



**Town of Mammoth Lakes
Parks and Recreation Department**

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March 6, 2024

Ms. Luna Tello
340 Chaparral Road
P.O. Box 244
Mammoth Lakes, CA 93546

RE: LETTER AGREEMENT WITH THE TOWN OF MAMMOTH LAKES AND MS. LUNA TELLO FOR THE OPERATION OF A FOOD TRUCK AT THE COMMUNITY RECREATION CENTER.

Dear Luna,

PARTIES: This letter shall be our agreement (“Letter Agreement”) regarding the operation of a Food Truck located on the deck of the Community Recreation Center (CRC) located at 686 Old Mammoth Road to be provided by Ms. Luna Tello, with her principal place of business at 340 Chaparral Road, Mammoth Lakes, CA 93546 (“Contractor”) as an independent contractor to the Town of Mammoth Lakes (“Town”). Contractor is retained as an independent contractor and is not an employee of the Town.

SERVICES; SCHEDULE OF PERFORMANCE: Ms. Luna Tello will provide the following services for the Town:

A. Food and Beverage Service

The Contractor shall operate a Food Truck at her expense, suitable to operate outside on the deck of the Community Recreation Center (CRC) located at 686 Old Mammoth Road. The Contractor shall be responsible for the operation, upkeep, maintenance and repair of all equipment and furnishings within the food truck and operate the food truck in accordance with all state and local laws and regulations. Food service is to be provided as specified by the Town during the facility’s scheduled operating days and times and other agreed upon times by the Town and Contractor. At minimum, the Contractor will operate the food truck during the following periods of time:

Winter:

- Early October to late-April: Thursday - Sunday during non-holiday periods and 7-days a week during recognized holiday periods¹ and multi-day tournaments and special events and programs that require food and beverage service. Times may vary pending scheduled activities by the Town and visitation at the facility.

- Specified hours of food and beverage service are as follows:

¹ Holiday periods include: Martin Luther King and Presidents Holiday weekends, Thanksgiving, and the Christmas/New Years Holiday periods.

- Non-holiday: 12:00pm – 8:00pm on Thursday, Friday, Saturday and Sunday.
- Holiday periods: 12:00pm – 8:00pm each day.

Summer:

- Late-May to mid-September: Monday through Sunday (excluding July 4). Times may vary pending scheduled activities by the Town and visitation at the facility.
 - Specified hours of food and beverage service are as follows:
 - Monday – Friday: 5:00pm - 8:00pm.
 - Saturday and Sunday: 12:00pm – 8:00pm.

Contractor and Town shall meet periodically throughout the year to discuss and schedule food and beverage service for the public. Contractor shall operate at a minimum for the hours described above, but nothing in this Agreement shall preclude the Contractor operating outside of the timeframes specified above.

B. Term

The Term of this Agreement shall begin on Thursday, March 7, 2024 and shall continue until April 30, 2025. Upon mutual agreement of the parties, this Agreement may be extended for an additional three-year (3) term. The Town will endeavor to notify the Contractor of its interest or non-interest in extending this Agreement at least ninety (90) days prior to the expiration of the Term.

C. Pricing and Commission

The food and beverage menu and prices must be displayed on easily readable and weather-resistant menu boards. The Contractor will pay the Town a commission fee as stated under the Compensation section of this Agreement. The Contractor will be responsible for providing the weather-resistant menu boards with prior Town approval of the design.

D. Food and Beverage Items to be Sold to the Public

A variety of hot and cold food and beverage items shall be available for sale to the public and must be approved by the Town prior to the commencement of food and beverage services at the CRC. The menu selection should include a variety of healthy options. Beer and wine may be served to patrons with the proper license during days and times specified and approved by the Town, such as special events and adult activities.

E. Food Truck Operations and Permitting

- 1) The Contractor is required to have, provide and maintain the following items for the duration of this Agreement:
 - Submit and pay for a Business Tax Certificate Application with the Town of Mammoth Lakes.
 - Submit and pay for a Town of Mammoth Lakes Mobile Vendor Administrative Permit.
 - Register a business name (DBA) with Mono County.
 - A written lease agreement with the owner of the Food Truck.
 - Procure, maintain and improve all equipment at its own expense required to operate the Food Truck efficiently.
 - Procure, at its own expense, all necessary occupational, business or other licenses and permits of any kind and shall pay all taxes and fees arising from the operation of said concessions.
 - All insurance required by the owner of the Food Truck.
 - Provide a point-of-sale system.

