaluate Concessionaire performance for compliance with the terms of this Agreement; and periodically inspect the food and beverage facilities to determine if custodial functions are adequate.

5. **INSURANCE:** Concessionaire agrees, at its sole cost and expense, to obtain public liability insurance naming CBP as additional insured of the types and of the amounts set forth below. Concessionaire shall furnish to CBP certificates of insurance or copies of the policies evidencing the required insurance on the effective date of this Agreement and shall thereafter furnish new certificates thirty (30) days prior to the expiration date of the previous certificates. The type and amount of insurance to be obtained is as follows:

Comprehensive General Public Liability	\$1,000,000 combined single limit for bodily injury and property damage
Property Insurance	Amount sufficient to cover buildings and contents of Concession Premises
Comprehensive Auto Liability	\$100,000 per person bodily injury \$1,000,000 per occurrence
Property Damage	CBP to provide replacement cost coverage for buildings to include maintenance, cart barn, clubhouse, pavilion and pump house
Liquor Liability	\$1,000,000 limit
Workers Compensation	As required by State of New Jersey

All insurance policies required hereunder shall contain a provision requiring the insurer to notify Concessionaire and CBP at least thirty (30) days in advance of any cancellation or termination of such policy and satisfactory waiver of subrogation provisions. Concessionaire may secure such insurance as a part of a blanket policy wherein the blanket policies shall have dedicated coverage to the Concession Premises in the amounts set forth above.

6. **DEPOSIT OF REVENUES:** Concessionaire shall open and maintain, with a financial institution of its choice with a branch located in Middlesex County, New Jersey, two (2) operating account (the “Operating Accounts”) into which all of the revenues generated from the Services at the CPAC (“Revenues”) shall be deposited in accordance with the terms of this paragraph. The deposits shall be made by Concessionaire on a daily basis (including Sunday), unless otherwise directed by CBP. Revenues from food and beverage concessions shall be deposited into one of the Operating Accounts (“Concessions Account”) and the revenues from catering services shall be deposited into the other Operating Account (the “Catering Account”). Any payments made pursuant to this Agreement from the Operating Account shall be made in accordance with the applicable law. A report containing the details of each deposit (the “Deposit Report”) shall be included with the Concessionaire’s Monthly Report (as defined below) to the CBP’s Chief Financial Officer. Originals of the deposit receipts shall be retained by Concessionaire and shall be mailed or hand delivered by Concessionaire to the CBP’s Chief Financial Officer immediately following a request therefor by the Chief Financial Officer.

Additionally, Concessionaire shall open and maintain, with a financial institution of its choice with a branch located in Middlesex County, New Jersey, a capital account (the “Capital Account”) in which funds shall be deposited from time to time based on the Annual Budget and Program.

Pursuant to the Annual Budget and Program, each month and by no later than the 15<sup>th</sup> of the month, Concessionaire shall present to the CBP’s Chief Financial Officer a projected monthly budget for the performance of Services at CPAC for the upcoming month (the “Monthly Budget”). CBP’s Chief Financial Officer and CBP shall then review the Monthly Budget. If the Monthly Budget is approved (or otherwise modified and then approved) by CBP, then Concessionaire shall then pay, from the Operating Account (or “Capital Account, as applicable), all expenses for the performance of the Services at CPAC set forth in such approved Monthly Budget for that month, including but not limited to, the funds necessary to cover payroll and payroll related expenses (the “Payroll Funds”), management fees, and operating expenses. Such payments shall be made directly to the vendor supplying such goods and/or services related to or for the performance of Services at CPAC. Payments in excess of the approved budget line item amount shall not be approved for payment. CBP anticipates that the Services at CPAC will be financially self-sustaining. Therefore, CBP will not budget any additional funds beyond the anticipated revenues.

By no later than the 15<sup>th</sup> of the following month, Concessionaire shall submit to CBP’s Chief Financial Officer a full accounting of (i) all deposits made during the previous month and (ii) all bills or statements paid to vendors supplying goods and/or services relating to or for the Services at CPAC. Such accounting shall include the Deposit Report and copies of all bills or statements from vendors supplying goods and/or services relating to or for the operations of catering services and food and beverage concessions at CPAC.

Anything to the contrary notwithstanding, upon cancellation or termination of this Agreement for any reasons or upon the occurrence of a material default by Concessionaire, all funds related to the performance of Services at CPAC in Concessionaire’s possession shall be immediately paid over to CBP.

