



Graham County

2023 Ballpark Concession

REQUEST FOR BID

Provide ballpark concessions from March to October 2023

PROJECT BID #22/23-06

Issued by: Graham County Board of Supervisors

Bids must be submitted no later than **6:00 PM Thursday, February 16, 2023** to:

Graham County 921 West Thatcher Blvd., Safford, AZ 85546

LATE BIDS WILL BE REJECTED

Bids will be opened at a Graham County Board of Supervisors meeting on *February 21, 2023*

For further information regarding this bid contact Trey Andrews at (928) 428-7180

Email: tandrews@graham.az.gov

1.0 GENERAL INFORMATION AND SCOPE

Graham County requests bids for operation of the Graham County Fairgrounds Ball Park Food Concession Booth by Nonprofit clubs/organizations. Booths are to be operated during the 2023 Spring/Summer Little League Baseball, Girls' Softball, Adult Softball, and other tournaments which will be held from March to October. Bidders must meet all Sanitary Health Standards, for preparation of foods, set by the Graham County Health Department, 928-428-1962. Awarded bidder will be required to obtain and bear the cost of a health permit.

The attached Standard Terms and Conditions shall govern this bid unless specifically modified in these bid documents. Conditions of bid that include the word "must" or "shall," describe a mandatory requirement. All specifications are defined as mandatory minimum requirements unless otherwise stated. If no bidder is able to comply with a given specification or condition of bid, the County reserves the right to delete that specification or condition of bid. Bidders may not submit their own contract document as a substitute for these terms and conditions. The County reserves the right to reject any or all bids, to waive technicalities or to accept any bid which, in its judgement, will be in the best interest of the public.

Retain a copy of these Bid documents for your files. Should you receive an award, these Bid documents become your contract terms and conditions.

2.0 QUESTIONS

If a Bidder discovers any significant ambiguity, error, conflict, discrepancy or omission in this bid, the bidder shall notify the County of such error and request a modification or clarification.

Any communications or questions regarding the specifications, or special conditions of bid should be written and submitted to the County at the earliest convenience. The County will respond to questions if deemed necessary by issuing the information to all potential bidders that have contacted the County.

3.0 BID SUBMISSION

Bidder must submit a total price as designated, and Bidder must bid on the enclosed Bid Offer Form. Bidders must submit an original and one copy including all required materials for acceptance of their bid by the date and time listed on the Bid Cover Sheet. Any bids received after that time and date will be rejected. Receipt of a bid by the US mail system does not constitute receipt of a bid by the County.

Faxed and e-mailed bids are not accepted. Bids must be forwarded to:

Graham County 921 West Thatcher Blvd., Safford, AZ 85546.

All bids are to be packaged, sealed, and show the following information on the outside of the package:

- Bidder's Name and Address
- Request for Bid Title

- Request for Bid Number
- Bid Due Date

4.0 BID RESPONSE REQUIREMENTS

In order for your bid to be considered, the following information must be provided by the due date and time listed on the bid cover page. Failure to include any required documents may disqualify your bid. Include an original and a copy:

- Bid Offer Form, Attachment A
- Proposed Food and Drink Menu

The Signature and Authority Affidavit submitted in response to this BID must be signed by the person in the Bidder's organization who is responsible for the decision as to the prices being offered in the Bid or by a person who has been authorized in writing to act as agent for the person responsible for the decision on prices and services. Failure to provide these forms/information with your bid submittal may disqualify your bid.

5.0 METHOD OF AWARD

Award(s) shall be made on the basis of the highest total bid and the quality of menu proposed from a responsive and responsible bidder who meets specifications.

6.0 BIDDER QUALIFICATIONS

To be eligible for a contract award, you must be qualified and able to provide the following:

- Bidder must be a nonprofit club or organization.
- Bidder must be able to secure a health permit from the Graham County Health Department.

7.0 INSURANCE REQUIREMENTS

7.1 Bidder shall procure and maintain, until all of their obligations have been discharged, and any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Bidder, its agents, representatives, or employees.