- Maintain an active Mono County Environmental Health Certificate and permit for operating the kitchen.
 - Schedule an annual inspection of the Ansul (fire suppression) system, including the fire extinguishers.
 - Allow a representative of the Town access to the Food Truck at all times, without notice, for any purpose, inspection or otherwise.
 - Contractor shall have no right to sell or assign or subcontract any portion of the Agreement without prior written consent from the Town of Mammoth Lakes.
 - Contractor will be responsible for the behavior of all employees while on the premises of the Community Recreation Center (CRC). Any employee acting in a manner determined to be detrimental, abusive or offensive may be required to leave the premises.
 - Contractor will be responsible for keeping the premises around the Food Truck free of any hazards and litter.
 - Contractor will be responsible for the removal of snow from the top of the Food Truck and within four feet surrounding the truck.
 - Contractor is required to provide a portable generator for Food Truck operations until such time that the Town can provide a 50-amp, 240 volt connection.
 - Contractor is responsible for depositing garbage and recyclable materials in the appropriate bins.
 - Contractor is permitted to provide additional seating and shade for its patrons upon approval by the Town. Maintenance and security of additional seating and shade structures shall be the Contractor's responsibility.
- 2) The Town will provide the following items for the duration of this Agreement:
- Pay for all utilities as needed for food truck operations.
 - Provide a drain for the grey water and access to fresh water.
 - Provide trash and recycling receptacles and disposal service.
 - Provide outdoor seating for visitors to Mammoth Creek Park and the Community Recreation Center (CRC) on the outside deck that will be available for patrons of the Food Truck. No assigned seating or reservations of the public seating area are permitted by the Contractor.
 - Provide snow removal services beyond four feet from the Food Truck.
 - Provide adequate space within the CRC for equipment such as a freezer and/or refrigerator.
 - Provide adequate space within the CRC for the Contractor to sell beverages and/or grab and go items for a limited time period. The Contractor is required to notify the Town of their intent to utilize indoor space at least 7-days in advance of indoor operations.

F. Exclusivity

During the term of this Agreement, the Contractor shall have the exclusive privilege to operate a Food Truck outside on the deck of the Community Recreation Center (CRC), except for occasional circumstances specified by the Town. These include special events, tournaments, sales by non-profit organizations and other scheduled activities when additional food and beverage services are required and/or those days and times when the Contractor is not operating the Food Truck.

INSURANCE: Contractor shall provide proof of commercial general liability and automobile insurance to the Town in the following amounts and with policies, endorsements and conditions acceptable to the Town. Commercial General Liability Insurance which affords coverage at least as broad

as Insurance Services Office “occurrence” form CG 0001, or the exact equivalent, and shall be no less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities shall be in an amount of not less than \$1,000,000 combined limit for each occurrence. If Contractor is an employer or otherwise hires one or more employees during the term of this Project, Contractor shall also provide proof of workers’ compensation coverage for such employees, which meets all requirements of state law. The General Liability and Automobile Liability policies shall include or be endorsed (amended) to state that: (1) the Town, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the Town, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor’s scheduled underlying coverage. Any insurance or self-insurance maintained by the Town, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor’s insurance and shall not be called upon to contribute with it in any way. If Contractor maintains higher limits than the minimums shown above, Town requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Town.

COMPENSATION: Contractor will pay the Town a commission fee of 7% of gross sales during the contracted period. The fee is to be paid on the 15th day of each month and must be accompanied by documentation showing the calculation of the Contractor’s sales and the payment to the Town. The Contractor must pay all taxes of any kind related to the sale of concessions.

TERMINATION: The Town may terminate this Letter Agreement at any time with or without cause with 30 days’ notice to the Contractor. The Contractor may terminate this Letter Agreement only upon 30 calendar days’ written notice to the Town only in the event of Town’s failure to perform in accordance with the terms of this Letter Agreement through no fault of the Contractor.

INDEMNIFICATION: To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the Town, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor in connection with the performance of the Contractor’s Services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees and other related costs and expenses. Contractor’s obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Town, its directors, officials officers, employees, agents, or volunteers.

LAWS & REGULATIONS; EMPLOYEE/LABOR CERTIFICATIONS: Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance the Services, including all Cal/OSHA requirements. As provided for in the indemnity obligations of this Agreement, Contractor shall indemnify Town against any alleged violations of this paragraph, including, but not limited to, any fines or penalties imposed by any governmental agency. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the publication of Town’s advertisements, including all Cal/OSHA requirements. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of

undocumented aliens including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Contractor shall maintain records of its compliance, including its verification of each employee, and shall make them available to Town or its representatives for inspection and copy at any time during normal business hours. Town shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements. By its signature hereunder, Contractor certifies that it is aware of the provisions of §3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor agrees to comply with such provisions before publishing Town's advertisements. Finally, Contractor represents that it is an equal opportunity employer and shall not discriminate against any sub-consultant, employee, or applicant for employment in violation of state or federal law.

GOVERNING LAW; VENUE; GOVERNMENT CODE CLAIM COMPLIANCE; ATTORNEY'S FEES:

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in Mono County, California. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the Town. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the Town. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover all reasonable fees and costs incurred, including reasonable attorney's fees, as determined by the court.

ASSIGNMENT; AMENDMENT: This Agreement may not be modified or altered except in writing signed by both parties. This Agreement may not be modified or altered except in writing signed by both parties. There are no intended third party beneficiaries of any right or obligation of the Parties.

ENTIRE AGREEMENT; CONSTRUCTION & CAPTIONS: This is an integrated agreement representing the entire understanding of the parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. The captions of the various paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

If you agree with the terms of this Letter Agreement, please indicate by signing and dating where indicated below. An original, executed copy is enclosed for your records.

TOWN OF MAMMOTH LAKES

Approved by:

Attest:

Rob Patterson
Town Manager

Jamie Gray
Town Clerk

CONTRACTOR

Reviewed and Accepted by Ms. Luna Tello

Owner

Date