



Downtown Transit Center Mobile Food Vendor Applicant Information

July 16, 2014

I. GENERAL INFORMATION AND REQUIREMENTS

A. Introduction

The Downtown Transit Center (DTC), located at 250 N. Mason Street, Fort Collins, accommodates mobile food vendors on its premises to serve the general public.

The Downtown Transit Center is a City operated facility serving multiple public transportation routes, which includes the MAX Bus Rapid Transit (BRT) system. It is located one block west of Old Town Square and is situated across from the Civic Center Parking Structure. The DTC is a busy focal point for Transfort riders, Fort Collins Bike Library users, City and County employees, individuals using the Poudre River trail, residents of the west side neighborhoods, and visitors/tourists to the City of Fort Collins. Currently, the public does not have access to a quick and convenient food source at the DTC.

B. Concession Requirements

Attached is a draft copy of the Concession Agreement ("Agreement") that the Concessionaire and the City will sign upon award. All of the elements of the Agreement are considered requirements; however, the City may include additional terms and conditions in the Agreement as deemed necessary. The following Concession Requirements outline the major Agreement provisions, as well as defines and provides clarification of several key terms and conditions.

1. Mobile Food Truck or Pushcart Requirement

Concessionaires at the Downtown Transit Center will be required to have a mobile food truck or pushcart as defined in the revised Outdoor Vendor Ordinance 058, 2012 Effective July 27, 2012. For more information, visit www.fcgov.com/salestax/outdoorvendors.php.

Photographs, blueprints or design specifications of the mobile food truck or pushcart must be submitted and clearly show the design and dimensions of the mobile food truck or pushcart to be used.

During the Agreement term, the mobile food truck or pushcart is subject to inspection by appropriate City staff. Concessionaire is responsible for all maintenance and repairs to the mobile food truck or pushcart and attached equipment. Concessionaire will be required to maintain an acceptable appearance of the mobile food truck or pushcart. Mobile food trucks or pushcarts must be removed from the Downtown Transit Center premises when not in use.

Peripheral equipment such as tables, chairs, benches, and signs are restricted to the approved concession area.

2. Product Description, Quality and Suitability

The must include a description of the products for sale and estimated prices. Quality comparisons, statements, pictures and/or brochures are requested to review the quality and suitability of the products.

Smoking instruments, tobacco and tobacco products, gum and alcohol will not be sold.

The City encourages the use of disposable cups, plates, napkins and eating utensils that are either compostable or recyclable.

3. Dates and Hours of Operation

The Downtown Transit Center is staffed by Transfort from 7:30 am to 5:30 pm Monday through Friday. In addition, the facility is staffed by the Fort Collins Bike Library from 9:00 am to 3 pm (summer hours) on Saturdays and Sundays. The vending site (see Exhibit "A") is open for use during normal transit operating days and hours, which is generally 6 am – midnight, Monday through Saturday.

The Concessionaire must include requested days and hours of operation on the application form, which are subject to negotiation as part of the Concession Agreement. The Concessionaire is encouraged to include a variety of possible operating days and times as the vending site may already be occupied on certain days. Additional hours beyond those identified in the Concession Agreement must be formally requested and approved by the Project Manager.

Concessionaires are not required to operate the concessions during inclement weather.

4. Insurance Requirements

Concessionaire agrees to indemnify and save harmless the City, its officers, agents and employees against and from any and all actions, suits, claims, demands or liability of any character whatsoever brought or asserted for injuries to or death of any person or persons, or damages to property arising out of, result from or occurring in connection with the performance of any service hereunder.

a. The Concessionaire shall take all necessary precautions in performing the work hereunder to prevent injury to persons and property.

b. Without limiting any of the Concessionaire's obligations hereunder, the Concessionaire shall provide and maintain insurance coverage naming the City as an additional insured under this Agreement of the type and with the limits specified within **Exhibit "B"**, consisting of one (1) page, attached herein. The Concessionaire, before commencing services hereunder, shall deliver to the City's Director of Purchasing and Risk Management, P.O. Box 580 Fort Collins, Colorado 80522, one copy of a certificate evidencing the insurance coverage required from an insurance company acceptable to the City.

5. Not Transferable

An unexpired Concessionaire Agreement may not be transferred to a new

Concessionaire.

The purchase of an existing concession business does not include transfer of the Concessionaire Agreement with the City.

6. Signage

All signs on the pushcart or mobile food truck must be approved by the Project Manager. A sandwich board may be used on the DTC property in a location that does not impede pedestrian movement.

7. Designated Locations and Boundaries

The mobile food truck or pushcart must be located in the designated locations shown on the Downtown Transit Center sites as identified in **Exhibit "A"**, consisting of one (1) page and attached herein as reference and cannot impede vehicular or pedestrian flow.