7.2 The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

7.3 If Bidder maintains broader coverage and/or higher limits than the minimums contained herein, Graham County requires and shall be entitled to the broader coverage and/or higher the higher limits maintained by Bidder. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage, which are applicable to a given loss, shall be available to Graham County.

7.4 Graham County in no way warrants that the minimum limits contained herein are sufficient to protect Bidder from liabilities that might arise out of the performance of the work under this Agreement by Bidder, its agents, representatives, or employees.. Bidder is free to purchase additional insurance as may be determined necessary.

7.5 Bidder shall provide coverage with limits of liability not less than those stated below:

A. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, ongoing and completed operations, and broad form contractual liability.

General Aggregate	\$2,000,000
Products– Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

1. The policy shall be endorsed to include the following additional insured language: **"The County of Graham shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of, the Bidder."**
2. Commercial General Liability Additional Insured Endorsement shall include Bidder’s ongoing and completed operations.
3. Policy shall contain a **waiver of subrogation endorsement**, as required by this Agreement, in favor of Graham County and its departments, agencies, officers, officials, agents, employees, and volunteers for losses arising from work performed by, or on behalf of, Bidder.
4. **Bidder’s** shall be subject to the same minimum requirements identified above. Bidder shall be responsible for ensuring and/or verifying that all other organizations involved have valid and collectible insurance as evidenced by the certificate of insurance and endorsements for each organization.

B. Worker’s Compensation and Employers’ Liability

Worker’s Compensation Statutory	
Employers’ Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

1. Policy shall contain a **waiver of subrogation endorsement**, as required by this Agreement, in favor of Graham County and its departments, agencies, officers, officials, agents, employees, and volunteers for losses arising from work performed by, or on behalf of, Bidder.

2. This requirement shall not apply to each Bidder that is exempt under A.R.S. § 23-901, and when such Bidder executes the appropriate waiver form (Sole Proprietor or Independent Bidder).

7.6 Notice of Cancellation. For each insurance policy required by the insurance provisions of this Agreement, Bidder shall provide to Graham County, within two (2) business days of receipt, a notice if a policy is suspended, voided, canceled, reduced in coverage, or endorsed to lower limits. Such notice shall be mailed or hand-delivered to **Dustin Welker, Graham County Manager, 921 W. Thatcher Blvd., Safford, AZ, 85546** or e-mailed to **dwelker@graham.az.gov**.

7.7 **Acceptability of Insurers.** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with an “A.M. Best” rating of not less than A- VIII. Graham County in no way warrants that the above-required minimum insurer rating is sufficient to protect Bidder from potential insurer insolvency.

7.8 **Verification of Coverage.** Bidder shall furnish Graham County with certificates of insurance (ACORD form or equivalent approved by Graham County) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

7.9 All certificates and endorsements are to be received and approved by Graham County before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

7.10 All certificates required by this Agreement shall have “**Graham County and its departments, agencies, officers, officials, agents, employees, and volunteers**” as “**Certificate Holder**” and be sent directly to **Dustin Welker, Graham County Manager, 921 W. Thatcher Blvd., Safford, AZ 85546**. The Graham County project/contract number and project description shall be noted on the certificate of insurance. Graham County reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

7.11 **Approval and Modifications.** The Graham County Attorney, in consultation with Graham County Risk Management, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this Agreement, as deemed necessary. Any such modification or variation from the insurance requirements in this Agreement will not require a formal contract amendment but may be made by administrative action.

