

REQUEST FOR PROPOSAL

**For the Management and Operation of Event Planning and Catering at
the Fairmount Park Horticulture Center**

Issued By:



ADDENDUM # 1

Dated: January 26, 2010

**It is the sole responsibility of the Respondent to ensure it has received
all addenda to the Request For Proposals.**

The Fairmount Park Conservancy's Request for Proposals for

**The Management and Operation of Event
Planning and Catering at the Fairmount Park
Horticulture Center**

is amended as set forth in three parts below. Except as expressly amended by this Addendum # 1, the RFP is unchanged.

Except as otherwise defined in this Addendum #1, capitalized words and phrases used in this Addendum # 1 have the meanings assigned to them in the RFP.

Part 1

1.1 In accordance with the RFP, the Fairmount Park Conservancy conducted a mandatory Pre-Proposal Meeting at the Horticulture Center on December 22, 2009. At the meeting, attendees asked questions about the RFP and the Horticulture Center. Also, some potential Respondents submitted questions in writing to the Fairmount Park Conservancy. This Addendum # 1 incorporates into the RFP questions from the Pre-Proposal Meeting and questions submitted to the Conservancy in writing and the Conservancy's answer to each question.

Question No. 1: What are the reasons the City closed the Horticulture Center to events in the past, and how will you address those reasons in the future?

Conservancy Answer: Parks and Recreation officials explained to Conservancy officials that the City discontinued permitting events in the Horticulture Center in 2006 because the City did not have the needed staff to schedule and plan events. Under the proposed Concession, the Concessionaire shall manage all scheduling and event planning for each event held at the Horticulture Center, which will relieve Parks and Recreation staff of those responsibilities.

Question No. 2: Will the Concessionaire be asked to cater the Conservancy's event on April 21, 2010?

Conservancy Answer: Yes. Assuming the Concession Agreement is completed before then, the Concessionaire will be asked to cater the Conservancy's event on April 21, 2010, as a way of showcasing the Horticulture Center and the Concessionaire's offerings and quality to the City.

Question No. 3: What is the budget for the April event?

Conservancy Answer: The Conservancy's total expense budget for its April event at the Horticulture Center is \$90,000.

Question No. 4: What is the estimated cost of the renovations listed in Section 6.10.1 of the RFP?

Conservancy Answer: The estimated cost of the renovations listed in Section 6.10.1 of the RFP is \$140,000. Those costs do not include “soft costs” (for example, the cost for designs) or costs for the other infrastructure improvements identified in the handout distributed at the Mandatory Pre-Proposal Meeting.

Question No. 5: Will the Concessionaire have the sole right to make appointments, schedule tours, and sign rental agreements at the Horticulture Center, all without a representative of the Conservancy being present?

Conservancy Answer: Yes, the Concessionaire will have the sole right to schedule appointments, tours, and sign rental agreements with clients renting the Horticulture Center. The Concession Agreement does not require that the Conservancy be present for any of those activities, but if the Concessionaire requests the Conservancy’s assistance the Conservancy’s staff is prepared to assist as it reasonably can.

Question No. 6: May the Concessionaire use the meeting room in the Building to meet with clients?

Conservancy Answer: Yes, the Concessionaire may use the Building’s meeting room to meet with clients as long as the meeting room is not already scheduled for an event or other use. In addition, as set forth in Section 3.3.1.1 of the RFP, the Concessionaire may use the meeting room for events, subject to prior approval by the Conservancy and the Commissioner of Parks and Recreation. The Concessionaire shall communicate with the Horticulture Center staff to determine the availability of the meeting room. (See Section 3.2.3 of the RFP regarding the Concessionaire’s additional obligations to communicate with the Conservancy and City.)

Question No. 7: How much detail or information is the Concessionaire required to provide in its monthly Accounting Reports?