7. **TAXES AND FEES:** Revenues deposited in the Operating Account shall be inclusive of all sales, use, and admissions taxes as collected from customers. Concessionaire shall, as part of providing CBP a monthly reconciliation of Revenues for determination of the Concession Fee as set forth in Paragraph 8. Concessionaire shall pay to the taxing authorities all sales, use, and admissions taxes attributable to Revenues. Concessionaire and CBP acknowledge that the intent of this Section 7 is to allow the collection and payment of these taxes in a manner that is “economically neutral” and therefore, a complete “pass-through” to both Parties.

Concessionaire will not be responsible for payment of any city, county, state or other municipal authority real estate nor property taxes of any kind during the Term of the Agreement.

8. **CONTRACT FEE:** Concessionaire shall pay to the CBP on monthly basis a Contract Fee which shall be 20% of revenues generated from catering services net taxes; and (ii) Food and Beverage Fees. Payment to CBP shall be made no later than fifteenth (15<sup>th</sup>) day of the following month.

Year One:

Category of Gross Revenue	Percentage of Gross Revenue
Catering Fees	%
Food and Beverage Fees	%

Year Two:

Category of Gross Revenue	Percentage of Gross Revenue
Catering Fees	%
Food and Beverage Fees	%

Year Three: (Optional Renewal)

Category of Gross Revenue	Percentage of Gross Revenue
Catering Fees	%
Food and Beverage Fees	%

CBP reserves the right to conduct an audit of the Revenues collected by Concessionaire.

9. **INTEREST:** Any interest due to either Concessionaire or CBP pursuant to this Agreement shall accrue at a rate equal to the prime rate publicly announced by Bank of America on the date such interest began to accrue which shall be thirty (30) days after the date due. Except as otherwise specifically provided herein, interest on any payment due by either party to the other hereunder shall be payable from and after the thirtieth (30th) day after the date upon which such payment was due if such payment is not timely made.

10. **CAPITAL IMPROVEMENTS:** Capital improvements shall be deemed to include any item purchased in connection with the catering services and food and beverage concessions which, under generally accepted accounting principles consistently applied, would be a capital improvement. All costs for capital improvements shall be as set forth below and all decisions as to whether or not to undertake any capital improvement projects or otherwise in respect of any capital improvements shall be made jointly by CBP and Concessionaire and both parties agree to meet periodically to assist in the process of determining prioritization and time schedules of planned capital improvements. Concessionaire and CBP may agree to capital improvements in the future, the terms and conditions of such capital improvements will be negotiated by both parties. No alterations or improvements shall be made without the written consent of CBP. Concessionaire shall submit plans for review and approval by CBP prior to the start of any capital projects. CBP agrees to promptly review plans for proposed improvements or alterations, and if the improvements are acceptable to CBP, to promptly approve same, which plans as approved shall be attached to an executed copy of this Agreement and incorporated herein. Any alterations or improvements approved by CBP shall become the property of CBP upon fixation. Concessionaire shall obtain all necessary governmental permits needed to accomplish the approved capital improvements and shall submit copies of such permits to CBP prior to commencing any construction on the Concession Premises. CBP will assist Concessionaire in obtaining permits. Concessionaire shall maintain records on the costs of improvements and shall make such records available to CBP for review.

11. **DEFAULT AND REMEDIES:**

- A. CBP's Default. The following shall constitute an event of default ("Event of Default") by CBP under this Agreement:
- i. Breach by CBP of any material provision of this Agreement; or
- B. Concessionaire's Default. The following shall constitute an event of default ("Event of Default") by Concessionaire under this Agreement:
- i. Failure to staff, manage and operate the food and beverage concessions and/or catering services in accordance with provisions of this Agreement, subject to abnormal weather conditions, acts of God, or other events or conditions beyond the reasonable control of Concessionaire;
  - ii. Breach by Concessionaire of any material provision of this Agreement; or
  - iii. Concessionaire makes an assignment for the benefit of its creditors, or becomes a party for more than thirty (30) days, to any voluntary or involuntary insolvency proceedings, bankruptcy proceedings or reorganization.
- C. Notice of Default. When either party to this Agreement believes that the other party (the "Defaulting Party") has committed an Event of Default, it shall give written notice thereof to the Defaulting Party, and the Defaulting Party shall,

except in the case of a failure to insure, have ten (10) days in the event of a payment default, or such longer period (not to exceed a period of thirty (30) days unless the Defaulting Party has begun to cure within the thirty (30) day period and is diligently pursuing such cure) as shall be reasonably necessary due to weather, growing conditions, or other such factors beyond the reasonable control of the Defaulting Party, within which to cure the default.

