

**State of Nebraska State Purchase Bureau  
REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES**

<b>REQUEST FOR PROPOSAL NUMBER</b>	<b>RELEASE DATE</b>
RFP 6790 Z1	May 11, 2023
<b>OPENING DATE AND TIME</b>	<b>PROCUREMENT CONTACT</b>
May 26, 2023 2:00 p.m. Central Time	Connie Heinrichs/Matthew Hansen

**PLEASE READ CAREFULLY!  
SCOPE OF SERVICE**

The State of Nebraska (State), Department of Administrative Services (DAS), Materiel Division, State Purchasing Bureau (SPB), is issuing this Request for Proposal (RFP) Number 6790 Z1 for the purpose of selecting a qualified Contractor to provide Eugene T. Mahoney State Park Food and Beverage Service Management (restaurant, and beverage services). A more detailed description can be found in Section V. The resulting contract may not be an exclusive contract as the State reserves the right to contract for the same or similar services from other sources now or in the future.

The term of the contract will be three (3) years commencing upon execution of the contract by the State and the Contractor notice to proceed. The Contract includes the option to renew for two (2) additional two (2) year periods upon mutual agreement of the Parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the Parties.

In the event that a contract with the awarded bidder(s) is cancelled or in the event that the State needs additional contractors to supply the solicited services, this RFP may be used to procure the solicited services for up to eighteen (18) months from the date the Intent to Award is posted, provided that 1) the solicited goods or services will be provided by a bidder (or a successive owner) who submitted a bid pursuant to this RFP, 2) the bidder's proposal was evaluated, and 3) the bidder will honor the bidder's original proposal, including the proposed cost, allowing for any price increases that would have otherwise been allowed if the bidder would have received the initial award.

ALL INFORMATION PERTINENT TO THIS REQUEST FOR PROPOSAL CAN BE FOUND ON THE INTERNET AT:  
<https://das.nebraska.gov/materiel/bidopps.html>.

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. § 84-602.04, State contracts in effect as of January 1, 2014, and contracts entered into thereafter, must be posted to a public website. The resulting contract, the Request for Proposal, and the awarded bidder's proposal and response will be posted to a public website managed by DAS, which can be found at <http://statecontracts.nebraska.gov> And [https://www.nebraska.gov/das/materiel/purchasing/contract\\_search/index.php](https://www.nebraska.gov/das/materiel/purchasing/contract_search/index.php).

In addition and in furtherance of the State's public records Statute (Neb. Rev. Stat. § 84-712 et seq.), all proposals or responses received regarding this Request for Proposal will be posted to the State Purchasing Bureau public website.

**These postings will include the entire proposal or response. Bidder must request that proprietary information be excluded from the posting. The bidder must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate file named conspicuously as "PROPRIETARY INFORMATION". The bidder should submit a detailed written document showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992). THE BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The State will determine, in its sole discretion, if the disclosure of the information designated by the Bidder as proprietary would 1) give advantage to business competitors and 2) serve no public purpose. The Bidder will be notified of the State's decision. Absent a determination by the State that the information may be withheld pursuant to Neb. Rev. Stat. § 84-712.05, the State will consider all information a public record subject to disclosure.**

If the State determines it is required to release withheld proprietary information, the bidder will be informed. It will be the bidder's responsibility to defend the bidder's asserted interest in non-disclosure.

**To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this Request for Proposal for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a proposal or response to this Request for Proposal, specifically waives any copyright or other protection the contract, proposal, or response to the Request for Proposal may have; and acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver are a prerequisite for submitting a proposal or response to this Request for Proposal, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the Request for Proposal being found non-responsive and rejected.**

**Any entity awarded a contract or submitting a proposal or response to the Request for Proposal agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the Request for Proposal, awards, and other documents.**

# TABLE OF CONTENTS

State of Nebraska State Purchase Bureau .....	i
REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES .....	i
TABLE OF CONTENTS .....	iii
GLOSSARY OF TERMS .....	vii
ACRONYM LIST .....	x
<b>I. PROCUREMENT PROCEDURE.....</b>	<b>1</b>
A. GENERAL INFORMATION .....	1
B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS .....	1
C. SCHEDULE OF EVENTS .....	1
D. WRITTEN QUESTIONS AND ANSWERS .....	3
E. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS .....	3
F. ETHICS IN PUBLIC CONTRACTING .....	3
G. DEVIATIONS FROM THE REQUEST FOR PROPOSAL .....	3
H. PRICES & COST CLARIFICATION .....	3
I. SUBMISSION OF PROPOSALS.....	4
J. PROPOSAL PREPARATION COSTS.....	5
K. FAILURE TO COMPLY WITH REQUEST FOR PROPOSAL .....	5
L. PROPOSAL CORRECTIONS .....	5
M. LATE PROPOSALS .....	5
N. PROPOSAL OPENING.....	5
O. REQUEST FOR PROPOSAL/PROPOSAL REQUIREMENTS .....	5
P. EVALUATION COMMITTEE .....	5
Q. EVALUATION OF PROPOSALS .....	6
R. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS .....	6
S. BEST AND FINAL OFFER.....	7
T. REFERENCE AND CREDIT CHECKS .....	7
U. AWARD.....	7
V. LUMP SUM OR "ALL OR NONE" PROPOSALS .....	7
W. REJECTION OF PROPOSALS.....	8
X. RESIDENT BIDDER.....	8
<b>II. TERMS AND CONDITIONS.....</b>	<b>9</b>
A. GENERAL .....	9

B.	NOTIFICATION .....	10
C.	BUYER'S REPRESENTATIVE .....	10
D.	GOVERNING LAW (Nonnegotiable) .....	10
E.	DISCOUNTS .....	10
F.	BEGINNING OF WORK & SUSPENSION OF SERVICES .....	11
G.	AMENDMENT .....	11
H.	CHANGE ORDERS OR SUBSTITUTIONS.....	11
I.	RECORD OF VENDOR PERFORMANCE.....	12
J.	CORRECTIVE ACTION PLAN.....	12
K.	NOTICE OF POTENTIAL CONTRACTOR BREACH.....	12
L.	BREACH .....	12
M.	NON-WAIVER OF BREACH .....	13
N.	SEVERABILITY .....	13
O.	INDEMNIFICATION .....	13
P.	ATTORNEY'S FEES .....	14
Q.	ASSIGNMENT, SALE, OR MERGER .....	14
R.	CONTRACTING WITH OTHER NEBRASKA POLITICAL SUBDIVISIONS OF THE STATE OR ANOTHER STATE .....	15
S.	FORCE MAJEURE.....	15
T.	CONFIDENTIALITY .....	15
U.	EARLY TERMINATION.....	16
V.	CONTRACT CLOSEOUT.....	16
<b>III.</b>	<b>CONTRACTOR DUTIES .....</b>	<b>18</b>
A.	INDEPENDENT CONTRACTOR / OBLIGATIONS .....	18
B.	EMPLOYEE WORK ELIGIBILITY STATUS .....	19
C.	COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Nonnegotiable) .....	19
D.	COOPERATION WITH OTHER CONTRACTORS.....	19
E.	PERMITS, REGULATIONS, LAWS.....	20
F.	OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES .....	20
G.	INSURANCE REQUIREMENTS .....	20
H.	ANTITRUST .....	23
I.	CONFLICT OF INTEREST.....	23
J.	STATE PROPERTY .....	23

K.	SITE RULES AND REGULATIONS .....	24
L.	ADVERTISING .....	24
M.	NEBRASKA TECHNOLOGY ACCESS STANDARDS (Nonnegotiable).....	24
N.	DISASTER RECOVERY/BACK UP PLAN .....	24
O.	DRUG POLICY .....	25
P.	WARRANTY.....	25
<b>IV.</b>	<b>PAYMENT.....</b>	<b>26</b>
A.	PROHIBITION AGAINST ADVANCE PAYMENT (Nonnegotiable).....	26
B.	TAXES (Nonnegotiable).....	26
C.	INVOICES .....	26
D.	INSPECTION AND APPROVAL .....	26
E.	PAYMENT (Nonnegotiable) .....	26
F.	LATE PAYMENT (Nonnegotiable).....	26
G.	SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Nonnegotiable).....	27
H.	RIGHT TO AUDIT (First Paragraph is Nonnegotiable).....	27
<b>V.</b>	<b>PROJECT DESCRIPTION AND SCOPE OF WORK.....</b>	<b>28</b>
A.	PROJECT OVERVIEW .....	28
B.	PROJECT ENVIRONMENT .....	28
C.	STAFFING REQUIREMENTS.....	29
D.	FOOD SERVICE AND OPERATION REQUIREMENTS.....	29
E.	MENU 30	
F.	ALCOHOL .....	30
G.	PRICING AND PAYMENTS .....	31
H.	PROMOTIONS, MARKETING AND SPECIAL EVENTS.....	32
I.	FACILITY, EQUIPMENT AND SANITATION .....	32
J.	BUILDINGS, UTILITIES, SUPPLIES, SPACE USE .....	33
K.	ADMINISTRATION.....	34
L.	DELIVERABLES .....	35
<b>VI.</b>	<b>PROPOSAL INSTRUCTIONS.....</b>	<b>36</b>
A.	PROPOSAL SUBMISSION .....	36
	<b>Form A Bidder Proposal Point of Contact.....</b>	<b>40</b>
	<b>Form B Bidder Check List for RFP Submission.....</b>	<b>41</b>



## GLOSSARY OF TERMS

**Addendum:** Something to be added or deleted to an existing document; a supplement.

**Agency:** Any state agency, board, or commission other than the University of Nebraska, the Nebraska State colleges, the courts, the Legislature, or any other office or agency established by the Constitution of Nebraska.