Conservancy Answer: The Concessionaire shall cause the Accounting Reports to be revenue oriented and to highlight the previous month’s activity levels at the Horticulture Center. For example, without limitation, the Concessionaire shall include in each Accounting Report the following information about the previous month: (1) detailed records of the Concessionaire’s receipt of fees, deposits, and other revenue, (2) the Concessionaire’s payments due to the Conservancy based on its receipt of fees and deposits and other revenue, (3) general information concerning each catered event at the Horticulture Center, (4) total costs incurred by each of the Concessionaire’s clients (for example, each client’s rental payments and other payments to the Concessionaire to produce the client’s event) and (5) the Concessionaire’s new bookings. (See Section 3.20.2 of the RFP for the Concessionaire’s additional obligations regarding the Accounting Reports.)

Question No. 8: What is the first available day for catered events at the Horticulture Center?

Conservancy Answer: The Conservancy intends to permit the Concessionaire to begin hosting catered events at the Horticulture Center by April 2010. The exact time the Concessionaire may begin hosting events at the Horticulture Center will depend on how quickly the Concessionaire and Conservancy sign the Concession Agreement.

Question No. 9: Are the Commencement Date and Concession Agreement Ending Date based on a calendar year?

Conservancy Answer: No, the Commencement Date and Concession Agreement Ending Date follow the provisions set forth in Section 3.1 of the RFP.

Question No. 10: When the Concession Agreement is signed, will the Conservancy publicly announce that the Horticulture Center is available for catered, special events?

Conservancy Answer: Yes, the Conservancy intends to work with the Concessionaire to schedule a public announcement of the reopening of the Horticulture Center for catered, special events.

Question No. 11: Why is the Conservancy offering only a year-to-year Concession Agreement? One year does not appear to justify the capital investment the Conservancy requires.

Conservancy Answer: The Conservancy is offering a year-to-year Concession Agreement for two reasons. First, the City's Home Rule Charter imposes limitations on multi-year contracts and, consequently, the Conservancy will itself have only a year-to-year agreement with the City. The Conservancy may be able to obtain approvals for a multi-year agreement with the City, but the process for doing so could not be completed before the proposed beginning of the Concession Agreement.

Second, a year-to-year Concession Agreement will allow both the Concessionaire and Conservancy to ensure that their business relationship is satisfactory to each of them before entering into a long-term commitment.

As currently structured, the proposed Concession Agreement would permit the Conservancy to renew the agreement for additional years. If the Conservancy is fully satisfied with the Concessionaire's performance, the Conservancy may exercise one or more of those renewals in the first year of the Concession Agreement.

Question No. 12: May the Concessionaire book events to occur after the end of the Initial Term, or the end of any Renewal Term, and may the Concessionaire cater those events?

Conservancy Answer: Yes. The Conservancy understands that some catered

events are planned more than a year in advance. Accordingly, under the Concession Agreement, the Concessionaire may book events beyond the end of the Initial Term and, if it does, the Concessionaire shall cater those events and be fully responsible for them.

If the Conservancy renews the Concession Agreement for one or more Renewal Terms, the Concessionaire may book events beyond the end of each respective Renewal Term and, if it does, the Concessionaire shall cater those events and be fully responsible for them.

Despite the Concession Agreement Ending Date, the Concessionaire is solely responsible for fulfilling all its obligations under the contracts it signs with each of its clients, suppliers, and other third parties.

Question No. 13: Does the catering firm at the Please Touch Museum have a similar, short-term contractual arrangement with the Please Touch Museum at Memorial Hall?

Conservancy Answer: Conservancy officials do not know the term of the catering agreement at the Please Touch Museum in Memorial Hall. The Please Touch Museum has a long-term lease agreement to use Memorial Hall, which would enable the museum to enter into a long-term concession agreement.

Question No. 14: The first year of operation seems like it will be a wash. It will also be difficult to book events during the second year of operation (the first “Renewal Term”) because there is no guarantee that the Conservancy will renew the Concession Agreement. How can the proposed Concession Agreement work economically for the Concessionaire, particularly in terms of building up business at the Horticulture Center?

