

CATERING AGREEMENT

This Agreement is entered into by and between the CITY OF SAN ANGELO, a Texas home rule municipal corporation, acting by and through its duly authorized Civic Events Manager ("City" herein), and _____, a Texas _____, whose address is _____, _____, whose address is _____, acting by and through its _____ ("Caterer" herein). In consideration of the mutual covenants and agreements contained herein, the parties mutually agree as follows:

ARTICLE 1. PERFORMANCE BY CITY OF SAN ANGELO

City agrees that:

- 1.1 The Civic Events Manager on Duty ("MOD" herein) will perform a walk-through inspection of the public facility that Caterer will be using ("Facility" herein) with Caterer prior to the event for which Caterer is retained to furnish food, beverage and service for a fee, whether such fee is in-cash or in-kind ("Event" herein).
- 1.2 During the walk-through inspection, MOD and Caterer will review the current list of items owned by City and available for use by Caterer, and City will prepare a written list of such items ("Inventory" herein).
- 1.3 The Facility will be available to Caterer at reasonable times for the purposes of setting up for, supplying and cleaning up after Event.
- 1.4 City will provide suitable types and numbers of trash dumpsters at the Facility.
- 1.5 City will provide access to an ice machine at the Convention Center and Coliseum Facilities.

ARTICLE 2. PERFORMANCE BY CATERER

Caterer agrees that:

- 2.1 Caterer will pay ten percent (10%) of the gross catering bill to City.
 - 2.1.1 Caterer shall give City's Civic Events Division a copy of the customer's invoice within five (5) business days of the date of the Event and shall pay the amount owed to City within thirty (30) days of Event.
 - 2.1.2 Payments received after thirty (30) days shall be assessed a late fee of twenty-five dollars (\$25.00) per day.
 - 2.1.3 If payment of all charges and late fees are not received after thirty (30) days of the Event, this Agreement shall terminate, and Caterer shall not be allowed to cater events at City facilities until restitution is made and a new Agreement is executed.

- 2.2 OMITTED.
- 2.3 Caterer will possess a valid food services permit from the San Angelo-Tom Green County Health Department and present City's Civic Events Division with a copy of said valid permit on an annual basis, and as otherwise requested by City. Caterer shall not be allowed to cater at any City venue without a valid food services permit.
- 2.4 OMITTED.
- 2.5 Caterer is responsible for cleaning the kitchen and/or food staging area as per the Cleaning Checklist attached hereto as Exhibit "A".
 - 2.5.1 Cleaning Checklist and kitchen and/or food staging areas will be reviewed by MOD and Caterer for compliance before Caterer leaves Facility.
- 2.6 Caterer will pay for broken or missing City-owned property per the Inventory from the pre-Event walk-through inspection.
 - 2.6.1 Inventory and Facility will be reviewed by MOD and Caterer for compliance before Caterer leaves Facility.
- 2.7 Caterer will bag all kitchen and/or food staging area trash and place it in dumpsters provided by City before leaving Facility.
- 2.8 Caterer shall carry Indemnification and Insurance Coverages attached hereto as Exhibit "B", and provide evidence of same to City on an annual basis, and as otherwise requested by City. Caterer shall not be allowed to cater any Event in a City venue without proof of current coverage under this Subsection.

ARTICLE 3. MISCELLANEOUS

- 3.1 Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties to the Agreement and their respective successors and assigns, provided, however, this Agreement shall not be assigned without the written consent of City.
- 3.2 Duration. This Agreement shall begin on _____, and shall remain in force and effect for a period of one (1) year from the date of execution of this Agreement. Either party may terminate this Agreement by giving the other party at least thirty (30) days written notice prior to the date of such termination.

Approved by City Council, March 17, 2009

- 3.2.1 Except as set forth in Section 3.2.2 hereinbelow, either party may terminate this Agreement if a breach occurs by giving the other party notice of the breach and five (5) days to cure such breach. If the breach is not cured within such time period, this Agreement shall terminate at the end of such time period without further action on the part of the terminating party provided, however, termination for non-payment of fees shall be as set out in Section 2.1.3.
- 3.2.2 City may immediately terminate this Agreement upon failure of Caterer to provide City with proof of a valid health department permit as set forth in Section 2.3

hereinabove, or provide proof of current insurance as required under Section 2.8 hereinabove.

- 3.3 Interpretation/Venue. This Agreement shall be construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tom Green County, Texas.
- 3.4 Compliance with Laws. Both parties agree to comply with all applicable statutes, ordinances and regulations of the United States, the State of Texas and the City of San Angelo. Caterer shall not use or permit the use of Facilities in any manner that result in waste of Facilities or constitutes a nuisance. Caterer shall not use or permit the use of Facilities for any illegal purpose.
- 3.5 Invalid or Illegal Provisions. If any provision of this Agreement is held invalid as to any person, entity or set of circumstances, such holding shall not affect the validity of any remaining provision of this Agreement or any provision's application to other persons not similarly situated or to other circumstances.
- 3.6 Relationship of Lessor and Caterer. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the parties or construed as designating Caterer an agent of City or authorizing Caterer to create any financial obligation for City.
- 3.7 Notices. Any formal notice required or permitted under this Agreement shall be deemed sufficiently given if it is in writing and personally delivered or deposited in the United States mail, postage prepaid and sent by registered or certified mail (return receipt requested) to the party to whom said notice is to be given. Until changed by written notice given by one party to the other, the addresses of the parties shall be as follows:

FOR THE CITY: CITY OF SAN ANGELO
 Attn: Civic Events Manager
 P.O. Box 1751
 San Angelo, TX 76903
 (325) 653-9577 (325) 481-2849 FAX

FOR CATERER:

Name

Address

City, State, Zip

Contact Person

Telephone number Fax Number

DATED this the ____ day of _____, _____.