**Agent/Representative:** A person authorized to act on behalf of another.

**Amend:** To alter or change by adding, subtracting, or substituting.

**Amendment:** A written correction or alteration to a document.

**Appropriation:** Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

**Automated Clearing House: (ACH)** Electronic network for financial transactions in the United States

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal.

**Best and Final Offer (BAFO):** In a competitive proposal, the final offer submitted which contains the bidder's most favorable terms for price.

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the contractor will not withdraw the bid.

**Bidder:** A contractor who submits a proposal in response to a written Request for Proposal.

**Breach:** Violation of a contractual obligation by failing to perform or repudiation of one's own promise.

**Business:** Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

**Business Day:** Any weekday, except State-recognized holidays.

**Calendar Day:** Every day shown on the calendar including Saturdays, Sundays, and State/Federal holidays.

**Cancellation:** To call off or revoke a purchase order or contract without expectation of conducting or performing it at a later time.

**Change Order:** Document that provides an addendum and/or amendments to an executed purchase order or contract.

**Collusion:** An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

**Confidential Information:** Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Contract:** An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

**Contract Administration:** The administration of the contract which includes and is not limited to; contract signing, contract amendments and any necessary legal actions.

**Contract Award:** Occurs upon execution of the State document titled "Service Contract Award" by the proper authority.

**Contract Management:** The management of day-to-day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

**Contract Period:** The duration of the contract.

**Contractor:** An individual or entity lawfully conducting business in the State, or licensed to do so, who seeks to provide goods or services under the terms of a written Request for Proposal.

**Copyright:** A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work.

**Customer Service:** The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by the Contractor.

**Default:** The omission or failure to perform a contractual duty.

**Deviation:** Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written Request for Proposal or contract.

**Evaluation:** The process of examining an offer after opening to determine the bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

**Evaluation Committee:** Individuals selected by the requesting agency for the evaluation of proposals (offers made in response to written Request for Proposals).

**Extension:** Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

**Foreign Corporation:** A foreign corporation that was organized and chartered under the laws of another state, government, or country.

**Installation Date:** The date when the procedures described in "Installation by Contractor" and "Installation by State" as found in the Request for Proposal or contract are completed.

**Interested Party:** A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein.

**Late Proposal:** An offer received after the Opening Date and Time.

**Mandatory/Must:** Required, compulsory, or obligatory.

**May:** Discretionary, permitted; used to express possibility.

**Must:** See Mandatory/Must and Shall/Will/Must.

**Non-Responsive Proposal:** Any proposal that does not comply with the requirements of the Request for Proposal.

**Opening Date and Time:** Specified date and time for the public opening of received, labeled, and sealed formal proposals.

**Performance Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the Contractor fulfills any and all obligations under the contract.

**Point of Contact (POC):** The person designated to receive communications and to communicate.

**Pre-Proposal Conference:** A meeting scheduled for the purpose of clarifying a written Request for Proposal and related expectations.

**Project:** The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities, and services to be provided under the contract.

**Proposal:** Bidder's response to a written Request for Proposal.

**Proposal Opening:** The process of opening correctly submitted offers at the time and place specified in the written Request for Proposal and in the presence of anyone who wished to attend.

**Protest/Grievance:** A complaint about a governmental action or decision related to a Request for Proposal or resultant contract, brought by a bidder who has submitted a proposal response by the opening date and time in connection with the award in question, to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

**Release Date:** The date of public release of the written Request for Proposal to seek offers.



**Renewal Period:** Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions. Not to be confused with Extension.

**Request for Proposal (RFP):** A written solicitation utilized for obtaining competitive offers.

**Responsible Contractor:** A contractor who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Bidder:** A vendor who has submitted a proposal which conforms to all requirements of the Request for Proposal document.

**Shall/Will/Must:** An order/command; mandatory.

**Should:** Expected; suggested, but not necessarily mandatory.

**Specifications:** The detailed statement, especially of the measurements, quality, materials, and functional characteristics, or other items to be provided under a contract.

**Subcontractor:** Individual or entity with whom the contractor enters a contract to perform a portion of the work awarded to the contractor.

**Termination:** Occurs when either Party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

**Third Party:** Any person or entity, including but not limited to fiduciaries, shareholders, owners, officers, managers, employees, legally disinterested persons, and sub-contractors or agents, and their employees. It shall not include any entity or person who is an interested Party to the contract or agreement.

**Trade Secret:** Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. § 87-502(4)).

**Trademark:** A word, phrase, logo, or other graphic symbol used by a manufacturer or contractor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

**Vendor:** An individual or entity lawfully conducting business with the State.

**Will:** See Mandatory/Shall/Will/Must.

**Work Day:** See Business Day.

## ACRONYM LIST

**ACH** – Automated Clearing House

**BAFO** – Best and Final Offer

**COI** – Certificate of Insurance

**DAS** – Department of Administrative Services

**ETM** – Eugene T Mahoney

**NGPC** – Nebraska Game and Parks Commission

**RFP** – Request for Proposal

**SHP** – State Historical Park

**SP** – State Park

**SPB** – State Purchasing Bureau

# I. PROCUREMENT PROCEDURE

## A. GENERAL INFORMATION

The Request for Proposal is designed to solicit proposals from a qualified bidder who will be responsible for providing Eugene T. Mahoney State Park Food and Beverage Service Management (restaurant, and beverage services) at a competitive and reasonable cost. Terms and Conditions, Project Description and Scope of Work, Proposal instructions, and Cost Proposal Requirements may be found in Sections II through VI.

Proposals shall conform to all instructions, conditions, and requirements included in the Request for Proposal. Prospective bidders are expected to carefully examine all documents, schedules, and requirements in this Request for Proposal, and respond to each requirement in the format prescribed. Proposals may be found non-responsive if they do not conform to the Request for Proposal.

## B. PROCURING OFFICE AND COMMUNICATION WITH STATE STAFF AND EVALUATORS

Procurement responsibilities related to this Request for Proposal reside with State Purchasing Bureau. The point of contact (POC) for the procurement is as follows:

RFP Number: 6790 Z1  
Name: Connie Heinrichs, Procurement Contracts Officer  
Matthew Hansen, Procurement Contracts Officer  
Agency: State Purchasing Bureau  
Address: 1526 K Street, Suite 130  
Lincoln, NE 68508  
Telephone: 402-471-0975  
E-Mail: [connie.heinrichs@nebraska.gov](mailto:connie.heinrichs@nebraska.gov)  
[matthew.hansen@nebraska.gov](mailto:matthew.hansen@nebraska.gov)

From the date the Request for Proposal is issued until the Intent to Award is issued, communication from the bidder is limited to the POC listed above. After the Intent to Award is issued, the bidder may communicate with individuals the State has designated as responsible for negotiating the contract on behalf of the State. No member of the State Government, employee of the State, or member of the Evaluation Committee is empowered to make binding statements regarding this Request for Proposal. The POC will issue any answers, clarifications, or amendments regarding this Request for Proposal in writing. Only the SPB or awarding agency can award a contract. Bidders shall not have any communication with or attempt to communicate or influence any evaluator involved in this Request for Proposal.

The following exceptions to these restrictions are permitted:

1. Contact made pursuant to pre-existing contracts or obligations;
2. Contact required by the schedule of events or an event scheduled later by the RFP POC; and
3. Contact required for negotiation and execution of the final contract.

*The State reserves the right to reject a bidder's proposal, withdraw an Intent to Award, or terminate a contract if the State determines there has been a violation of these procurement procedures.*

## C. SCHEDULE OF EVENTS

The State expects to adhere to the procurement schedule shown on the following page, but all dates are approximate and subject to change.

NOTE: All ShareFile links in the Schedule of Events below, are unique links for each schedule step. Please click the correct link for the upload step you are requesting.

Schedule of Events		
ACTIVITY		DATE/TIME
1.	Release RFP	May 11, 2023
2.	Last day to submit written questions ShareFile link for uploading questions: <a href="https://nebraska.sharefile.com/r-r641556f2caa14f09aa63fa6c25b1611f">https://nebraska.sharefile.com/r-r641556f2caa14f09aa63fa6c25b1611f</a>	May 15, 2023
3.	State responds to written questions through RFP "Addendum" and/or "Amendment" to be posted to the Internet at: <a href="http://das.nebraska.gov/materiel/bidopps.html">http://das.nebraska.gov/materiel/bidopps.html</a>	May 17, 2023
4.	<p>Proposal Opening – Online Via Zoom:</p> <p>IT IS THE BIDDER'S RESPONSIBILITY TO UPLOAD ELECTRONIC FILES BY OPENING DATE AND TIME. EXCEPTIONS WILL NOT BE MADE FOR TECHNOLOGY ISSUES.</p> <p>ShareFile Electronic Proposal Submission Link: <a href="https://nebraska.sharefile.com/r-r2dca921fd4c34c7b90974dc96ec60b5e">https://nebraska.sharefile.com/r-r2dca921fd4c34c7b90974dc96ec60b5e</a></p> <p>Join Zoom Meeting: <a href="https://us02web.zoom.us/j/87213707739?pwd=RWF5NVVZNmphV1JGdGwrUzq2S1FZZz09">https://us02web.zoom.us/j/87213707739?pwd=RWF5NVVZNmphV1JGdGwrUzq2S1FZZz09</a></p> <p>Meeting ID: 872 1370 7739 Passcode: 697535 One tap mobile +16694449171,,87213707739#,,,,*697535# US +16699006833,,87213707739#,,,,*697535# US (San Jose)</p> <p>Dial by your location</p> <ul style="list-style-type: none"> <li>+1 669 444 9171 US</li> <li>+1 669 900 6833 US (San Jose)</li> <li>+1 719 359 4580 US</li> <li>+1 253 205 0468 US</li> <li>+1 253 215 8782 US (Tacoma)</li> <li>+1 346 248 7799 US (Houston)</li> <li>+1 564 217 2000 US</li> <li>+1 646 931 3860 US</li> <li>+1 689 278 1000 US</li> <li>+1 929 205 6099 US (New York)</li> <li>+1 301 715 8592 US (Washington DC)</li> <li>+1 305 224 1968 US</li> <li>+1 309 205 3325 US</li> <li>+1 312 626 6799 US (Chicago)</li> <li>+1 360 209 5623 US</li> <li>+1 386 347 5053 US</li> <li>+1 507 473 4847 US</li> </ul> <p>Meeting ID: 872 1370 7739 Passcode: 697535 Find your local number: <a href="https://us02web.zoom.us/j/koW01wJ1O">https://us02web.zoom.us/j/koW01wJ1O</a></p>	<p>May 26, 2023</p> <p>2:00 PM Central Time</p>
5.	Review for conformance to RFP requirements	May 26, 2023
6.	Evaluation period	May 30, 2023 through June 06, 2023
7.	Post "Notification of Intent to Award" to Internet at: <a href="https://das.nebraska.gov/materiel/bidopps.html">https://das.nebraska.gov/materiel/bidopps.html</a>	June 12, 2023
8.	Contract finalization period	June 12, 2023 through June 23, 2023
9.	Contract award	June 26, 2023
10.	Contractor start date	June 26, 2023