Surrounding trees, poles or public property may not be utilized for the purpose of display, advertising or expanding the concession site beyond its designated boundaries. Such actions could cause the Agreement to be terminated and the concession license to be canceled.

8. Licenses, Laws, Rules and Regulations

Concessionaires will be required to comply with all applicable laws, rules and regulations governing their activities and must obtain all applicable licenses or permits. Required licenses include State and City Sales and Use Tax licenses for any vending operation and Larimer County Health Department licenses for food or beverage operations.

Colorado State Statutes require compliance regarding employment of undocumented aliens. The Concessionaire acknowledges and agrees that those statutory provisions that apply will be followed. If there are any questions about these legal requirements, the Concessionaire agrees to consult with legal counsel.

The operation of the concession area granted under the Agreement shall, at all times, conform with all applicable State and Federal laws and regulations and municipal ordinances, as well as all rules, regulations, policies and procedures, as adopted by City of Fort Collins or any of its Boards, Services Areas, Service Units or Departments.

9. Cleaning and Trash

Concessionaires will be required to supply acceptable trash and recycling receptacles and keep the designated area clean of all trash generated by the concession operation within a one- hundred (100) foot radius of the site. Concessionaires are not allowed to use City trash receptacles. Concessionaire will pay a cleaning fee of twenty (\$20.00) Dollars per month to the City. The Cleaning fee is subject to change during the term of agreement based on frequency required with at least thirty (30) days notice to the Concessionaire.

Concessionaires must use a tarp under pushcarts and under the service area if a mobile food truck is used, in order to minimize grease and spillage.

10. Agreement Renewal

The Agreement will be reviewed annually and, at the City's option, may be renewed for an additional one (1) year period not to exceed four (4) additional one (1) year periods.

11. Power Source

Portable generators will be permitted if contained within the designated concession area. Portable generators must not violate the noise regulations contained in the City's Noise Control Ordinance (Chapter 20, Article II) of the City Code. For more information, visit www.colocode.com/fcmunihtml.html. A 20-amp power outlet is also available for use on-site; however, the City does not guarantee its reliability so a backup source is highly recommended.

12. Sales Tax Returns and Payments

Sales tax returns and payments associated with the concession operation must be filed by their due date. No assessment fees, penalties or interest will be waived by the City.

13. Concession Fee

Concessionaires will not be charged a fee for operating a concession at the Downtown Transit Center.

14. Multiple Agreements

The City will allow multiple Concessionaires to operate on alternating days and/or time periods at the Downtown Transit Center premises.

II. SUBMITTAL REQUIREMENTS

Complete and submit a Downtown Transit Center Mobile Food Vendor Application form available at ridetransfort.com/abouttransfort/documents-and-forms or at Transfort Administration, 250 N. Mason Street, Fort Collins, CO 80524. Applications must also include required attachments as listed in the application form. Incomplete applications will not be accepted.

III. ADDITIONAL TERMS AND CONDITIONS

A. Failure to Execute Agreement

If Concessionaire does not sign the Agreement within ten (10) days of offer by the City, the City may give notice to the Concessionaire that the location will be offered to the next highest ranked Concessionaire, call for new applications, or leave the site(s) vacant.

B. Right to Deny

The City reserves the right to deny granting a Concession Agreement to any Concessionaire who has had past Agreement breaches and/or documented sales tax discrepancies with the City.

C. Vacant Spaces

Vacant spaces resulting from either no-bid, Concessionaire site abandonment or contract termination may be filled at any time for the duration of the current one (1) year period. Responsible/responsive Concessionaires will be awarded vacant spaces as acceptable applications are received. The City may, at its option, renew the Agreement for the formerly vacant sites for additional one (1) year periods not to exceed the balance of the

remaining periods left on the Agreement.

D. Future Site Openings

The City will use Purchasing's online database to notify registered vendors if and when applications are requested for available concession sites. To be considered for future concession site openings, Concessionaires must be registered and maintain accurate contact information. Maintaining current email addresses in the database is critical for notification. Only vendors selecting Commodity Code 961-15 will be notified via email.

Concessionaires should go to www.fcgov.com/purchasing to download instructions for registering as a vendor and to complete registration.

In addition, applications are accepted at any time, and will be reviewed on a space-available basis and evaluated against the approval criteria (see below).

IV. Evaluation Criteria

Applications will be evaluated on how well the concessionaire meets the approval criteria, shown below. The City reserves the right to reject or deny applications for any reason.