CITY OF SAN ANGELO, TEXAS

By: _____

Printed Name: _____
Civic Events Manager

Name of Caterer

By: _____

Printed Name: _____
Title: _____

EXHIBIT "A"

1. Clean and clear all sink and food prep areas.
2. Remove all food from refrigerators, ovens, cold and hot boxes.
3. Clean refrigerator, ovens, cold and hot boxes.
4. Clean all food carts.
5. Clean all counter tops.
6. Clean all dishes, cups, glasses, cutlery, crockery, and other equipment and store all in the proper location.
7. Fold unused linen and store in the proper location.
8. Place dirty linens in the laundry bin.
9. Empty all trash and place in dumpster outside of building.
10. Sweep and mop floor.

EXHIBIT "B"

INDEMNIFICATION AND INSURANCE COVERAGES

1. Indemnification.

- 1.1 General Indemnification. Caterer agrees to indemnify, defend and hold City, its councilmembers, officials, agents, guests, invitees, consultants and employees free and harmless from and against any and all claims, demands, proceedings, suits, judgments, costs, penalties, fines, damages, losses, attorneys' fees and expenses asserted by any person or persons, including agents or employees of Caterer or City, by reason of death or injury to persons, or loss or damage to property, resulting from or arising out of, the violation of any law or regulation or in any manner attributable to any act of commission, omission, negligence or fault of Caterer, its agents or employees, or the joint negligence of Caterer and any other entity as a consequence of its execution or performance of this Agreement or sustained in or upon the premises, or as a result of anything claimed to be done or admitted to be done by Caterer hereunder. This indemnification shall survive the term of this Agreement as long as any liability could be asserted.
- 1.2 Prospective Application. Any and all indemnity provided for in this Agreement shall survive the expiration of this Agreement and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Agreement but thereafter so long as any liability (including but not limited to liability for closure and post closure costs) could be asserted in regard to any acts or omissions of Caterer in performing under this Agreement.
- 1.3 Retroactive Application. The indemnity provided for in this Agreement shall extend not only to claims and assessments occurring during the term of this Agreement but retroactively to claims and assessments which may have occurred during the term of previous agreements between City and Caterer.

2. Insurance.

- 2.1 General Conditions. The following conditions shall apply to all insurance policies obtained by Caterer for the purpose of complying with this Agreement.
 - 2.1.1 Satisfactory Companies. Coverage shall be maintained with insurers and under forms of policies satisfactory to City and with insurers licensed to do business in Texas.
 - 2.1.2 Named Insureds. All insurance policies required herein shall be drawn in the name of Caterer, with City, its councilmembers, officials, agents, and employees named as additional insureds, except on Workers' Compensation coverage.
 - 2.1.3 Waiver of Subrogation. Caterer shall require its insurance carrier(s), with respect to all insurance policies, to waive all rights of subrogation against City, its councilmembers, officials, agents, and employees.

2.1.4 Certificates of Insurance. At or before the time of execution of this Agreement, Caterer shall furnish City's Risk Manager with certificates of insurance as evidence that all of the policies required herein are in full force and effect and provide the required coverages and limits of insurance. All certificates of insurance shall clearly state that all applicable requirements have been satisfied. The certificates shall provide that any company issuing an insurance policy shall provide to City not less than thirty (30) days advance notice in writing of cancellation, non-renewal or material change in the policy of insurance. In addition, Caterer and insurance company shall immediately provide written notice to City's Risk Manager upon receipt of notice of cancellation of any insurance policy, or of a decision to terminate or alter any insurance policy. Certificates of insurance and notices of cancellations, terminations or alternations shall be furnished to City's Risk Manager at City Hall, 72 West College or P.O. Box 1751, San Angelo, Texas 76903.

2.2 Types and Amounts of Insurance Required. Caterer shall obtain and continuously maintain in effect at all times during the term hereof, at Caterer's sole expense, insurance coverages as follows with limits not less than those set forth below:

2.2.1 Commercial General Liability. This policy shall be an occurrence-type policy, written in comprehensive form and shall protect the Caterer and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than the Caterer's employees) and damage to property of the City or others arising out of the act or omission of the Caterer or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Caterer under the paragraph of this Agreement entitled "Indemnification", completed operations, products liability, contractual coverage, broad form property coverage, explosion, collapse, underground, premises/operations, and independent contractors (to remain in force for two years after final payment). Coverage shall be as follows:

\$1,000,000.00	General Aggregate
\$ 500,000.00	Products- Completed Operations Aggregate
\$ 500,000.00	Personal & Advertising Injury
\$ 500,000.00	Each Occurrence
\$ 100,000.00	Fire Damage (any one fire)

2.2.2 Business Automobile Liability. This policy shall be written in comprehensive form and shall protect Caterer and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the premises of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired. Coverage shall be as follows:

\$500,000.00 Combined Single Limit

2.2.3 Workers' Compensation and Employer's Liability. This insurance shall protect Caterer and the additional insureds against all claims under applicable workers' compensation laws. The insured shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of a workers' compensation law. Coverage shall be as follows:

Statutory Amount	Workers' Compensation
\$100,000.00	Employer's Liability, Each Accident
\$500,000.00	Employer's Liability, Disease - Policy Limit
\$100,000.00	Employer's Liability, Disease - Each Employee

The foregoing requirement will not be applicable if, and so long as, Caterer qualifies as a self-insurer under the rules and regulations of the commission or agency administering the workers' compensation program in Texas and furnishes evidence of such qualification to City in accordance with the notice provisions of this agreement.