- D. Remedy. If the Defaulting Party does not cure the default within the grace period provided in Paragraph 11C above, the other party may terminate this Agreement on five (5) days written notice to the other party and pursue all rights and remedies available in law or equity; including payment of accrued amounts pursuant to Sections 8 or 9 hereof, subject to legitimate offsets.

## 12. **TERMINATION AND CANCELLATION:**

- A. Automatic Termination. This Agreement shall automatically terminate upon expiration of the Term of the Agreement unless extended at the option of CBP as permitted by law. Upon termination of this Agreement, Concessionaire shall release, transfer, assign, and quitclaim all of the assets of the facilities within the CPAC (other than assets or personal property purchased by Concessionaire that are readily separable from the facilities within the CPAC) to CBP: provided any claim Concessionaire may have for compensation will survive such transfer.
- B. Assets to be Transferred. Said assets shall include, but shall not be limited to, all of Concessionaire's right, title and interest, if any, to any of the following arising out of its performance of Services pursuant to this Agreement, advances from CBP, or catering services revenues and food and beverage concession revenues (other than insurance proceeds relating to liabilities not required to be assumed by CBP), but specifically excluding Concessionaire's personal property purchased with, Concessionaire's own funds and located at the CPAC. Such assets transferred to CBP also include, but are not limited to, the following: deposits; Agreement rights; trade names; phone numbers for the Rooftop Lounge, Comedy/Jazz Club and all food and beverage concession facilities within the CPAC; books and records; customer lists, data bases, marketing plans, and goodwill.
- C. Liabilities. Concessionaire shall hold CBP harmless from any and all debts and liabilities incurred by Concessionaire prior to the effective date of the termination.
- D. Closing. The transfer of assets and payment of any sums due Concessionaire shall occur on or within ninety (90) days following the date on which this Agreement is terminated.
- E. Event of Default. Either party may terminate this Agreement upon the occurrence of an Event of Default by the other party in accordance with the provisions of Section 11.

- F. Default by Concessionaire. In the event of termination of this Agreement due to the default of Concessionaire, then Concessionaire shall not be entitled to any Termination Fee.
- G. No Waiver. By terminating this Agreement in accordance with this Section 12, neither party shall be deemed to have waived any action it might have, in law or equity, by reason of a breach of or default under this Agreement.

13. **LOGO AND NAME:** Concessionaire is hereby authorized to use the CPAC name and logo during the Term of this Agreement for the purposes of advertising, promoting and marketing the catering services at the CPAC, the Rooftop Lounge and the Comedy/Jazz Club. Such rights granted to Concessionaire shall not be permitted to be transferred or assigned without written approval by CBP.

14. **OWNERSHIP AND REMOVAL OF PROPERTY:** The Parties acknowledge that at the commencement of this Agreement that all property at the CPAC is the property of CBP. It is the intention of the Parties that Concessionaire purchase and maintain throughout the Term of the Agreement an amount of equipment and supplies necessary for the Concessionaire to perform the Services required under this Agreement. Other than for replacement as provided for herein Concessionaire shall not remove any CBP property from the CPAC. In addition, Concessionaire may purchase property for use at the CPAC and Concessionaire shall notify and provide CBP with a schedule of any property purchased. Any property purchased by Concessionaire outside the realm of "replacement of existing equipment at the commencement of the agreement" shall remain the property of Concessionaire during the Term and after expiration of the Agreement. Upon the expiration of the Term of this Agreement, Concessionaire shall remove all its goods, wares and merchandise from CPAC, and any equipment placed therein by Concessionaire within thirty (30) days of the expiration date. In the event of termination for other cause, Concessionaire shall have sixty (60) days to complete removal of its property, equipment and fixtures from the CPAC. Removal of fixtures and improvements attached to the structure shall not leave the any of the facilities in the CPAC in a worse condition than at the time of execution of this Agreement; structural improvements shall not be removed. CBP may, but need not, treat any property remaining at the CPAC after expiration of this Agreement or period for removal of Concessionaire property, as abandoned by Concessionaire, and may make any disposition of such property as CBP deems fitting. Prior to removing any of the foregoing, Concessionaire shall provide CBP with ten (10) days written notice specifying each item of property it intends to remove.

15. **USE OF COURSE PREMISES AND COMPLIANCE WITH LAWS:** During the Term of this Agreement and subject to the provisions of this Agreement, all facilities use in performing the Services under this Agreement shall be operated in accordance with all applicable federal or state laws and CBP ordinances and with applicable directions, rules and regulations of public officials and departments in the enforcement of CBP ordinances and with directions, rules and regulations from the State of New Jersey or from the United States.