**D. WRITTEN QUESTIONS AND ANSWERS**

Questions regarding the meaning or interpretation of any Request for Proposal provision must be submitted in writing to State Purchasing Bureau and clearly marked "RFP Number 6790 Z1; Eugene T. Mahoney State Park Food and Beverage Service Management (restaurant and beverage services) Questions". The POC is not obligated to respond to questions that are received late per the Schedule of Events.

Bidders should present, as questions, any assumptions upon which the bidder's proposal is or might be developed. Any proposal containing assumptions may be deemed non-responsive. Non-responsive proposals may be rejected by the State. Proposals will be evaluated without consideration of any known or unknown assumptions of a bidder. The contract will not incorporate any known or unknown assumptions of a bidder.

Questions should be uploaded using the ShareFile link provided in the RFP Schedule of Events, Section I.C. It is recommended that bidders submit questions using the following format:

RFP Section Reference	RFP Page Number	Question

Written answers will be posted at <https://das.nebraska.gov/materiel/bidopps.html> per the Schedule of Events.

**E. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS**

All bidders must be authorized to transact business in the State of Nebraska and comply with all Nebraska Secretary of State Registration requirements. The bidder who is the recipient of an Intent to Award may be required to certify that it has complied and produce a true and exact copy of its current (within ninety (90) calendar days of the intent to award) Certificate or Letter of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at:

<https://das.nebraska.gov/materiel/docs/pdf/Individual%20or%20Sole%20Proprietor%20United%20States%20Attestation%20Form%20English%20and%20Spanish.pdf> This should be accomplished prior to execution of the contract.

**F. ETHICS IN PUBLIC CONTRACTING**

The State reserves the right to reject proposals, withdraw an intent to award or award, or terminate a contract if an ethical violation has been committed, which includes, but is not limited to:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the bidding process;
2. Utilizing the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the bidding process;
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any state or federal entity;
4. Submitting a proposal on behalf of another Party or entity; and
5. Colluding with any person or entity to influence the bidding process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair advantage, subvert the proposal, or prejudice the State.

The bidder shall include this clause in any subcontract entered into for the exclusive purpose of performing this contract.

Bidder shall have an affirmative duty to report any violations of this clause by the bidder throughout the bidding process and throughout the term of this contract for the awarded bidder and their subcontractors.

**G. DEVIATIONS FROM THE REQUEST FOR PROPOSAL**

The requirements contained in the Request for Proposal (Sections II thru VI) become a part of the terms and conditions of the contract resulting from this Request for Proposal. Any deviations from the Request for Proposal in Sections II through VI must be clearly defined by the bidder in its proposal and, if accepted by the State, will become part of the contract. Any specifically defined deviations must not be in conflict with the basic nature of the Request for Proposal, requirements, or applicable state or federal laws or statutes. "Deviation", for the purposes of this Request for Proposal, means any proposed changes or alterations to either the contractual language or deliverables within the scope of this Request for Proposal. The State discourages deviations and reserves the right to reject proposed deviations.

**H. PRICES & COST CLARIFICATION**

Discount and Price provisions are discussed in Section II. E. The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any proposal where the cost component indicates a significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

## I. SUBMISSION OF PROPOSALS

The State is only accepting electronic responses submitted in accordance with this RFP. The State will not accept proposals by mail, email, voice, or telephone, unless otherwise explicitly stated in writing by the State.

Pages may be consecutively numbered for the entire proposal or may be numbered consecutively within sections. Figures and tables should be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text. The Technical Proposal should not contain any reference to dollar amounts. However, information such as data concerning labor hours and categories, materials, subcontracts and so forth, shall be considered in the Technical Proposal so that the bidder's understanding of the scope of work may be evaluated. The Technical Proposal shall disclose the bidder's technical approach in as much detail as possible, including, but not limited to, the information required by the Technical Proposal instructions.

It is the bidder's responsibility to ensure the RFP is received electronically by the date and time indicated in the Schedule of Events. Proposals must be submitted via ShareFile by the date and time of the proposal opening per the Schedule of Events. No late proposals will be accepted.

It is the responsibility of the bidder to check the website for all information relevant to this RFP to include addenda and/or amendments issued prior to the opening date. The website can be found here: <https://das.nebraska.gov/materiel/bidopps.html>.

Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to requirements, completeness, and clarity of content. If the bidder's proposal is presented in such a fashion that makes evaluation difficult or overly time consuming the State reserves the right to reject the proposal as non-conforming.

### 1. Bidders must submit responses via ShareFile using the proposal submission link.

Note to bidders: Not all browsers are compatible with ShareFile. Currently Chrome, Internet Explorer and Firefox are compatible. After the bidder clicks the proposal submission link, the bidder will be prompted to enter contact information including an e-mail address. By entering an e-mail address, the bidder should receive a confirmation email confirming the successful upload directly from ShareFile.

ShareFile link for uploading RFP response(s) provided in the RFP Schedule of Events, Section I.C.

- a. The Technical, Cost Proposal and Proprietary information should be uploaded as separate and distinct files.
  - i. If duplicated proposals are submitted, the State will retain only the most recently submitted response.
  - ii. If it is the bidder's intent to submit multiple proposals, the bidder must clearly identify the separate submissions.
  - iii. It is the bidder's responsibility to allow time for electronic uploading. All file uploads must be completed by the Opening date and time per the Schedule of Events. No late proposals will be accepted.
  
- b. ELECTRONIC PROPOSAL FILE NAMES  
The bidder should clearly identify the uploaded RFP proposal files. To assist in identification the bidder should use the following naming convention:
  - i. RFP 6790 Z1, Company Name  
If multiple files are submitted for one RFP proposal, add number of files to file names:  
RFP 6790 Z1 Company Name File 1 of 2.  
RFP 6790 Z1 Company Name File 2 of 2.
  - ii. If multiple RFP proposals are submitted for the same RFP, add the proposal number to the file names:  
RFP 6790 Z1 Company Name Proposal 1 File 1 of 2.

The "Request for Proposal for Contractual Services" form must be signed manually in ink or by DocuSign and returned by the proposal opening date and time along with the bidder's Request for Proposal and any other requirements as stated in the Request for Proposal document in order for the bidder's Request for Proposal response to be evaluated.

By signing the "Request for Proposal for Contractual Services" form, the bidder guarantees compliance with the provisions stated in this Request for Proposal.

**J. PROPOSAL PREPARATION COSTS**

The State shall not incur any liability for any costs incurred by bidder's in replying to this Request for Proposal, including any activity related to bidding on this Request for Proposal.

**K. FAILURE TO COMPLY WITH REQUEST FOR PROPOSAL**

Violation of the terms and conditions contained in this Request for Proposal or any resultant contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

1. Rejection of a bidder's proposal,
2. Withdrawal of the Intent to Award,
3. Withdrawal of the Award,
4. Negative documentation regarding Vendor Performance,
5. Termination of the resulting contract,
6. Legal action; and
7. Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation. Such period to be within the sole discretion of the State.

**L. PROPOSAL CORRECTIONS**

A bidder may correct a mistake in a proposal prior to the time of opening by uploading a revised and completed proposal if the original proposal was electronically submitted.

1. If a corrected electronic proposal is submitted, the file name(s) date/time stamped with latest date/time stamp will be accepted. The corrected proposal file name(s) should be identified as:
  - a. Corrected 6790 Z1 Company Name Proposal #1 File 1 of 2,
  - b. Corrected 6790 Z1 Company Name Proposal #2 File 2 of 2, etc.

Changing a proposal after opening may be permitted if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions. In case of a mathematical error in extension of price, unit price shall govern.

**M. LATE PROPOSALS**

Proposals received after the time and date of the proposal opening will be considered late proposals. Late proposals will be considered non-responsive. The State is not responsible for proposals that are late or lost regardless of cause or fault.

**N. PROPOSAL OPENING**

The opening of proposals will be public and the bidders will be announced. Proposals **WILL NOT** be available for viewing by those present at the proposal opening. Proposals will be posted to the State Purchasing Bureau website once an Intent to Award has been posted to the website. Once proposals are opened, they become the property of the State of Nebraska and will not be returned.

**O. REQUEST FOR PROPOSAL/PROPOSAL REQUIREMENTS**

The proposals will first be examined to determine if all requirements listed below have been addressed and whether further evaluation is warranted. Proposals not meeting the requirements may be rejected as non-responsive. The requirements are:

1. Original Request for Proposal for Contractual Services form signed manually in ink or by DocuSign;
2. Clarity and responsiveness of the proposal;
3. Completed Corporate Overview;
4. Completed Sections II through VI;
5. Completed Technical Approach; and
6. Completed State Cost Proposal.