Conservancy Answer: Conservancy officials believe that the Horticulture Center will be in great demand in its first year of operation, despite the relatively short advance booking time. As explained in the Conservancy’s answer to Question No. 11, the Concessionaire may book events beyond the end of the Initial Term and each Renewal Term and, if it does, the Concessionaire shall cater those events. In addition, as explained in the Conservancy’s answer to Question No. 11, if the Conservancy is fully satisfied with the Concessionaire’s performance, the Conservancy may exercise its right to renew the Concession Agreement for one or more Renewal Terms even before the end of the Initial Term.

Question No. 15: Appendix 4 of the RFP lists specific events planned by the City or Conservancy along with their scheduled dates and times. How long in advance will the Conservancy give notice to the Concessionaire of an event that the Conservancy or City schedules at the Horticulture Center?

Conservancy Answer: The Concessionaire will use its good faith efforts to give at least 90 days advance notice to the Concessionaire of events that the Conservancy and City schedule at the Horticulture Center. The Concessionaire shall communicate with the Conservancy regularly and in good faith to inform the

Conservancy of the Concessionaire's bookings and to inquire about any events that the Conservancy or City have scheduled.

Question 16: May the Conservancy and City disapprove the Respondent's Capital Improvements plan, which would cause the Concessionaire's Initial Term Capital Investment to be dedicated instead to the City Capital Improvements plan?

Conservancy Answer: Yes, under Section 6.10.2 of the RFP, the Conservancy and the City may disapprove of the Respondent's Capital Improvements plan. Under RFP Section 6.10.2.3., that disapproval would cause the Concessionaire's Initial Term Capital Investment to be invested in the City Capital Improvements plan.

Question No. 17: If the Conservancy and City are not satisfied with the Respondent's Capital Improvements plan, may the Respondent submit a revised plan?

Conservancy Answer: Yes, if the Conservancy selects a Respondent to complete the Concession Agreement but disapproves the Respondent's Capital Improvements plan, that Respondent may resubmit a Respondent Capital Improvements plan for the Conservancy and City to review.

Question No. 18: Does the Building's preparation area have a grease trap?

Conservancy Answer: Yes. The City Capital Improvements plan provides, however, for the addition of a hand sink and a new three-compartment sink with a grease trap in the preparation area.

Question No. 19: Is the preparation area served by both public water and sewer?

Conservancy Answer: Yes.

Question No. 20: Is the Department of Parks and Recreation implementing "Integrated Pest Management" at the Horticulture Center?

Conservancy Answer: Yes. Parks and Recreation officials have informed the Conservancy that they anticipate completing the implementation by the end of March 2010.

Question No. 21: What is the temperature of the Horticulture Center during the months of July and August?

Conservancy Answer: Parks and Recreation officials have informed Conservancy officials that the Horticulture Center Building may reach temperatures of 90 to 95 degrees Fahrenheit during July and August on extremely hot days. By 7:00 p.m. or 8:00 p.m. on those days, the temperature can drop to 80 degrees Fahrenheit.

Question No. 22: Since the Conservancy emphasizes that the Concessionaire shall comply with all City rules and regulations, has anyone from the City's Department of Licenses and Inspections inspected the Horticulture Center recently to discuss food preparation regulations?

Conservancy Answer: Yes. Parks and Recreation officials informed the Conservancy that on January 19, 2010, officials from the City's Department of Licenses and Inspections inspected the Horticulture Center, together with officials of the City's Health Department and Fire Department.

Question No. 23: Do the Horticulture Center's emergency exits comply with building and fire code requirements?

Conservancy Answer: Yes, according to Parks and Recreation officials, the Department of Licenses and Inspections approved the Horticulture Center's emergency exits after inspecting them in 2003. During the Department of Licenses and Inspections site inspection on January 19, 2010 (See Question No. 22 above and the Conservancy's answer to it), a representative of the Department of Licenses and Inspections said that a few of the emergency exit signs need new bulbs. Parks and Recreation have told the Conservancy they will install new bulbs in the fixtures.