16. **EQUALITY OF TREATMENT:** Concessionaire shall conduct its business in such a

manner which assures fair, equal and nondiscriminatory treatment at all times and in all respects to all persons without regard to race, color, religion, sex, age, sexual orientation, or national origin. No person shall be refused service, be given discretionary treatment, or be denied any privilege, use of facilities, at the CPAC concession areas on account of race, color, religion, sex, age, sexual orientation, or national origin.

17. **LIENS AND ENCUMBRANCES:** Concessionaire shall keep all equipment and facilities utilized in performance of the Services pursuant to this Agreement free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the area. At CBP's request, Concessionaire shall furnish CBP written proof of payment of any item, which would or might constitute the basis for such a lien on the equipment or facilities, if not paid.

18. **LIQUOR LICENSE:** Subject to any relevant New Jersey Alcoholic Beverage Control ("ABC") licensing requirements, Concessionaire and CBP shall use their mutual best efforts to maintain a liquor license and will thereafter maintain the licensing for food and beverage concessions and catering services.

19. **FORCE MAJEURE; FIRE AND OTHER CASUALTY:** If all or any portion of the food and beverage concessions areas or CPAC is destroyed by fire or other casualty, such damage and destruction shall not be a cause for termination hereunder by either party but the obligations of the Parties shall be governed by the next paragraph; unless such damage or destruction results in the whole or a substantial part of the food and beverage concessions areas or CPAC being unusable for its intended purpose for a period of one (1) year or longer or, in the case of such total or substantial damage or destruction CBP shall decide not to rebuild the damaged portion of Concession Premises or CPAC, then in either such event, this Agreement shall terminate with respect to the food and beverage concessions on notice from CBP to Concessionaire of such termination and neither party shall have any further rights or obligations hereunder.

If: (a) as a result of any damage or destruction to any part of the food and beverage concession areas or the CPAC not resulting in a termination: or (b) otherwise due to casualty events (other than strikes within Concessionaire's control) beyond Concessionaire's reasonable control (and so long as Concessionaire uses all reasonable diligence to cure such inability), Concessionaire shall be unable to perform all of its obligations hereunder with respect to the required Services under this Agreement; CBP and Concessionaire shall use their mutual best efforts to agree upon an amendment to the Annual Budget and Program, including, without limitation, the Contract Fee, operating Expenses, and Capital Improvements and provisions thereof, to allow payment of necessary expenses related to catering services or food and beverage concessions (including, without limitation, Concessionaire's employee expenses) until such damage or destruction is repaired or such inability is cured and, if the parties are unable to agree on such an amendment within twenty (20) business days after Concessionaire or CBP shall have given the other party notice of the occurrence of such event, Concessionaire and CBP shall each have the right to terminate this Agreement with respect to the damaged food and beverage concession areas or CPAC by notice of such termination to the other party and neither party shall have any further rights or obligations hereunder. In the event of a force majeure, there is no Termination Fee due to Concessionaire.

20. **INDEMNIFICATION AND LIABILITY:**

- A. Concessionaire is not an agent or employee of CBP and all activities relating to the Services under this Agreement shall be in its capacity as an independent Concessionaire to CBP. Concessionaire agrees to indemnify, hold harmless and defend CBP, its officers, agents and employees, from and against all liability for any and all claims, liens, suits, demands or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's fees and other reasonable costs arising out of or resulting from Concessionaire negligence or intentional acts. CBP agrees to indemnify Concessionaire, hold harmless and defend Concessionaire, its officers, agents and employees, from and against all liabilities for any and all claims, liens, suits, demands or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorney's and other reasonable costs arising out of or resulting from the negligence or intentional acts of CBP or its officers or employees. Concessionaire and CBP will provide each other with prompt and timely notice of any event covered by the indemnity section of this Agreement and in the event a claim or action is filed, each party may employ attorneys of its own choosing to appear and defend the claim or action on its behalf.
- B. Choice of Law and Venue. Concessionaire hereby irrevocably submits to the jurisdiction of the courts of the State of New Jersey and the federal courts whose jurisdiction includes the State of New Jersey. The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey which shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding between the parties that may be brought, or arise out of, or in connection with, or by reason of this Agreement.
- C. Liability of Concessionaire. Except as otherwise provided herein, Concessionaire shall not be responsible for the acts or omissions of any of CBP's other contractors or any employees of CBP, or any persons representing CBP performing any services for, or in connection with, the Concession Premises, or any consultants or other persons engaged by CBP with respect thereto, unless and only to the extent Concessionaire is supervising same, and Concessionaire shall be responsible only for the performance of Concessionaire's obligations hereunder in accordance with the terms hereof.
- D. Survival. The obligations under this Paragraph 20 shall survive the termination of this Agreement.