**P. EVALUATION COMMITTEE**

Proposals are evaluated by members of an Evaluation Committee(s). The Evaluation Committee(s) will consist of individuals selected at the discretion of the State. Names of the members of the Evaluation Committee(s) will not be published prior to the intent to award.

Any contact, attempted contact, or attempt to influence an evaluator that is involved with this Request for Proposal may result in the rejection of this proposal and further administrative actions.

**Q. EVALUATION OF PROPOSALS**

All proposals that are responsive to the Request for Proposal will be evaluated. Each evaluation category will have a maximum point potential. The State will conduct a fair, impartial, and comprehensive evaluation of all proposals in accordance with the criteria set forth below. Areas that will be addressed and scored during the evaluation include:

1. Corporate Overview may include, but is not limited to:
  - a. the ability, capacity, and skill of the bidder to deliver and implement the system or project that meets the requirements of the Request for Proposal;
  - b. the character, integrity, reputation, judgment, experience, and efficiency of the bidder;
  - c. whether the bidder can perform the contract within the specified time frame;
  - d. the bidder's historical or current performance; and
  - e. such other information that may be secured and that has a bearing on the decision to award the contract.

In evaluating the corporate overview, the State may consider, past experiences with the vendor, references, the State's record of the vendor which may include, but is not limited to Vendor Performance Notices, Vendor Improvement Requests, vendor performance reports, and any information related to the vendor's historical or current character, integrity, reputation, capability, or performance with the State or a third-party.

2. Technical Approach; and,
3. Cost Proposal.

**Neb. Rev. Stat. § 73-107 allows for a preference for a resident disabled veteran or business located in a designated enterprise zone.** When a state contract is to be awarded to the lowest responsible bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.

**Resident disabled veterans means any person (a) who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense and (b)(i) who owns and controls a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in (a) of this paragraph and (ii) the management and daily business operations of the business are controlled by one or more persons described in (a) of this paragraph. Any contract entered into without compliance with this section shall be null and void.**

Therefore, if a resident disabled veteran or business located in a designated enterprise zone submits a proposal in accordance with Neb. Rev. Stat. § 73-107 and has so indicated on the Request for Proposal cover page under "Contractor must complete the following" requesting priority/preference to be considered in the award of this contract, the following will need to be submitted by the contractor within ten (10) business days of request:

1. Documentation from the United States Armed Forces confirming service,
2. Documentation of discharge or otherwise separated characterization of honorable or general (under honorable conditions),
3. Disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense; and
4. Documentation which shows ownership and control of a business or, in the case of a publicly owned business, more than fifty percent of the stock is owned by one or more persons described in subdivision (a) of this subsection; and the management and daily business operations of the business are controlled by one or more persons described in subdivision (a) of this subsection.

Failure to submit the requested documentation within ten (10) business days of notice will disqualify the bidder from consideration of the preference.

**R. ORAL INTERVIEWS/PRESENTATIONS AND/OR DEMONSTRATIONS**

The State may determine after the completion of the Technical and Cost Proposal evaluation that oral interviews/presentations and/or demonstrations are required. Every bidder may not be given an opportunity to interview/present and/or give demonstrations; the State reserves the right, in its discretion, to select only the top scoring bidders to present/give oral interviews. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the Technical and Cost Proposals. The presentation process will allow the bidders to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Bidders' key personnel, identified in their proposal, may be requested to



participate in a structured interview to determine their understanding of the requirements of this proposal, their authority and reporting relationships within their firm, and their management style and philosophy. Only representatives of the State and the presenting bidder will be permitted to attend the oral interviews/presentations and/or demonstrations. A written copy or summary of the presentation, and demonstrative information (such as briefing charts, et cetera) may be offered by the bidder, but the State reserves the right to refuse or not consider the offered materials. Bidders shall not be allowed to alter or amend their proposals.

Once the oral interviews/presentations and/or demonstrations have been completed, the State reserves the right to make an award without any further discussion with the bidders regarding the proposals received.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the bidder and will not be compensated by the State.

**S. BEST AND FINAL OFFER**

Each bidder should provide its best offer with their original proposal response and should not expect the State to request a best and final offer (BAFO).

The State reserves the right to conduct more than one BAFO or to not offer every bidder an opportunity to submit a BAFO. If requested by the State, the BAFO must be submitted on the BAFO Cost Proposal form and in accordance with the State's instructions. Failure to submit a requested BAFO or failure to submit a BAFO in accordance with the State's instructions may result in rejection of the bidder's entire proposal response. BAFOs may be scored and ranked by the Evaluation Committee.

**T. REFERENCE AND CREDIT CHECKS**

The State reserves the right to conduct and consider reference and credit checks. The State reserves the right to use third parties to conduct reference and credit checks. By submitting a proposal in response to this Request for Proposal, the bidder grants to the State the right to contact or arrange a visit in person with any or all of the bidder's clients. Reference and credit checks may be grounds to reject a proposal, withdraw an intent to award, or rescind the award of a contract.

**U. AWARD**

The State reserves the right to evaluate proposals and award contracts in a manner utilizing criteria selected at the State's discretion and in the State's best interest. After evaluation of the proposals, or at any point in the Request for Proposal process, the State of Nebraska may take one or more of the following actions:

1. Amend the Request for Proposal,
2. Extend the time of or establish a new proposal opening time,
3. Waive deviations or errors in the State's Request for Proposal process and in bidder proposals that are not material, do not compromise the Request for Proposal process or a bidder's proposal, and do not improve a bidder's competitive position,
4. Accept or reject a portion of or all of a proposal,
5. Accept or reject all proposals,
6. Withdraw the Request for Proposal;
7. Elect to rebid the Request for Proposal;
8. Award single lines or multiple lines to one or more bidders; or,
9. Award one or more all-inclusive contracts.

The Request for Proposal does not commit the State to award a contract. Once intent to award decision has been determined, it will be posted to the Internet at:

<https://das.nebraska.gov/materiel/bidopps.html>

Any protests must be filed by a bidder within ten (10) business days after the intent to award decision is posted to the Internet. Grievance and protest procedure is available on the Internet at:

[https://das.nebraska.gov/materiel/docs/pdf/ProtestGrievanceWithGuidance\\_08042021.pdf](https://das.nebraska.gov/materiel/docs/pdf/ProtestGrievanceWithGuidance_08042021.pdf)

**V. LUMP SUM OR "ALL OR NONE" PROPOSALS**

The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a proposal on an "all or none" or "lump sum" basis but should also submit a proposal on an item-by-item basis. The term "all or none" means a conditional proposal which requires the purchase of all items on which proposals are offered and bidder declines to accept award on individual items; a "lump sum" proposal is one in which the bidder offers a lower price than the sum of the individual proposals if all items are purchased but agrees to deliver individual items at the prices quoted.

**W. REJECTION OF PROPOSALS**

The State reserves the right to reject any or all proposals, wholly or in part, in the best interest of the State.

**X. RESIDENT BIDDER**

Pursuant to Neb. Rev. Stat. §§ 73-101.01 & 73-101.02, a Resident Bidder shall be allowed a preference against a Non-resident Bidder from a state which gives or requires a preference to Bidders from that state. The preference shall be equal to the preference given or required by the state of the Nonresident Bidders. Where the lowest responsible bid from a resident Bidder is equal in all respects to one from a nonresident Bidder from a state which has no preference law, the resident Bidder shall be awarded the contract. The provision of this preference shall not apply to any contract for any project upon which federal funds would be withheld because of the provisions of this preference.

## II. TERMS AND CONDITIONS

**Bidders should complete Sections II through VI as part of their proposal.** Bidder is expected to read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language. By signing the Request for Proposal, bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this Request for Proposal. The State of Nebraska reserves the right to reject proposals that attempt to substitute the bidder's commercial contracts and/or documents for this Request for Proposal.

The bidders should submit with their proposal any license, user agreement, service level agreement, or similar documents that the bidder wants incorporated in the Contract. The State will not consider incorporation of any document not submitted with the bidder's proposal as the document will not have been included in the evaluation process. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the Addendum to Contract Award have been negotiated and agreed to, the Addendum to Contract Award shall be interpreted as follows:

1. If only one Party has a particular clause then that clause shall control,
2. If both Parties have a similar clause, but the clauses do not conflict, the clauses shall be read together,
3. If both Parties have a similar clause, but the clauses conflict, the State's clause shall control.

### A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

1. The contract resulting from this Request for Proposal shall incorporate the following documents:
  - a. Request for Proposal, including any attachments and addenda;
  - b. Amendments to the Request for Proposal;
  - c. Questions and Answers;
  - d. Bidder's properly submitted proposal, including any terms and conditions or agreements submitted by the bidder; and
  - e. Amendments and Addendums to the Contract.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment or Addendum to the executed Contract with the most recent dated amendment or addendum having the highest priority, 2) Amendments to the Request for Proposal, 3) Questions and Answers, 4) the original Request for Proposal document and any Addenda or attachments, and 4) the Contractor's submitted Proposal, including any terms and conditions or agreements submitted by the that are accepted by the State.

For the avoidance of doubt, unless otherwise explicitly and specifically agreed to in writing by the State, the State's standard terms and conditions, as executed by the State and, shall always control over any terms and conditions or agreements submitted or included by the Contractor.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

**B. NOTIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Bidder and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally; electronically, return receipt requested; or mailed, return receipt requested. All notices, requests, or communications shall be deemed effective upon receipt.

Either party may change its address for notification purposes by giving notice of the change and setting forth the new address and an effective date.