7.12 **Indemnification:** To the fullest extent permitted by law, Bidder (as “Indemnitor”) hereby agrees to indemnify, defend, save and hold harmless Graham County and its departments, agencies, officers, officials, agents, employees and volunteers (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including, but not limited to, court costs, attorneys’ fees, and costs of claim

processing, investigation, and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused as a direct or indirect result of any acts or omissions of Bidder or any of its or any of its owners, officers, directors, agents, or employees, regardless of whether or not such Claims are caused in part by a party indemnified hereunder. This indemnity includes, but is not limited to, any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Bidder to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is agreed that Bidder will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. Bidder shall not be obligated to defend Indemnitee against any Claims or indemnify Indemnitee resulting solely from the negligence or willful misconduct of Indemnitee and not in any way resulting from any act or omission of Bidder or anyone directly or indirectly employed by Bidder or anyone for whose acts Bidder may be liable. Bidder agrees to waive all rights of subrogation against Graham County, its departments, agencies, officers, officials, agents, employees, and volunteers for losses arising from the work performed by Bidder for Graham County. This indemnification shall survive the termination, cancellation or expiration of this Agreement. Any insurance, its limits, amount and type required herein to be maintained by Bidder shall in no way be construed as limiting the scope of this Indemnity.

8.0 SPECIFICATIONS

Bid specifications may not be revised without an official written addendum issued by the County. The following specifications are minimum requirements:

8.1 Bidder will be responsible for purchasing all products to be sold.

8.2 It is permissible for Operator to use all existing appliances, but Graham County will not be held liable for loss of product should appliances become disabled.

8.3 Graham County will be responsible for costs of utilities if use is reasonable and prudent.

8.4 No alterations shall be made to the existing facilities unless approved by the Graham County Parks Director.

8.5 Operator shall remain open through Little League Baseball, Girls Softball, and Adult Softball seasons as well as any additional tournaments from March to October.

8.6 Operator shall provide all necessary manpower for the operation of the concession.

8.7 Graham County will not be responsible for worker's compensation benefits should a person become injured while working for the operator and shall maintain all insurance as required by this agreement.

8.8 Operator shall provide a menu of items proposed for concessions and maintain that menu throughout the term of the agreement.

8.9 Operator shall obtain a health permit from the Graham County Health Department.

8.10 Operator is responsible for cleaning the facility after each day of operation.

8.11 Graham County is responsible for the general maintenance and upkeep of the facility.

8.12 Minimum Bid of \$1,500 is required; payment must be remitted to Graham County no later than April 1, 2023.

9.0 TERMINATION.

9.1 Termination by Mutual Agreement: This Agreement may be terminated at any time by mutual agreement of the Parties.

9.2 Termination for Breach: In the event of a material breach, default, or violation of any term or condition of this Agreement by any Party, the Party, claiming breach shall provide written notice to the breaching Party and said notice shall set forth the factual basis for the determination that a breach has occurred. If the breach is not remedied within (10) days of the breaching Party's receipt of notice, this Agreement shall immediately terminate, at the option of the Party alleging such breach.

9.3 Cancellation for Conflict of Interest: This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement.

9.4 Payment Following Termination: Any termination or cancellation of this Agreement shall not relieve Bidder of its obligation to pay Graham County.

STANDARD TERMS AND CONDITIONS

1.0 ACCEPTANCE/REJECTION: The County reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, request clarification of any bid/proposal, award a bid/proposal that is not the lowest price, and to accept any part of a bid/proposal as deemed to be in the best interests of the County.

2.0 CONTRACT AND EXECUTION OF CONTRACT: Unless otherwise specified in the bid/proposal, the successful responder agrees to enter into a contract, a copy of which will be on file in the office of the Graham County Board of Supervisors. Bidder shall and will well and truly execute and perform this contract under the terms applicable to the satisfaction of the County, and shall promptly make payment to each and every person or party entitled thereto of all the claims for work or labor performed and materials furnished in the performance of this contract.

3.0 ENTIRE AGREEMENT: This Agreement contains the entire, integrated agreement of the Parties and there are no oral agreements, understandings, or representations relied upon by the Parties. This Agreement supersedes all prior negotiations, representations, or agreements, not otherwise incorporated herein. Any modifications or amendments to this Agreement must be in writing and signed by all Parties.

4.0 APPLICABLE LAW AND COMPLIANCE: This contract shall be governed under the laws of the State of Arizona. The Bidder shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.