21. **GENERAL PROVISIONS:**

- A. Entire Agreement. This Agreement represents the entire understanding and

agreement between the Parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings, and representations (if any) made by and between such Parties.

- B. Written Amendments. The provisions of this Agreement may only be amended or supplemented in a writing signed by both Parties.
- C. Further Amendments. The Parties hereby agree from time to time to execute and deliver such further instruments and documents, and do all such other acts and things, which may be convenient or necessary to more effectively and completely, carry out the intentions of the Agreement.
- D. Compliance with Laws. Concessionaire shall, at all times, operate, use, and conduct the business of the Concession Premises in a lawful manner and in full compliance with all applicable governmental laws, ordinances, rules and regulations, including the American with Disabilities Act of 1990, CBP's financing obligations, all obligations under insurance policies for the Concession Premises, and maintain all licenses and permits relating to the Concession Premises, with CBP's full cooperation, in full force and effect and cooperate and endeavor to obtain all licenses and permits first required after the commencement of the Term of this Agreement required in connection with the management, use, and operation of the Concession Premises.
- E. Environmental Laws. To the best of CBP's knowledge, CBP represents to Concessionaire that no hazardous materials have been released into the environment, or have been deposited, spilled, discharged, placed or disposed of at or within the CPAC in violation of any Environmental Law (as defined below), nor except as expressly disclosed and described by CBP to Concessionaire has the CPAC been used at any time by any person as a landfill or a disposal site for hazardous materials or for garbage, waste or refuse of any kind. To the best of CBP's knowledge, CBP also represents that there are no underground storage tanks of any nature on the CPAC property (fuel, propane, gas etc.). CBP does not have any knowledge of asbestos-containing products within the CPAC. CBP shall promptly notify Concessionaire as soon as CBP knows of any changes to the representations contained in this Section 21.

For the purposes of this Agreement. "Environmental Law" shall mean: All applicable Federal, State, CBP or local (or other political subdivision thereof) laws, statutes, codes, acts, ordinances, orders, rules, regulations, directives, judgments, decrees, injunctions, directions, permits, licenses, authorizations, decisions and determinations issued, adopted or enacted by any judicial, legislative, regulatory, administrative or executive body of any governmental or quasi-governmental authority, department, branch, division, agency or entity exercising functions of or pertaining to any government having jurisdiction affecting the CPAC, or any licenses and permits of any governmental authorities, from time to time applicable to the CPAC or any part thereof regarding hazardous

materials.

- F. Misrepresentation. Limited to the provisions of this Section 21, CBP hereby agrees to indemnify and defend Concessionaire from, and agrees to hold Concessionaire harmless against, any and all liability, loss, cost, damage, penalties, claims, causes of action, proceedings and expense, including without limitation, court costs and reasonable attorneys' fees, incurred by Concessionaire or imposed on Concessionaire by any person whomsoever, caused by, relating to or resulting from or out of or in connection with any misrepresentation by CBP under this Section 21. The provisions of this Section 21 shall survive the expiration or any termination of this Agreement.
- G. Binding. All of the terms and provisions of this Agreement shall be binding and inure to the benefit of the Parties and their respective permitted successors and assigns. This Agreement is solely for the benefit of the Parties hereto and not for the benefit of any third party.
- H. Assignment. Concessionaire may assign or transfer this Agreement, without CBP's consent so long as (i) written notice thereof is given to CBP at least twenty (20) days prior to the effective date of such transfer, together with evidence reasonably satisfactory to CBP that the transfer complies with the terms of this Paragraph, (ii) copies of the final executed transfer documents are given to CBP within ten (10) days thereof, and (iii) Concessionaire is not released from the terms and provisions of this Agreement. During the Term of the Agreement CBP will be permitted a one-time right to assign or transfer this Agreement to another public agency or entity as part of an intergovernmental transfer, reorganization, or consolidation to which CBP is a party; provided, however, any such transfer shall be prohibited unless the terms and conditions of this Agreement remain unchanged and in full force and effect.
- I. Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been given: (i) when delivered, if hand delivered, (ii) two (2) business days after deposit with a reputable overnight courier marked for "next business day" delivery, or (iii) upon receipt, if sent by facsimile, provided that an original thereof is thereafter sent in the manner provided above, and shall be addressed as follows:

In the case of Concessionaire:

Attention:

Telephone:

With a copy to:

Attention:  
Telephone:

In the case of CBP:

Borough of Carteret  
61 Cooke Avenue  
Carteret, NJ 07008  
Attention: Diana St. John, Director of Community Development  
Telephone: (732) 541-3835

With a copy to:

Attention:  
Telephone:

or to other such address as either party may designate by notice complying with the terms of this subparagraph.