**C. BUYER'S REPRESENTATIVE**

The State reserves the right to appoint a Buyer's Representative to manage or assist the Buyer in managing the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the bidder will be provided a copy of the appointment document and is expected to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

**D. GOVERNING LAW (Nonnegotiable)**

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

**E. DISCOUNTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

**F. BEGINNING OF WORK & SUSPENSION OF SERVICES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

The State may, at any time and without advance notice, require the Contractor to suspend any or all performance or deliverables provided under this Contract. In the event of such suspension, the Contract Manager or POC, or their designee, will issue a written order to stop work. The written order will specify which activities are to be immediately suspended and the reason(s) for the suspension. Upon receipt of such order, the Contractor shall immediately comply with its terms and take all necessary steps to mitigate and eliminate the incurrence of costs allocable to the work affected by the order during the period of suspension. The suspended performance or deliverables may only resume when the State provides the Contractor with written notice that such performance or deliverables may resume, in whole or in part.

**G. AMENDMENT**

This Contract may be amended in writing, within scope, upon the agreement of both parties.

**H. CHANGE ORDERS OR SUBSTITUTIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the Request for Proposal. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

**\*\*\*Contractor will not substitute any item that has been awarded without prior written approval of SPB\*\*\***

**I. RECORD OF VENDOR PERFORMANCE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State may document the vendor’s performance, which may include, but is not limited to, the customer service provided by the vendor, the ability of the vendor, the skill of the vendor, and any instance(s) of products or services delivered or performed which fail to meet the terms of the purchase order, contract, and/or Request for Proposal specifications. In addition to other remedies and options available to the State, the State may issue one or more notices to the vendor outlining any issues the State has regarding the vendor’s performance for a specific contract (“Vendor Performance Notice”). The State may also document the Vendor’s performance in a report, which may or may not be provided to the vendor (“Vendor Improvement Request”). The Vendor shall respond to any Vendor Performance Notice or Vendor Improvement Request in accordance with such notice or request. At the sole discretion of the State, such Vendor Performance Notices and Vendor Improvement Requests may be placed in the State’s records regarding the vendor and may be considered by the State and held against the vendor in any future contract or award opportunity.

**J. CORRECTIVE ACTION PLAN**

If Contractor is failing to meet the Scope of Work, in whole or in part, the State may require the Contractor to complete a corrective action plan (“CAP”). The State will identify issues with the Contractor’s performance and will set a deadline for the CAP to be provided. The Contractor must provide a written response to each identified issue and what steps the Contractor will take to resolve each issue, including the timeline(s) for resolution. If the Contractor fails to adequately provide the CAP in accordance with this section, fails to adequately resolve the issues described in the CAP, or fails to resolve the issues described in the CAP by the relevant deadline, the State may withhold payments and exercise any legal remedy available.

**K. NOTICE OF POTENTIAL CONTRACTOR BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

**L. BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party’s discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by email to the contractor’s point of contact with

acknowledgement from the contractor, Certified Mail - Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

**M. NON-WAIVER OF BREACH**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

**N. SEVERABILITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

**O. INDEMNIFICATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

**1. GENERAL**

The Contractor agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all third party claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

**2. PERSONNEL**

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor’s and their employees, provided by the Contractor.

**3. SELF-INSURANCE**

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01. If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,239.01 to 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in state law and accepts liability under this agreement only to the extent provided by law.

**4. ALL REMEDIES AT LAW**

Nothing in this agreement shall be construed as an indemnification by one Party of the other for liabilities of a Party or third parties for property loss or damage or death or personal injury arising out of and during the performance of this contract. Any liabilities or claims for property loss or damages or for death or personal injury by a Party or its agents, employees, contractors or assigns or by third persons, shall be determined according to applicable law.

5. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

**P. ATTORNEY’S FEES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney’s fees and costs, if the other Party prevails.

**Q. ASSIGNMENT, SALE, OR MERGER**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor’s business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.



**R. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUBDIVISIONS OF THE STATE OR ANOTHER STATE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145(3), to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

The Contractor may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

**S. FORCE MAJEURE**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party ("Force Majeure Event") that was not foreseeable at the time the Contract was executed. The Party so affected shall immediately make a written request for relief to the other Party and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

**T. CONFIDENTIALITY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

**U. EARLY TERMINATION**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract, in whole or in part, at any time.
2. The State, in its sole discretion, may terminate the contract, in whole or in part, for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract, in whole or in part, immediately for the following reasons:
  - a. if directed to do so by statute,
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business,
  - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court,
  - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders,
  - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor,
  - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code,
  - g. Contractor intentionally discloses confidential information,
  - h. Contractor has or announces it will discontinue support of the deliverable; and,
  - i. In the event funding is no longer available.

**V. CONTRACT CLOSEOUT**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State,
2. Transfer ownership and title to all completed or partially completed deliverables to the State,
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures,
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract,

5. Cooperate with any successor Contactor, person or entity with the transfer of information or data related to this contract,
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

### III. CONTRACTOR DUTIES

#### A. INDEPENDENT CONTRACTOR / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the bidder's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding,
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law,
3. Damages incurred by Contractor's employees within the scope of their duties under the contract,
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law,
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees).

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be clearly defined in the bidder's proposal. The Contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or subcontractor employee.

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

**B. EMPLOYEE WORK ELIGIBILITY STATUS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <https://das.nebraska.gov/materiel/docs/pdf/Individual%20or%20Sole%20Proprietor%20United%20States%20Attestation%20Form%20English%20and%20Spanish.pdf>
2. The completed United States Attestation Form should be submitted with the Request for Proposal response.
3. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
4. The Contractor understands and agrees that lawful presence in the United States is required, and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

**C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Nonnegotiable)**

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. § 48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods and services to be covered by any contract resulting from this Request for Proposal.

**D. COOPERATION WITH OTHER CONTRACTORS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

**E. PERMITS, REGULATIONS, LAWS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

**F. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Contractor on behalf of the State pursuant to this contract.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

**G. INSURANCE REQUIREMENTS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor,
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) years of termination or expiration of the contract, the contractor shall obtain an extended discovery

or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and one (1) years following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

**1. WORKERS' COMPENSATION INSURANCE**

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

**2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE**

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

<b>REQUIRED INSURANCE COVERAGE</b>	
<b>COMMERCIAL GENERAL LIABILITY</b>	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 per occurrence
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Medical Payments	\$10,000 any one person
Damage to Rented Premises (Fire)	\$300,000 each occurrence
Contractual	Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>	
<b>WORKER'S COMPENSATION</b>	
Employers Liability Limits	\$500K/\$500K/\$500K
Statutory Limits- All States	Statutory - State of Nebraska
Voluntary Compensation	Statutory
<b>COMMERCIAL AUTOMOBILE LIABILITY</b>	
Bodily Injury/Property Damage	\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability	Included
Motor Carrier Act Endorsement	Where Applicable
<b>UMBRELLA/EXCESS LIABILITY</b>	
Over Primary Insurance	\$5,000,000 per occurrence
<b>COMMERCIAL CRIME</b>	
Crime/Employee Dishonesty Including 3rd Party Fidelity	\$1,000,000
<b>CONTRACTOR'S POLLUTION LIABILITY</b>	
Each Occurrence/Aggregate Limit	\$2,000,000
Includes Non-Owned Disposal Sites	
<b>MANDATORY COI SUBROGATION WAIVER LANGUAGE</b>	
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."	
<b>MANDATORY COI LIABILITY WAIVER LANGUAGE</b>	
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."	

**3. EVIDENCE OF COVERAGE**

The Contractor shall furnish the Contract Manager, via email, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

Eugene T. Mahoney State Park  
RFP # 6790 Z1  
Connie Heinrichs  
[Connie.heinrichs@nebraska.gov](mailto:Connie.heinrichs@nebraska.gov)

Nebraska State Purchasing Bureau  
1526 K Street  
Lincoln, NE 68508

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Reasonable notice of cancellation of any required insurance policy must be submitted to the contract manager as listed above when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

**4. DEVIATIONS**

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.



**H. ANTITRUST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**I. CONFLICT OF INTEREST**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

**J. STATE PROPERTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

**K. SITE RULES AND REGULATIONS**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

**L. ADVERTISING**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

**M. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Nonnegotiable)**

1. The State of Nebraska is committed to ensuring that all information and communication technology (ICT), developed, leased, or owned by the State of Nebraska, affords equivalent access to employees, program participants and members of the public with disabilities, as it affords to employees, program participants and members of the public who are not persons with disabilities.
2. By entering into this Contract, Contractor understands and agrees that if the Contractor is providing a product or service that contains ICT, as defined in subsection P.3. (below) and such ICT is intended to be directly interacted with by the user or is public facing, such ICT must provide equivalent access, or be modified during implementation to afford equivalent access, to employees, program participants, and members of the public who have and who do not have disabilities. The Contractor may comply with this section by complying with Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing standards adopted and promulgated by the U.S. Access Board.
3. ICT means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Contractor hereby agrees ICT includes computers and peripheral equipment, information kiosks and transaction machines, telecommunications equipment, customer premises equipment, multifunction office machines, software, applications, web sites, videos, and electronic documents. For the purposes of these assurances, ICT does not include ICT that is used exclusively by a contractor.

**N. DISASTER RECOVERY/BACK UP PLAN**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to

continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

**O. DRUG POLICY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Contractor certifies it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**P. WARRANTY**

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to the State, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse the State all fees paid to Contractor for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

**Q. TIME IS OF THE ESSENCE**

Time is of the essence with respect to Contractor's performance and deliverables pursuant to this Contract.

## IV. PAYMENT

### A. PROHIBITION AGAINST ADVANCE PAYMENT (Nonnegotiable)

Pursuant to Neb. Rev. Stat. § 81-2403, “[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency.”