Question No. 24: Does the Horticulture Center's food preparation comply with City of Philadelphia health code requirements?

Conservancy Answer: Parks and Recreation officials informed the Conservancy that the City officials who inspected the Horticulture Center on January 19, 2010 (see Question No. 22 above and the Conservancy's answer to it), found only minor needs for corrections. Parks and Recreation officials informed Conservancy officials that the department intends to resolve those matters as part of the City Capital Improvements plan.

Question No. 25: What are the available levels of electrical power in the preparation area?

Conservancy Answer: The Conservancy believes that there is sufficient electrical power in the Horticulture Center Building to support catered events. The Building was used for catering in the past, and no Conservancy official is aware of any report that electrical power in the Building was insufficient. Parks and Recreation officials have informed the Conservancy that, at the request of the Concessionaire, the City would install 220 volt service outlets at strategic locations.

Question No. 26: May the Concessionaire use an open flame in the preparation area without a hood system?

Conservancy Answer: Yes, subject to legal requirements. The Philadelphia Code allows for the use of an open flame under certain conditions and upon the Department of Licenses and Inspections' approval of an "Affidavit of Restricted Use." At the site inspection on January 19, 2010 (see Question No. 22 above and the Conservancy's answer to it), a representative of the Department of Licenses and Inspections recommended that Parks and Recreation apply for an Affidavit of Restricted Use that would permit use of an open flame in the preparation area. Parks and Recreation officials have informed the Conservancy that, if the Concessionaire asks to use an open flame in the preparation area, Parks and Recreation will apply for approval of an Affidavit of Restricted Use.

Question No. 27: Does the Concessionaire have exclusive use of the Horticulture Center Building's storage space?

Conservancy Answer: No, Parks and Recreation officials have informed the Conservancy that Parks and Recreation may need to use a portion of the storage space from time to time. Nevertheless, the Concessionaire may use most of the storage space throughout the Term of the Concession Agreement.

Question No. 28: Will the Concessionaire be obligated or permitted to install permanent cooking fixtures in the preparation area, such as gas lines or a hooded exhaust system?

Conservancy Answer: The Concessionaire is not obligated to install cooking fixtures, but the Conservancy would entertain a Respondent's Capital Improvements plan to install cooking fixtures. The Conservancy's approval would be subject to Parks and Recreation's approval.

Question No. 29: Will the Concessionaire be obligated to have someone available at the Horticulture Center during business hours to conduct tours and open houses of the facility?

Conservancy Answer: No, the Concessionaire is not obligated to have staff at the Horticulture Center to conduct tours or open houses during normal business hours, although the Concessionaire may do so if it chooses to. The Concessionaire may arrange to meet prospective clients at the Horticulture Center. The Conservancy will instruct Horticulture Center staff to refer walk-in prospective clients to the Concessionaire. The Concessionaire shall coordinate with Horticulture Center staff to provide tours and open houses at the Horticulture Center during business and non-business hours. The Concessionaire shall obtain the prior approval of the Conservancy and the City before conducting each tour and open house during non-business hours.

Question No. 30: Is the caterer required to purchase a liquor license?

Conservancy Answer: Under Section 3.14.2 of the RFP, the Concessionaire or its sub-licensees, contractors, or subcontractors, may serve alcoholic beverages in or at the Horticulture Center solely for private events. It is a condition precedent to the right of the Concessionaire and its sub-licensees, contractors and subcontractors that serve alcoholic beverages at the Horticulture Center that they have obtained all permits and licenses required under Applicable Laws for the serving of alcoholic beverages.

Question No. 31: Will the Conservancy accept a Proposal from a “consortium” of perhaps three companies, each with different price points from the others, but working together to meet the diverse needs of future clients?

Conservancy Answer: Yes, a Respondent may be a joint venture, partnership, or other form of legal arrangement between two or more firms, as long as the Respondent can meet the RFP’s and Concession Agreement’s requirements.