- J. Headings. The headings contained in this Agreement are for convenience of reference only and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.
- K. Invalidity. If any provision of this Agreement or any other agreement entered into pursuant hereto is contrary to, prohibited by or deemed invalid or unenforceable under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, invalid or unenforceable, but the remainder of such provision, and this Agreement shall not be invalidated or rendered unenforceable thereby, and shall be given full force and effect so far as possible.
- L. No Waiver. The failure or delay of either party at any time to require performance by the other party of any provision of this Agreement shall not affect the right of such party to subsequently require performance of that provision or to exercise any right, power or remedy hereunder. Waiver by either party of a breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on either party in any event shall, of itself entitle such party to any other or further notice or demand in similar or other circumstances, except as otherwise herein provided.
- M. No Partnership. Nothing in this Agreement shall be construed to create a partnership or joint venture between the Parties. The Parties acknowledge that the

relationship of Concessionaire to CBP is that of an independent Concessionaire.

N. No Exclusive Remedy. No remedy herein conferred upon either party is intended to be exclusive of any other remedy, and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

O. Authority. Each party hereby represents to the other party that it has the right, power, authority, and financial ability to enter into this Agreement and to perform its obligations under this Agreement, and that it is not restricted by this Agreement or otherwise from entering into and performing this Agreement.

IN WITNESS WHEREOF this Agreement has been entered into as of the date first written above.

DATED this day of \_\_\_\_\_ 2021.

Attest:

CARTERET BUSINESS PARTNERSHIP

By: \_\_\_\_\_

CONCESSIONAIRE

By: \_\_\_\_\_

**EXHIBIT B**

**CATERET PERFORMT ARTS AND PERFORMANCE CENTER**

**[DISCUSS WHAT, IF ANYTHING, TO INCLUDE]**

**EXHIBIT C**  
**RESPONDENT FORMS**

## FORM C-1

### CARTERET BUSINESS PARTNERSHIP

#### RESPONDENT INFORMATION/COVER LETTER FORM

Date:

Respondent:

Address:

Telephone:

Contact Person:

Type of Business Entity

(Corporation, Partnership, Joint Venture, Other): \_\_\_\_\_

In submitting this Proposal, the Respondent, in addition to representing that it has met all of the criteria set forth in Section 3.3 thereof which by executing this Form C-1 it shall be deemed to have so represented, warrants and represents that (capitalized words and terms shall have the meanings ascribed to such terms in the RFP):

1. (a) Respondent has reviewed and understands the requirements set forth within the RFP and, if selected, will carry out all the duties and obligations contained in the Food and Beverage Concession Agreement.  
  
(b) All information submitted in response to the RFP is accurate and factual and all representations made regarding Respondent's willingness to provide the services under the Agreement are true and correct.  
  
(c) The name and title of the individuals who will be Respondent's technical and business employees responsible for preparing the Proposal and responding to questions are:  
  
2. Except to the extent expressly set forth on the attachment hereto (if applicable) there have been no material changes in the financial status of Respondent since the date of the most recent financial data submitted herein and such financial information and data fairly and accurately reflects the financial position of the Respondent as of the date of submission of the Proposal.  
  
3. Respondent is duly organized and validly existing in good standing and is duly qualified to transact business in each jurisdiction where such qualification is required to enable Respondent to perform its obligations under the Agreement.  
  
4. There is no action, suit or proceeding, at law or in equity, before or by any court or similar governmental body against Respondent wherein an unfavorable decision, ruling or

finding would materially adversely affect Respondent's ability to perform its obligation under the Agreement of its obligations hereunder or the other transactions contemplated hereby, or which, in any way, would materially adversely affect the validity or enforceability of the Agreement, or any other agreement or instrument entered into by Respondent in connection with the transaction contemplated hereby.

5. The Proposal is submitted pursuant to due authorization by, and is in all respects binding upon, Respondent.

6. No corporation, partnership, individual or association, officer, director, employee, manager, parent, subsidiary, affiliate or principal shareholder of Respondent has been adjudicated to be in violation of any state or federal environmental law, or charged with or convicted of bribery, fraud, collusion, or any violation of any state or federal anti-trust or similar statute within the preceding five years, or previously adjudged in contempt of any court order enforcing such laws.

7. Respondent is not currently in breach of or in default of any agreement, or any other applicable Federal, state and local laws and regulations that are necessary for or relate to Respondent's ability to perform its obligations under the Contract.