### B. TAXES (Nonnegotiable)

The State is not required to pay taxes and assumes no such liability as a result of this Request for Proposal. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

### C. INVOICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. NGPC – Parks Division, PO Box 30370, Lincoln NE 68503. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract. **The State shall have forty-five (45) calendar days to pay after a valid and accurate invoice is received by the State.**

### D. INSPECTION AND APPROVAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

The State and/or its authorized representatives shall have the right to enter any premises where the Contractor or Subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

### E. PAYMENT (Nonnegotiable)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. § 81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

### F. LATE PAYMENT (Nonnegotiable)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. § 81-2401 through 81-2408).

**G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Nonnegotiable)**

The State's obligation to pay amounts due on the Contract for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

**H. RIGHT TO AUDIT (First Paragraph is Nonnegotiable)**

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. § 84-304 et seq.) The State may audit, and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one percent (.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.

## V. PROJECT DESCRIPTION AND SCOPE OF WORK

Bidders must be able to demonstrate experience and knowledge of restaurant/bar operations, including but not limited to financing, marketing, design, management, and oversight. The bidder should provide the following information in response to this solicitation.

### A. PROJECT OVERVIEW

The State of Nebraska, Game and Parks Commission is requesting proposals for the operation of restaurant and catering management, culinary and beverage service for Eugene T. Mahoney State Park hereafter referred to as the "Park". The contractor will have the right to use and occupy the restaurant facility at that location, consisting of dining area, sunroom, outside deck area, food preparation area, wet bar area, cold and dry storage, rent free. Contractor will also be able to utilize the State's existing inventory of equipment.

Eugene T. Mahoney State Park offers year-round accommodations and recreational use. Located near Ashland, just off Interstate 80 at exit 426, Mahoney is nestled on 690 acres along the Platte River. The Park offers a spectacular array of camping, lodging, group meeting facilities and activities for the public. Patrons can enjoy a wide variety of entertainment, including a water park complete with wave pool and water slides, horseback riding, theater, a miniature golf and driving range, fishing, paddle boating and ice skating.

### B. PROJECT ENVIRONMENT

#### 1. State Provisions

- a. The State will provide the contractor with space, free of charge, in which to perform food service operations, including spaces for storage, preparation and service of food, dining, and office space.
- b. Nebraska State Statute §37-434 requires Park Entry Permits for all vehicles entering the park.
- c. All State of Nebraska facilities are non-smoking and include the restaurant facility.
- d. Keys will be provided to all restaurant facility.
- e. Partnership marketing of the restaurant facility and special events utilizing agency programs or venues such as website, social media, radio shows or magazine.
- f. Vending machine operations located outside of the dining room or at activity related concessions (aquatic center, theater, activity center/ice rink, and Owen Marina) are not part of this RFP and the contractor will not be allowed vending machine operations in the facility outside the restaurant facility.
- g. State agency event billing, which is handled via an interagency billing transfer process.
- h. Room and equipment rental income, and lodging income will remain with the Nebraska Game and Parks.

#### 2. Contractor Requirements

- a. The contractor will have the right to sell food and beverages (including alcohol) to visiting patrons. The guest's food and beverage needs will be coordinated directly between the guest and the contractor.
- b. Contractor will be responsible for negotiating arrangements for alcoholic and non-alcoholic beverage services related to the restaurant facility.
- c. Contractor shall not make any unapproved additions, alterations, or improvements to the State-owned property, including, but not limited to the installation of fixtures, appliances, equipment, painting or changing of the premises in any way. Any additions, alterations or improvements should be submitted in writing to the State outlining the need for such changes. The cost of any approved additions, alterations or improvements shall be borne by the contractor. All additions, alterations and improvements to the design, architecture or functionality of the facility authorized by the State and made by contractor shall become the property of the State upon the expiration or termination of the contract.
- d. Contractor agrees not to change or add any locks to doors, windows, or equipment. A written request shall be made to the State for locks to be changed or added, and upon approval the contractor can change or add locks at their expense.

- e. Contractor shall not, with the exception of storage devices used to secure alcohol, or to house contractor's personnel records, install or maintain any locks/security devices without providing the park superintendent, or designated personnel, with relevant combinations, codes, or keys.
- f. The Contractor and its employees may enter the restaurant facility during non-public times for the purpose of preparing for food service, receiving, making deliveries, cleaning, or making repairs.
- g. The contractor cannot independently rent any portion of the park or facilities Outside of the restaurant facility.
- h. All follow-up documentation, planning, changes, linen needs, and billing related to food/beverage will be handled by the contractor's representative.

3. Bidder Requirements

- a. Provide options for collaborative programs and special events to increase sales of the park facilities and amenities, conference rooms, lodging, and food service.

Bidder Response:

**C. STAFFING REQUIREMENTS**

1. State Provisions

- a. Provide orientation information to new employees, to be well versed of the park services and activities to answer customer questions or direct them to the appropriate office.

2. Contractor Requirements

- a. Maintain on duty an adequate staff of employees for efficient and effective operation.
- b. Employees shall comply with all governmental regulations as well as State and Cass County pertaining to food service, and food handler personnel regarding health examinations, certification, licenses, or any other matter pertinent to such employees.

3. Bidder Requirements

- a. Provide a proposed staffing matrix that identifies the staffing organization, functional responsibilities, and key personnel.

Bidder Response:

- b. The bidder shall provide a Restaurant Employee Training Plan.

Bidder Response:

**D. FOOD SERVICE AND OPERATION REQUIREMENTS**

1. State Provisions

- a. NGPC is willing to consider franchising opportunities. These opportunities can be considered within the existing restaurant facility or at alternate, mutually agreeable locations within the park. Franchising opportunities are optional and may be for limited service or menu options such as coffee and pastry, etc.
- b. The State is open to schedule changes and alternative meal plan proposals, including but not limited to changes to days and hours of operation, and seasonal schedules, when such action is not precluded by regulation. Future changes are subject to review and approval of the State. Modifications must be submitted to the State Park Representative 30 Days in advance of the proposed schedule change and approved in writing by the State prior to implementation.

- c. The restaurant facility is exclusive to the contractor for the purpose of food preparation and serving unless discussed with a State Park Representative.
- d. Mobile vending and delivery of food, novelties and beverages is subject to advance approval of the State.
- e. The NGPC reserves the right to consult and negotiate with the contractor for limited "Black Out" dates and times in the restaurant facility for special and designated agency events.

2. Contractor Requirements

- a. The contractor will provide scheduled food and beverage service within the established restaurant facility.
- b. Printing and stationary costs, including menus, napkins, etc. will be contractor's responsibility. Any logo must be reviewed and approved by the NGPC Representative.
- c. Decorations may be used when appropriate subject to the approval of the State Park Representative.

3. Bidder Requirements

- a. The bidder shall propose their planned schedule of operational hours and days, inclusive of proposed holiday hours, seasonal hours, and off-season hours to meet the Park's desired food service needs in the dining room.

Bidder Response:

- b. Bidder must present a clear description of its proposed approach to hosting annual and/or special events in order to serve as a Food Service Destination for restaurant facility and NGPC Patrons.

Bidder Response:

**E. MENU**

1. State Provisions

- a. State will require a family friendly atmosphere with timely options for meal service.
- b. State Park Representative may request menu approval prior to changes.

2. Bidder Requirements

- a. Bidder will provide a summary of the intended atmosphere, dining experience and theme for the proposed restaurant facility.

Bidder Response:

- b. Bidder will submit a regular menu for approval. The menu should include, but not limited to:
  - i. A la Carte items
  - ii. Lunch and dinner
  - iii. Appetizers
  - iv. Salad options
  - v. Desert options
  - vi. A description of beverage options available (soda / alcohol).
  - vii. A description of the method of payment for meals

Bidder Response:

**F. ALCOHOL**

1. State Provisions

- a. Beverage (alcohol) service within the dining area will not exceed the restaurant facility hours.
- b. Contractor would be permitted to serve as an alcohol provider for catered events in the park, provided proper permitting for such event is received.
- c. Off-sale alcohol may be allowed with proper permit.



2. Contractor Requirements
  - a. Obtain proper Cass County liquor license to provide beverage (beer, wine, and spirits) service in the Peter Kiewit Lodge restaurant facility.
  - b. Manage seasonal outdoor seating for the beverage (alcohol) area near the restaurant facility when activities are deemed appropriate under relevant law, and location is acceptable to the State Park Representative.
  - c. Provide proof of alcohol training (certification).
    - i. On an annual basis, all servers will receive certified alcohol training through a Certified Alcohol Training Program.

3. Bidder Requirements
  - a. Identify a Nebraska Certified Alcohol Training Program to be used.

Bidder Response:

- b. Provide a plan to service the dining area as the alcohol provider for the restaurant facility.

Bidder Response:

**G. PRICING AND PAYMENTS**

1. State Provisions
  - a. NGPC and the contractor may conduct quarterly reviews of the contract during the term of the contract to review service offerings and pricing. These reviews may result in expanding the services offered by the contractor to include new pricing elements or pricing modifications associated with improved economies of scale.
  - b. Food or meal plans sold by contractor will be subject to sales tax unless the purchaser is tax exempt under the Nebraska State Statutes.
  - c. The State will not enforce a meal plan or payment agreement. Payment for food or meal plans will be the responsibility of the patron.
  - d. Overdue or unpaid accounts, or refunds for food/beverage will not be a liability of the State of Nebraska.
  - e. NGPC will reimburse the Contractor for NGPC Special Events. The predetermined cost will be agreed upon between the Contractor and NGPC prior to event.

2. Contractor Requirements
  - a. Contractor will be responsible for establishing food and beverage accounts with agencies and the public.
  - b. Provide a credit card machine(s) and point of sale cash register system at the Contractor's cost. Contractor will be responsible for repair, maintenance agreements, equipment modifications, programming, additional peripheral equipment, software and software updates and all fees and costs associated with use of the system they provide.
  - c. The contractor shall be fully and independently responsible for negotiating refunds or reimbursements with all clients for any scheduled events and activities that will not occur due to cancellation.
  - d. Contractor agrees to accept Park Bucks (NGPC produced and approved pre-paid vouchers) from all patrons. The Park Buck process will be further defined during the site visit/meeting. On a quarterly basis, the contractor will be reimbursed at a dollar-for-dollar rate by NGPC.