Question No. 32: May a respondent enter into subcontracts to help the Respondent meet the RFP’s and Concession Agreement’s requirements?

Conservancy Answer: Yes.

Question No. 33: Are gay-owned businesses considered Minority Business Enterprises under the City’s guidelines for participation of minority-owned businesses?

Conservancy Answer: No.

Part 2

2.1. Section 2.2.2 of the RFP is amended to insert a clause and read as set forth below. The inserted clause is identified by underline. No other changes are made to the section.

2.2.2. The main building at the Horticulture Center (the “**Building**”) includes a lobby area, meeting room, greenhouses, a tropical plant room, large event room, and separate men’s and women’s restrooms and an accessible restroom for the disabled. The Building can seat 250 people for meals (with dance space) and the lawful occupancy for the entire Building is 490 people. The meeting room in the Building seats approximately 50 people and, in addition to meetings, can be used for small receptions and meals, retreats, and training sessions.

2.2. Section 3.1 of the RFP is amended to replace the word “Concessionaire” with the word “Conservancy”. Section 3.1 of the RFP now reads as follows, with the substituted word identified by underline:

3.1 Term of the Concession Agreement

The “**Initial Term**” of the Concession Agreement will start on February 16, 2010, or the date the Conservancy executes the Concession Agreement and all the conditions set forth in Section 7.3 have been completely satisfied, whichever is later (in either event, the “**Commencement Date**”). The Initial Term expires on the 1st anniversary of the Commencement Date. The Conservancy, at its sole discretion, may renew the Concession Agreement for up to three one-year periods (each period a “**Renewal Term**”). To renew the Concession Agreement, the Conservancy must provide written notice of the Conservancy’s desire to renew the agreement (“**Renewal Notice**”) to the Concessionaire at least 60 days before expiration of the Initial Term or then-current Renewal Term, as the case may be. In the Concession Agreement and the RFP, “**Term**” means the Initial Term and all Renewal Terms, if any. In the Concession Agreement and the RFP, the date the Concession Agreement expires, is terminated, or otherwise ends, is called the “**Concession Agreement Ending Date.**”

2.3. Section 3.2.1 of the RFP is amended to replace the word “City” with the word “Conservancy.” Section 3.2.1 of the RFP now reads as follows, with the substituted word identified by underline:

3.2.1 The License given by the Conservancy to the Concessionaire under the Concession Agreement applies only to those areas and facilities of the Horticulture Center listed in Section 2.4.

2.4. Section 3.3.1.3.1 of the RFP is amended and now reads as follows, with newly inserted words identified by underline:

3.3.1.3.1 The Conservancy and Parks and Recreation may use and or rent out (and retain the rental payments) the Horticulture Center during and after the hours the Horticulture Center is open to the public and for other events that are not listed in **Appendix 4**. It is the intention of the Conservancy and the City to limit that use to no more than six events in a calendar year. The Conservancy shall provide the Concessionaire with written notification of each event the Conservancy or City schedules at the Horticulture Center.

2.5. Section 3.10.4 of the RFP is amended to read as follows, with newly inserted words identified by underline:

3.10.4 Site User License Agreement

Concessionaire shall execute a site user license agreement (“**User Agreement**”) with each renter of the Horticulture Center to confirm the reservation of each event. The Concessionaire must obtain the Conservancy’s approval of the form of the User Agreement, which the Conservancy cannot unreasonably withhold. The Concessionaire may not amend or change the form of the User Agreement approved by the Conservancy without the Conservancy’s prior written approval.

2.6. Section 3.10 of the RFP is amended to add the following section:

3.10.5 Events Calendar

Throughout the Term, the Concessionaire shall collaborate with the Conservancy to prepare and update an events calendar for all events booked by the Concessionaire. The Concessionaire will have Horticulture staff participate in preparation of the events calendar.