8. The submission of the Proposal and the execution of the Agreement by Respondent will not conflict with or constitute a breach or a default under: (a) any constitutional provision or law, or (b) any administrative regulation, judgment, decree, loan agreement, mortgage, indenture, bond, note, resolution, agreement or other instrument to which Respondent is a party or to which any of its property or other assets is otherwise a subject that would result in a legal impediment to the Respondent from fully performing its obligation under the Agreement, if Respondent is selected as the Successful Respondent.

9. Respondent acknowledges that all costs incurred by it in connection with this submission shall be borne exclusively by Respondent.

10. Respondent acknowledges receipt of all addenda to this RFP, if any.

By:

(Name of Respondent)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and Title)

**(Note: To be typed on Respondent's Letterhead. CBP will accept no modifications to the language in this letter).**

**FORM C-2**

**STOCKHOLDER OR PARTNERSHIP DISCLOSURE STATEMENT**

Respondents must comply with Chapter 33, Public Laws of 1977 (N.J.S.A. 52:25-24.2), requiring corporate and partnership Respondents for State, County, Municipal or Authority Contracts to submit a list of names and addresses of all stockholders owning ten percent (10%) or more of their stock of any class, or in the case of a partnership, the names and addresses of those partners owning ten percent (10%), or greater interest therein.

*Check the box that represents the type of business organization:*

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Partnership              | <input type="checkbox"/> Corporation                   | <input type="checkbox"/> Sole Proprietorship           |
| <input type="checkbox"/> Limited Partnership      | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Subchapter S Corporation |  |  |

*Check the appropriate paragraph:*

\_\_\_\_\_ I certify that the list below contains the names and home addresses of all stockholders holding ten percent (10%) or more of the issued and outstanding stock of the undersigned (partnership/corporation).

\_\_\_\_\_ I certify that no one stockholder owns ten percent (10%) or more of the issued and outstanding stock of the undersigned (partnership/corporation).

Authorized Signature: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Title of Signatory: \_\_\_\_\_

Company Name: \_\_\_\_\_

*If there are no stockholders or partners owning a ten percent (10%) or greater interest therein, insert the word "NONE" below.*

Name: \_\_\_\_\_  
Home Address: \_\_\_\_\_  
Percentage of Ownership \_\_\_\_\_

Name: \_\_\_\_\_  
Home Address: \_\_\_\_\_  
Percentage of Ownership \_\_\_\_\_

Name: \_\_\_\_\_  
Home Address: \_\_\_\_\_  
Percentage of Ownership \_\_\_\_\_

Name: \_\_\_\_\_  
Home Address: \_\_\_\_\_  
Percentage of Ownership \_\_\_\_\_

FORM C-3

NON-COLLUSION AFFIDAVIT

STATE OF NEW JERSEY:

SS:

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_, and the State of \_\_\_\_\_, of full age, being duly sworn according to the law on my oath, depose and say that:

I am \_\_\_\_\_ of the firm of \_\_\_\_\_ the Respondent submitting the proposal to the **Carteret Business Partnership** for the contract for Food and Beverage Services Concession for the at the Carteret Performing Arts and Events Center, and that I executed the said proposal with full authority to do so; that said respondent has not, directly or indirectly, entered into an agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive process in connection with this procurement; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the **Carteret Business Partnership** relied upon the truth of the statements contained in said proposal and in this affidavit in awarding the contract for the said proposal.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fees, except bona fide employees or bona fide established commercial or selling agencies maintained by \_\_\_\_\_.

(Name of Respondent)

Authorized Signature: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Title of Signatory: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and Sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
Signature of Notary Public

## FORM C-4

### **MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**

During the performance of this contract, the Concessionaire agrees as follows:

The Concessionaire will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the Concessionaire will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessionaire agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The Concessionaire will, in all solicitations or advertisements for employees placed by or on behalf of the Concessionaire, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The Concessionaire will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Concessionaire's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Concessionaire agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Concessionaire agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The Concessionaire agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The Concessionaire agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the Concessionaire agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The Concessionaire shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

The Concessionaire shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

Submitted by

Name of Concessionaire: \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 2021

.