5.0 LICENSES AND PERMITS: Bidder shall have and/or provide any and all licenses and permits required to perform the work specified and furnish proof of such licensing authorization and permits with their bids if required.

6.0 ASSIGNMENT: Bidder may not assign any of its rights or responsibilities under this Agreement, either voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or any other manner, except with the prior written consent of Graham County. Bidder may not delegate any performance under this Agreement, except with the prior written consent of Graham County. Any purported assignment of rights or delegation of performance in violation of this section is void.

7.0 NONDISCRIMINATION & AFFIRMATIVE ACTION: In connection with the performance of work under this contract, the Bidder agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, sexual orientation, gender identity and gender expression, or national origin.

8.0 INDEPENDENT CAPACITY: The parties hereto agree that the Bidder, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent Bidder and not as an officer, employee, or agent of the County.

9.0 SAFETY REQUIREMENTS: All materials, equipment, and supplies utilized must comply fully with all safety requirements as set forth by the State of Arizona and all applicable OSHA Standards.

10.0 INSURANCE RESPONSIBILITY: Satisfactory proof of the existence and carriage of insurance is required.

11.0 FORCE MAJEURE: Neither party shall be in default by reason of any failure in performance of this contract in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

12.0 ENFORCEMENT: Graham County's failure or neglect to enforce any term, covenant, condition, right, or duty in this Agreement does not constitute a waiver of any term, covenant, condition, right, or duty, nor is it deemed to be a waiver of Graham County's rights or remedies under this Agreement. A waiver or extension is only effective if it is in writing and signed by Graham County. No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy. One or more waiver by Graham County of any term,

covenant, condition, right, or duty in this Agreement shall not be construed as a waiver of a subsequent default or breach of the same covenant, term, condition, right, or duty.

13.0 SEVERABILITY/UNENFORCEABLE PROVISIONS: If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons, entities, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and the rights and obligations of the Parties shall be construed and enforced to effectuate the essential intent and purposes of this Agreement.

14.0 AUTHORITY: The individual executing this Agreement on behalf of Bidder represents that he or she is authorized to execute this Agreement, and that this Agreement shall be binding upon Bidder upon execution.

15.0 GOVERNING LAW AND VENUE: This Agreement, and any addenda hereto, shall be governed by, and construed and enforced, in accordance with the laws of the State of Arizona. Any action or claim arising from, under or pursuant to the Agreement, and any addenda hereto, shall be brought in the courts, state or federal, within the State of Arizona, and the Parties expressly waive the right to bring any legal action or claim in any other court. The Parties hereby consent to venue in Graham County for all purposes in connection with any action or proceeding commenced between the Parties hereto in connection with or arising from this Agreement. Any changes in the governing laws, rules, and regulations that do not materially affect the Bidder's obligations under this Agreement will apply but will not require an Amendment.

16.0 RELATIONSHIP OF THE PARTIES: Bidder is an independent Bidder of the County. Bidder represents that it has, or it will secure, at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the County. All personnel engaged in work under this Agreement shall be fully qualified and shall be authorized or permitted under state and local law to perform such services. Bidder warrants that it has obtained or will obtain Worker's Compensation Insurance for its employees performing services in connection this Agreement. Bidder, employee, officer, or agent of Bidder shall be deemed an officer, employee, or agent of Graham County. Graham County shall not be liable for any debts, accounts, obligations, or other liabilities whatsoever of Bidder, including (without limitation) Bidder's obligation, if any, to withhold Social Security and income taxes for itself or any of its employees or officers.

17.0 SUCCESSORS AND ASSIGNS: All conditions, covenants, and agreements contained in this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their approved successors and assigns. Each provision of this Agreement to be performed by Bidder shall be construed as both a covenant and a condition.

ATTACHMENT A

BID OFFER FORM

Bidder: _____

Bid

Total Price: \$_____ (Minimum Bid \$1,500)

***Attach Proposed Menu (Required)**

Bidder Signature

Bid Accepted by Graham County:

Paul David, Chairman