Criteria	Points
1. Years of experience operating an outdoor concession in Fort Collins or another city.	0 points for less than 1 year. 3 points for 1 year to less than 3 years. 7 points for 3 years to less than 5 years. 10 points for 5 years and over.
2. Quality of Product and Suitability.	0 points for unacceptable. 3 points for marginally acceptable. 5 points for acceptable. 10 points for superior quality and suitability.
3. Quality/Appearance of Equipment.	0 points for unacceptable. 3 points for marginally acceptable. 5 points for acceptable. 10 points for superior quality/appearance

Sample Concession Agreement

(For informational purposes, do **not** fill in or submit with application)

IS AGREEMENT is made and entered into this day of _____, 2014, by and between THE CITY OF FORT COLLINS, COLORADO, a Municipal Corporation (City), and _____ (Concessionaire).

WITNESSETH

WHEREAS, the City agrees to grant to the Concessionaire and the Concessionaire accepts from the City a concession for outdoor vending at the Downtown Transit Center (DTC).

NOW THEREFORE, in consideration of the mutual covenants and obligations herein expressed, the parties agree as follows:

Section 1. Contract Documents

The contract documents consist of this Agreement incorporated herein by this reference.

Section 2. Terms of the Agreement

- A. This Agreement shall be effective from _____, 2014 until _____, 2015, unless sooner terminated as herein provided. The City may, at its option, renew the Agreement for additional one (1) year terms, to a maximum of four (4) additional one (1) year terms. However, either party may terminate this Agreement without cause, by providing written notice to the other party of its intention to terminate at least thirty (30) days prior to the end of the then existing term.
- B. In the event that the concession location can not be used because of improvements being made at the concession location, this Agreement may be suspended on thirty (30) days notice to the Concessionaire. The suspension shall continue until the improvements are completed or it is determined that the location can no longer be used as a concession site.

Section 3. Concession Operations

The City hereby grants Concessionaire a concession for the use of the Downtown Transit Center concession area as defined in **Exhibit "A"** for outdoor vending. The Concessionaire shall have the right to operate an outdoor food vending concession within this area in accordance with the agreement.

- A. Independent Contractor: The services to be performed by the Concessionaire are those of an independent contractor and not as an employee of the City. The City shall not be responsible for withholding any portion of Concessionaire's compensation hereunder for the payment of FICA, Worker's Compensation or otherwise.
- B. Records: The Concessionaire shall keep adequate and proper business records of all expenses and receipts of the concession operations. At the request of the City, all such business records shall be made open and available for inspection and audit by the City of Fort Collins Treasury Division.
- C. Licenses: The Concessionaire shall obtain and pay for all licenses needed for the

operation of the concession including , but not necessarily limited to, a County Health Department Food Services establishment inspection and City and State sales tax licenses. Any such licenses held specifically by the Concessionaire in connection with this Agreement shall be surrendered by the Concessionaire at the time of termination of this Agreement.

D. Laws, Rules & Regulations: The operation of the concession granted under this Agreement shall, at all times, conform with all applicable Federal, State, and local laws and with all applicable rules and regulations adopted by the City or any of its Boards or Departments .

E. Insurance/Indemnity: The Concessionaire shall indemnify, save and hold harmless the City from all claims and losses, including costs and reasonable attorney's fees arising directly or indirectly out of the Concessionaire's use of the concession area or operation of the concession. The Concessionaire shall maintain commercial general and vehicle liability insurance of not less than \$1,000,000 combined single limits for bodily injury and property damage naming the City as an additional insured under this Agreement of the type and with the limits specified within **Exhibit "B"**. The Concessionaire before commencing services hereunder, shall deliver to the City's Director of Purchasing and Risk Management, P.O. Box 580, Fort Collins, CO 80522, one (1) copy of a certificate evidencing the insurance coverage required from an insurance company acceptable to the City.

F. Signage: All signs on the concession cart or truck must be approved by the City. Signs may be displayed in or on the cart or truck only unless additional signage is approved by City staff.

G. Mobile Food Truck or Pushcart

1. Pushcart: The cart may not exceed the size of four (4) foot wide, ten (10) foot long and eight (8) foot high, excluding overhangs and wheels.
2. Mobile Food Truck: The mobile food truck may not exceed the size of eleven (11) foot wide and thirty-five (35) foot long. Truck width shall not extend beyond one (1) foot of the forward and side curbs.

The design and appearance of the mobile food truck or pushcart must conform to the specifications described in Concessionaire's application, unless otherwise agreed to in writing by the parties before the mobile food truck or pushcart may be used at the concession area(s). The City reserves the right to approve any modifications, changes, or alternative mobile food truck or pushcart. The mobile food truck or pushcart is subject to inspection by the City. The mobile food truck or pushcart must be maintained and repaired to the City's satisfaction. The mobile food truck or pushcart must be removed from the site when not in use.