\_\_\_\_\_  
Signature of owner or Partner

\_\_\_\_\_  
Type or Printed Name & Title

\_\_\_\_\_  
Telephone Number

**FORM C-5**

**ACKNOWLEDGMENT OF RECEIPT OF ADDENDA**

The undersigned Respondent hereby acknowledges receipt of the following Addenda:

<b><u>REFERENCE NUMBER OR TITLE OF ADDENDUM OR REVISION</u></b>	<b><u>Date Received</u></b>

**No addenda were received:**

Acknowledged for: \_\_\_\_\_  
(Name of Respondent)

By: \_\_\_\_\_  
(Signature of Authorized Representative)

Name: \_\_\_\_\_  
(Print or Type)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM C-6**

**PROPOSAL FORM**

TO: Borough of Carteret  
Diana St. John, Director of Community Development  
61 Cooke Avenue  
Carteret, New Jersey 07008

Pursuant to and in compliance with your Notice to Respondents, the Request for Proposals, including all addenda issued during the proposal period whether or not received or examined by the undersigned (“RFP”), the undersigned offers to provide all of the Services required by the proposed Agreement.

In consideration for providing the Services set forth in the Agreement, Successful Respondent shall pay to the Carteret Business Partnership a fee (“Contract Fee”) on a monthly basis as a sum of:

- (i) Catering Fees, which shall be a percentage of revenues generated from catering services net taxes; and
- (ii) Food and Beverage Fees, which shall be a percent of revenues generated from food and beverage concessions net of taxes.

Catering Fees and Food and Beverage Fees must be at least 20% of revenues from each category of fees.

Year One:

Category of Gross Revenue	Percentage of Gross Revenue	Estimated Gross Revenue
Catering Fees	_____%	
Food and Beverage Fees	_____%	

Year Two:

Category of Gross Revenue	Percentage of Gross Revenue	Estimated Gross Revenue
Catering Fees	_____%	
Food and Beverage Fees	_____%	

Year Three: (Optional renewal)

Category of Gross Revenue	Percentage of Gross Revenue	Estimated Gross Revenue
Catering Fees	_____%	
Food and Beverage Fees	_____%	

--	--	--

As indicated in the RFP, the following enclosures must be included in a Proposal, and the absence of any of them shall be judged by the Carteret Business Partnership to make the Proposal incomplete and non-responsive. Respondent shall check off each item below to confirm its enclosure in this Proposal.

- \_\_\_\_\_ (a) Proposal Security in the form of a certified check, cashier's check, cashier's check or bond in the amount of \$2,500.00. (Form C-4 if bond)
- \_\_\_\_\_ (b) Cover letter (Form C-1)
- \_\_\_\_\_ (c) Disclosure Statement (Form C-2).
- \_\_\_\_\_ (d) Non-Collusion Affidavit (Form C-3).
- \_\_\_\_\_ (e) Certificate of Equal Opportunity (Form C-4)

2. In submitting this Proposal, it is understood by the undersigned that all addenda issued during the Proposal period, whether or not received or examined by the undersigned, are part of the RFP, and will be part of the Contract Documents.

3. If this Proposal is not accepted-within sixty (60) days of Proposal opening, the undersigned's Proposal Security shall be returned in accordance with the provisions set forth in the RFP, unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

4. The undersigned hereby represents that it:

- (a) has carefully studied the RFP and understands the RFP fully; and
- (b) has made this Proposal in accordance with the RFP and N.J.S.A. 40A:11-4.1 et seq.; and
- (c) has carefully examined the facilities at the CPAC; and
- (d) has determined that the CPAC is suitable for all purposes required to perform the service required under the RFP; and
- (e) has discovered no error, inconsistency or ambiguity in the RFP that the Respondent has not reported to the Project Representative in writing; and
- (f) has no question about the proposed Contract Documents and how they are to be interpreted and construed that has not been submitted to the Project Representative in writing, has no objections to the proposed Agreement and takes no exception to the proposed Agreement; and

- (g) is familiar with the requirements of applicable law, statute, ordinances, building codes, rules and regulations affecting the services to be performed; and
- (h) has reviewed the form of the Agreement and has no objection to it, and further has reviewed the bond and insurance requirements in detail with its bonding company and its insurance company and will be able to provide all of the required bonds and insurance, and further has included the cost of all required bonds and insurance in the fee set forth in its Proposal.

This Proposal may be withdrawn prior to the time established for the opening of Proposals or any authorized postponement of that time, only by written request to the Carteret Business Partnership received prior to Proposal Opening. This Proposal may not be withdrawn within sixty (60) days after the Proposal Opening.

DATE:

BY:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Firm Name - See Note Below)

(Business Address)

Telephone Number:

NOTE: If the Respondent is a corporation, give the State of Incorporation using the Corporation organized under the laws of the State of and impress seal above. If the Respondent is a partnership, give the names of the partners and include also the phrase "Co-Partners trading and doing business under the firm name and style of \_\_\_\_\_." If the Respondent is an individual using a trade name, give the individual name and include also the phrase "An individual doing business under the firm name \_\_\_\_\_."