3. Bidder Requirements
  - a. Describe the acceptable methods of payment for meals or beverages.

Bidder Response:

- b. Describe the preferred system for processing payments and POS System management system.

Bidder Response:

**H. PROMOTIONS, MARKETING AND SPECIAL EVENTS**

- 1. State Provisions
  - a. NGPC will continue to focus their marketing on the whole State Park and its special events i.e. Valentine's Day Packet, cabins, lodge and camping, inclusive of the park food service options. All marketing activities of the contractor that reference the NGPC shall be reviewed for content, and approved, by NGPC, prior to public release.
- 2. Contractor Requirements
  - a. Contractor will not place any permanent signs, promotional posters, banners, or similar materials without first obtaining the NGPC's approval. Contractor will maintain any approved signs, posters, banners and keep in good condition and repair. All signs will be at the Contractor's expense.
  - b. Marketing and promotional efforts will be at the Contractor's expense.
  - c. The Contractor will meet jointly with the State Park Representative to discuss food service needs related to special events inclusive of wait staff, food, and beverage, including alcohol. The contractor will work closely and cooperatively with State Park Representative to facilitate special events and group events to meet and exceed customer expectations.
  - d. Host special annual events in conjunction with holidays and park sponsored events to promote "Making Memories in our Parks."
- 3. Bidder Requirements
  - a. Bidder must present a clear description of its proposed approach to working in conjunction with the park group functions department/staff for the scheduling and coordination of group events, relevant to the contractor's responsibilities.

Bidder Response:

- b. Provide examples of advertising and hosting for special events and annual holiday meals.

Bidder Response:

**I. FACILITY, EQUIPMENT AND SANITATION**

- 1. State Provisions
  - a. The Nebraska Game and Parks Commission, at its sole expense, shall maintain, in good condition and repair, the exterior and interior portions, including heating and ventilation systems, fume hoods and related ductwork of the food service facilities.
  - b. All repairs and replacements requested by the Contractor shall be equal in quality to original work and materials and be subject to the State's written approval.
  - c. Licensed Food Safety and Sanitation Inspection personnel and agents of the Nebraska Liquor Control Commission shall have complete cooperation and access to all food service production, serving and storage areas.
  - d. Maintenance beyond daily and routine tasks will be performed by the State.
  - e. A State representative will perform an inspection quarterly with surprise inspections as needed. Food safety inspections from the Nebraska Department of Agriculture Food Division need to be turned into the park within one week of the inspection.
  - f. Provide pest control prevention and maintenance within restaurant facility.

2. Contractor Requirements

- a. Contractor must maintain housekeeping and sanitation programs to meet the highest standards of cleanliness. The contractor will follow the Nebraska food code ([www.agr.ne.gov](http://www.agr.ne.gov)) to maintain a clean and safe environment. This includes but not limited to dining room, kitchen, service elevator, stairwell, storage areas, dock trash area, windows to the restaurant facility and restrooms in the restaurant facility. A master cleaning schedule and signature sheet, temperature logs for refrigeration, freezers, and food temperatures will be posted for documentation.
- b. The Contractor shall give the State Park Representative notice of the necessity for repairs as they come to the attention of the Contractor. Repairs needed because of acts of misuse or neglect by the Contractor, Contractor's employees, agents, invitees, shall be billed to the Contractor by the State.
- c. The Contractor shall be responsible for maintaining the food service facilities in as good condition as it exists at the commencement of this contract and maintaining them in a clean, orderly, and sanitary condition, free of insects, rodents, vermin, and other pests and comply with all applicable laws, rules, and regulations of the State of Nebraska.
- d. The Contractor, on a monthly basis will meet with the State Park Representative to jointly inspect equipment, review preventative maintenance schedules, and review equipment cleaning and maintenance practices of the contractor's staff. Maintenance requests must be made in writing; dated with description of problem.
- e. Provide all necessary cleaning supplies and cleaning equipment.
- f. Trash service area must be maintained, clean and free of debris at all times. Contractor shall provide the food service areas assigned to them with trash receptacles and liners and empty those receptacles daily, removing trash and debris from the food service area and placing it within receptacles located outside of the building. The State Park Representative shall coordinate refuse removal from the park at its expense.

3. Bidder Requirements

- a. Provide a schedule for user level maintenance of the equipment and of the restaurant facility, which describes the frequency, and type of cleaning the bidder intends to provide.

Bidder Response:
------------------

**J. BUILDINGS, UTILITIES, SUPPLIES, SPACE USE**

1. State Provisions

- a. Utilities to include gas, electricity, water, sewer, and refuse will be a 100% responsibility of NGPC.
- b. NGPC will supply contractor space, free of charge, as necessary to perform food service operations such as space for storage, preparation and service of food, dining, and office space.
- c. NGPC will have the kitchen and the hoods cleaned prior to contract start date.
- d. NGPC will make available to the contractor those items of capital equipment and non-expendable supplies currently inventoried, to be used for food service programs to include fixed and moveable equipment, expendable equipment, glassware, flatware, and chinaware. See Attachment C – Restaurant Inventory.
- e. NGPC will provide for maintenance and replacement of fixed, movable, and expendable equipment items at NGPC's expense. Replacement of the inventory items shall be made periodically, when appropriate, for efficient food service by the contractor. Equipment purchases will be subject to budget and made in compliance with NGPC authorized procurement procedures and timelines. Original equipment inventory is the property of the State of Nebraska and cannot be used as a trade-in toward the purchase of replacement equipment or disposed of without NGPC approval.
- f. Preventive measure maintenance programs and regular replacement of worn, damaged, or malfunctioning capital equipment and related facilities will be coordinated and paid by NGPC.
- g. Upon award of the contract NGPC will conduct an inventory inspection with the Contractor.
- h. At the conclusion of the contract, NGPC and the contractor will review the original inventory items listed. All capital equipment and non-expendable equipment will be returned to NGPC in as good condition as at the start of the contract or time of acquisition, subject to ordinary wear and tear.

- i. NGPC will not guarantee an uninterrupted supply of water, electricity, gas, telephone, internet, heat or air conditioning. The State will be diligent in restoring service following an interruption. NGPC will not be liable for any product loss or loss of profit which may result from the interruption or failure of any utility service or mechanical failure of equipment.

2. Contractor Requirements

- a. Contractor will be responsible for paying for phone service and phone equipment, point of sale equipment, internet, cable, and email accounts as needed.
- b. The contractor will be required to purchase or lease a dishwasher for daily cleaning of the food equipment inventory including chinaware, silverware, and glassware.
- c. The contractor shall provide for training of staff relevant to the proper use of all State provided equipment to avoid injury or mechanical failures.
- d. The contractor must ensure proper care and operation of the State's equipment per manufacturers specifications, and promptly report maintenance needs to the State Park Representative.
- e. All capital equipment and non-expendable equipment provided by the contractor shall be removed no later than thirty (30) days after expiration or termination date. However, the State may, at its option, require the contractor to remove at their cost or expense any additions, alterations, or improvements at the end of the contract term or any expiration or termination of the contract. Items remaining after thirty (30) days shall become property of the State of Nebraska.
- f. Contractor will implement energy conservation practices designed to control utility costs where practical.
- g. Contractor shall be solely responsible for all losses, damages, theft, vandalism, and breakage of equipment.

3. Bidder Requirements

- a. Any contractor equipment and/or furnishings requested to be placed in the restaurant facility shall be approved in advance by the State Park Representative. Please submit an anticipated list of potential equipment or furnishings.

Bidder Response:
------------------

**K. ADMINISTRATION**

1. State Provisions

- a. NGPC Administration and contractor shall meet at least quarterly to formally review service, pricing, and other operational issues.
- b. NGPC will assign a state representative to serve as a liaison between the state and contractor. Monthly meetings will be held to keep regular communications between the State and contractor. The State and contractor may meet more often upon request of either party.

2. Contractor Requirements

- a. Provide the following reports to State Representative
  - i. Guest count and number of meals served
  - ii. Customer Comment Cards or similar documents.
  - iii. Copies of Food Safety and Sanitation inspections or related inspections, food temperature logs and related documents.
  - iv. Equipment concerns and replacement needs.
  - v. Uncollected accounts
  - vi. Profit and Loss
  - vii. Income and Expense Reports with Gross and Net Sales broken down as follows:
    - 1. Dining Room
    - 2. Alcohol
    - 3. Bar Sales
    - 4. Catered Sales (if applicable)
    - 5. Tax and non-tax sales
    - 6. Special Event Sales

- b. Report above shall be submitted by the 10th day of the month following. Additional reports may be requested by the State. All documents submitted to the State or the State Park Representative shall be considered as public documents.
- c. The contractor must provide a way for the customers to submit comments. Customer comment cards, website survey and secret shoppers are examples of receiving customer feedback. Feedback should be submitted to the State Park Representative monthly for review.
- d. Maintain public records consistent with public record laws.
- e. The State may request additional monthly reports or operational reports to comply with information requests.
- f. Have in place in writing standard operation procedures and keep them update as needed. Identification of two contractor representatives as a point of contact and phone numbers and emails are required. The representatives will need to be in a decision-making role.

3. Bidder Requirements

- a. Provide an example of Income and Expense reports as defined in K.2.a.vii.1-6:

Bidder Response:

**L. DELIVERABLES**  
Per Cost Proposal.

## VI. PROPOSAL INSTRUCTIONS

This section documents the requirements that should be met by bidders in preparing the Technical and Cost Proposal. Bidders should identify the subdivisions of "Project Description and Scope of Work" clearly in their proposals; failure to do so may result in disqualification. Failure to respond to a specific requirement may be the basis for elimination from consideration during the State's comparative evaluation.