2.7. In Section 9 of the RFP, the year on all the forms of signature pages is changed from “2009 to “2010”. Each Respondent may indicate the change by handwritten notation on the Respondent’s signature page.

Part 3

3.1. As provided in Section 4.4.3 of the RFP regarding the form of Performance Security, the Conservancy may, in its sole discretion, accept an irrevocable letter of credit from the Concessionaire instead of a performance bond. The RFP is amended to provide the minimum requirements listed below if a Concessionaire wishes to provide a letter of credit as Performance Security.

1. The issuing bank must be acceptable to the City of Philadelphia.
2. Letter of Credit (“**LOC**”) should clearly state it is **IRREVOCABLE**.
3. The effective period of the LOC must be continuous, or it should be “evergreen,” until the beneficiary provides written final acceptance of the Concessionaire’s performance under the applicable contract provisions.
4. There must be no delay in the release of funds if the beneficiary draws on the LOC.
5. The LOC must refer clearly to the Concession Agreement to eliminate all possible ambiguity.
6. The LOC must be substantially in the form attached as **Exhibit A.1** to this Addendum # 1, or a form satisfactory to the Conservancy.

ADDENDUM NO. 1
ACKNOWLEDGEMENT OF RECEIPT
_____, 2010

FAIRMOUNT PARK CONSERVANCY
REQUEST FOR PROPOSAL FOR THE MANAGEMENT AND OPERATION OF
EVENT PLANNING AND CATERING AT THE FAIRMOUNT OAK
HORTICULTURE CENTER

I have carefully read Addendum No. 1 and certify that I have received all pages listed in Addendum No. 1 for the Request for Proposal for the Management and Operation of Event Planning and Catering at the Fairmount Park Horticulture Center.

Name of Respondent

Address

Telephone/Fax

Signature/Title

Exhibit A.1

LETTER OF CREDIT FORM

IRREVOCABLE LETTER OF CREDIT NO. _____
()

FOR INTERNAL IDENTIFICATION
PURPOSES ONLY:
OUR NO. _____ OTHER _____
APPLICANT:

TO: City of Philadelphia

Dear Sir or Madam:

We have established this Irrevocable Letter of Credit in your favor as beneficiary for drawing up to U.S. \$ _____ effective immediately and expiring at our offices at _____ (address) with our close of business on _____ unless renewed as hereinafter provided.

We hereby undertake to promptly honor your sight draft(s) drawn on us, indicating our Credit No. _____, for all or any part of this Credit if presented at our offices at _____ on or before the expiry date or any automatically extended date.

We understand that in the event you are placed in bankruptcy or under conservatorship, receivership, rehabilitation, or are declared bankruptcy or insolvent, the right to present a sight draft drawn on us extends to any successor by operation of law including, without limitation, any trustee in bankruptcy, debtor in possession, liquidator, rehabilitator, receiver or conservator.

This Letter of Credit sets forth in full the terms of our understanding, and is not subject to any agreement, condition, or qualification by any other agreement, document or understanding whether referred to herein or to which this Letter of Credit may relate. Our obligation under this Letter of Credit shall be the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without amendment for one year from the expiry date hereof, or any future expiration date, unless at least sixty (60) days prior to any expiration date we shall notify you by Certified Mail that we elect not to consider this Letter of Credit renewed for any such additional Period.

Should you have occasion to communicate with us regarding this Credit, kindly direct your communication to the attention of our Letter of Credit Department, making specific reference to our Credit No. _____.

This Letter of Credit is subject to and governed by the laws of the State of _____ (list state of bank issuing document) and the 1995 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (ICC Publication 800). In the event of conflict, the laws of the state of _____ (list state of bank issuing document) will control.

If this Letter of Credit expires during an interruption of business as described in Article 17 of ICC Publication 600, we agree to honor any drafts presented on or before the thirtieth (30th) day after resumption of business.

Very truly yours,

Name of Respondent

Signature of Individual or Authorized Signer

Printed Name and Title of Signer

Date (month/day/year)