Proposals are due by the date and time shown in the Schedule of Events. Content requirements for the Technical and Cost Proposal are presented separately in the following subdivisions: format and order:

### A. PROPOSAL SUBMISSION

#### 1. CORPORATE OVERVIEW

The Corporate Overview section of the Technical Proposal should include a bidder response in each response box:

##### a. BIDDER IDENTIFICATION AND INFORMATION

The bidder should provide the full company or corporate name, address of the company's headquarters, entity organization (corporation, partnership, proprietorship), state in which the bidder is incorporated or otherwise organized to do business, year in which the bidder first organized to do business and whether the name and form of organization has changed since first organized.

Bidder Response:

##### b. FINANCIAL STATEMENTS

The bidder should provide financial statements applicable to the firm. If publicly held, the bidder should provide a copy of the corporation's most recent audited financial reports and statements, and the name, address, and telephone number of the fiscally responsible representative of the bidder's financial or banking organization.

Bidder Response:

If the bidder is not a publicly held corporation, either the reports and statements required of a publicly held corporation, or a description of the organization, including size, longevity, client base, areas of specialization and expertise, and any other pertinent information, should be submitted in such a manner that proposal evaluators may reasonably formulate a determination about the stability and financial strength of the organization. Additionally, a non-publicly held firm should provide a banking reference.

The bidder must disclose any and all judgments, pending or expected litigation, or other real or potential financial reversals, which might materially affect the viability or stability of the organization, or state that no such condition is known to exist.

The State may elect to use a third party to conduct credit checks as part of the corporate overview evaluation.

##### c. CHANGE OF OWNERSHIP

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, the bidder should describe the circumstances of such change and indicate when the change will likely occur. Any change of ownership to an awarded bidder(s) will require notification to the State.

##### d. OFFICE LOCATION

The bidder's office location responsible for performance pursuant to an award of a contract with the State of Nebraska should be identified.

Bidder Response:

**e. RELATIONSHIPS WITH THE STATE**

The bidder should describe any dealings with the State over the previous ten (10) years. If the organization, its predecessor, or any Party named in the bidder's proposal response has contracted with the State, the bidder should identify the contract number(s) and/or any other information available to identify such contract(s). If no such contracts exist, so declare.

Bidder Response:

**f. BIDDER'S EMPLOYEE RELATIONS TO STATE**

If any Party named in the bidder's proposal response is or was an employee of the State within the past twelve (12) months, identify the individual(s) by name, State agency with whom employed, job title or position held with the State, and separation date. If no such relationship exists or has existed, so declare.

Bidder Response:

If any employee of any agency of the State of Nebraska is employed by the bidder or is a subcontractor to the bidder, as of the due date for proposal submission, identify all such persons by name, position held with the bidder, and position held with the State (including job title and agency). Describe the responsibilities of such persons within the proposing organization. If, after review of this information by the State, it is determined that a conflict of interest exists or may exist, the bidder may be disqualified from further consideration in this proposal. If no such relationship exists, so declare.

Bidder Response:

**g. CONTRACT PERFORMANCE**

If the bidder or any proposed subcontractor has had a contract terminated for default during the past five (5) years, all such instances must be described as required below. Termination for default is defined as a notice to stop performance delivery due to the bidder's non-performance or poor performance, and the issue was either not litigated due to inaction on the part of the bidder or litigated and such litigation determined the bidder to be in default.

It is mandatory that the bidder submit full details of all termination for default experienced during the past five (5) years, including the other Party's name, address, and telephone number. The response to this section must present the bidder's position on the matter. The State will evaluate the facts and will score the bidder's proposal accordingly. If no such termination for default has been experienced by the bidder in the past five (5) years, so declare.

If at any time during the past five (5) years, the bidder has had a contract terminated for convenience, non-performance, non-allocation of funds, or any other reason, describe fully all circumstances surrounding such termination, including the name and address of the other contracting Party.

Bidder Response:

**h. SUMMARY OF BIDDER'S CORPORATE EXPERIENCE**

The bidder should provide a summary matrix listing the bidder's previous projects similar to this Request for Proposal in size, scope, and complexity. The State will use no more than three (3) narrative project descriptions submitted by the bidder during its evaluation of the proposal.

The bidder should address the following:

- i. Provide narrative descriptions to highlight the similarities between the bidder's experience and this Request for Proposal. These descriptions should include:

- a) The time period of the project,
  - b) The scheduled and actual completion dates,
  - c) The bidder's responsibilities,
  - d) For reference purposes, a customer name (including the name of a contact person, a current telephone number, a facsimile number, and e-mail address); and
  - e) Each project description should identify whether the work was performed as the prime Contractor or as a subcontractor. If a bidder performed as the prime Contractor, the description should provide the originally scheduled completion date and budget, as well as the actual (or currently planned) completion date and actual (or currently planned) budget.
- ii. Bidder and Subcontractor(s) experience should be listed separately. Narrative descriptions submitted for Subcontractors should be specifically identified as subcontractor projects.
  - iii. If the work was performed as a subcontractor, the narrative description should identify the same information as requested for the bidders above. In addition, subcontractors should identify what share of contract costs, project responsibilities, and time period were performed as a subcontractor.

Bidder Response:

**i. SUMMARY OF BIDDER'S PROPOSED PERSONNEL/MANAGEMENT APPROACH**

The bidder should present a detailed description of its proposed approach to the management of the project.

The bidder should identify the specific professionals who will work on the State's project if their company is awarded the contract resulting from this Request for Proposal. The names and titles of the team proposed for assignment to the State project should be identified in full, with a description of the team leadership, interface and support functions, and reporting relationships. The primary work assigned to each person should also be identified.

The bidder should provide resumes for all personnel proposed by the bidder to work on the project. The State will consider the resumes as a key indicator of the bidder's understanding of the skill mixes required to carry out the requirements of the Request for Proposal in addition to assessing the experience of specific individuals.

Resumes should not be longer than three (3) pages. Resumes should include, at a minimum, academic background and degrees, professional certifications, understanding of the process, and at least three (3) references (name, address, and telephone number) who can attest to the competence and skill level of the individual. Any changes in proposed personnel shall only be implemented after written approval from the State.

Bidder response should include but not be limited to: food service director/manager as director of its food operations. The food director assigned should have experience in the operation of cafeteria service. It is preferred that the food director have a (1) food service background to include prepping food and management, (2) business experience in accounting and marketing, (3) supervision and scheduling experience and (4) good communication skills. The primary work assigned should also be identified.

**j. SUBCONTRACTORS**

If the bidder intends to subcontract any part of its performance hereunder, the bidder should provide:

- i. name, address, and telephone number of the subcontractor(s),
- ii. specific tasks for each subcontractor(s),
- iii. percentage of performance hours intended for each subcontract; and
- iv. total percentage of subcontractor(s) performance hours.



Bidder Response:

**2. TECHNICAL APPROACH**

The technical approach section of the Technical Proposal should consist of the following subsections:

- a.** Proposed Menu.
- b.** Hours of Operation.
- c.** Training Plan for Restaurant Employees.

**Form A**  
**Bidder Proposal Point of Contact**  
**Request for Proposal Number 6790 Z1**

Form A should be completed and submitted with each response to this Request for Proposal. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response.

Preparation of Response Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

Each bidder should also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	
Bidder Address:	
Contact Person & Title:	
E-mail Address:	
Telephone Number (Office):	
Telephone Number (Cellular):	
Fax Number:	

**Form B**  
**Bidder Check List for RFP Submission**  
**Request for Proposal Number 6790 Z1**

Form B should be used as a check list to ensure completion and submission of RFP documents. Documents should be uploaded as Word or ADOBE PDF.

1. Original Request for Proposal for Contractual Services form signed manually in ink or by DocuSign to include with proposal submission.
  - a. Page 40 Bidder Proposal Point of Contact Form A
  - b. Page 42 Request for proposal for contractual services form
2. Completed Section II Terms and Conditions to be included with proposal submission.
  - a. Initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language.
3. Completed Section III Contractor Duties to be included with proposal submission.
  - a. Initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language.
4. Completed Section IV Payment to be included with proposal submission.
  - a. Initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language.
5. Completed Section V Project Description and Scope of Work to be included with proposal submission.
  - a. Bidders should provide a response in each "Bidder Response" box
6. Completed Section VI Corporate Overview to be included with proposal submission.
  - a. Bidders should provide a response in each "Bidder Response" box.
7. Completed Technical Approach to be included with proposal submission.
  - a. Provide any documents requested throughout sections II through VI including but not limited to the following examples:
    - i. Proposed Menu.
    - ii. Hours of Operation.
    - iii. Training Plan for Restaurant Employees.
8. Completed Cost Proposal document provided as a separate attachment to be included with proposal submission.

## REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

### BIDDER MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the procedures stated in this Request for Proposal and agrees to the terms and conditions unless otherwise indicated in writing, certifies that contractor maintains a drug free workplace, and certifies that bidder is not owned by the Chinese Communist Party.

Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat § 73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska Contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

\_\_\_\_\_ NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this Solicitation.

\_\_\_\_\_ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. § 73-107 and wish to have preference, if applicable, considered in the award of this contract.

\_\_\_\_\_ I hereby certify that I am a blind person licensed by the Commission for the Blind & Visually Impaired in accordance with Neb. Rev. Stat. § 71-8611 and wish to have preference considered in the award of this contract.

### FORM MUST BE SIGNED MANUALLY IN INK OR BY DOCUSIGN

BIDDER:	
COMPLETE ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	
DATE:	
SIGNATURE:	
TYPED NAME & TITLE OF SIGNER:	