H. Restrictions: Equipment such as tables, chairs, benches and displays not attached to the cart may not be used except for items & equipment authorized, in writing, by the City Representative. Merchandise must be restricted to the mobile food truck or pushcart. A tarp or other protective medium must be placed to protect underlying surface. Mobile food truck or pushcart must be located in approved

location site(s) and cannot impede vehicular or pedestrian flow.

I. Cleanliness: Concessionaire shall keep the concession area clean of all trash within a one- hundred (100) foot radius of site. Food Concessionaires must use a tarp under the pushcart or if a mobile food truck, under the serving area to minimize grease deposits and spillage.

Concessionaire shall pay twenty (\$20.00) Dollars per month cleaning fee for power washing of the site granted. The Cleaning fee is subject to change during term of agreement based on frequency required with at least thirty (30) days notice to the Concessionaire.

J. Sales Tax Returns: All sales tax returns and Concessionaire payments to the City associated with the concession operation must be filed by their due date. No assessment fees, penalties or interest will be waived by the City.

K. Power Source: Portable generators will be permitted if contained within the designated concession area. Use of a power generator must not violate the noise regulations contained in the City's Noise Control Ordinance (Chapter 20, Article II) of the City Code. For more information, visit www.colocode.com/fcmunihtml.html.

L. Stock: The Concessionaire shall maintain an adequate stock of supplies on hand for all occasions in order to supply the need of parties desiring to patronize the concession area.

M. Hours: The Concessionaire must keep the concession area open for business as directed by the City. Days and hours of operation shall be agreed to by both parties during contract negotiations and the minimum hours of operation must be maintained. Minimum hours are:

Days: _____ Hours: _____ am to _____ pm

Concessionaire is not required to operate on days when Transfort is not operating transit services out of the Downtown Transit Center.

Inclement Weather: The Concessionaire shall not be required to operate the concession when it is raining, snowing, hailing, and abnormally windy or when the air temperature is below 50 degrees Fahrenheit.

N. Product: The products authorized are as described in Concessionaire's application and agreed to by the City. The City will not pre-authorize new products but does reserve the right to review any new products that may be added. This is to ensure that the new products meet the same quality as those proposed in the original application.

Smoking instruments, tobacco and tobacco products, gum and alcohol will not be sold.

O. Customer Service: Concessionaire is required to uphold high standards of customer service by addressing customer complaints in a prompt and courteous manner. Concessionaire will also provide contact information for the City, updated as

needed.

The personal conduct of the Concessionaire has a direct impact on the quality of performance. Unacceptable personal conduct/behavior by the Concessionaire may result in immediate or early termination of the Agreement.

Section 4. General Conditions

A. The Concessionaire shall neither assign any of the rights nor delegate any of the duties under the provisions of this Agreement without having first obtained the written permission of the City. The Concessionaire shall not sublet any portion of the concession area or allow any other person to take possession of any portion of the concession areas without the written consent of the City.

B. A vacant vending space resulting from either no-bid or termination may be filled at anytime for the duration of the current one (1) year period. Responsible parties will be awarded the vacant space as acceptable applications are received. The city may, at its option, renew the Agreement for the formerly vacant space for additional one (1) year periods not to exceed the balance of the additional periods remaining for this Agreement.

C. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties as an amendment hereto.

D. No waiver of any breach of this Agreement shall be held or construed to be a waiver of any subsequent breach thereof.

E. It is expressly understood and agreed by and between the parties hereto that in the performance of the terms and conditions of this Agreement, time is of the essence.

F. The location assigned is not transferable to another vendor or concessionaire.

G. Fixtures and Improvements:

1. The Concessionaire agrees that all auxiliary equipment needed to operate the Concession shall be installed at its expense. Prior to making any and all improvements on said premises, the Concessionaire agrees to obtain the approval of the appropriate City Department and shall supervise the construction of said improvements.

2. Upon the termination of this Agreement the Concessionaire shall remove any fixtures or improvements made by it to the concession area. However, the concession area must be restored to as good a condition as the premises were in at the time the Concessionaire took possession thereof.

H. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties hereto.

I. If either party must resort to legal action to enforce the terms of this Agreement, the prevailing party shall be awarded its costs and reasonable attorney's fees.

J. Any notice required or desired to be given under this Agreement will be considered

delivered to the other party upon hand delivery or upon its deposit in the United States mail, postage prepaid, sent by registered mail, addressed to the other party at the following addresses:

City:	Copy to:	Concessionaire:
City of Fort Collins	City of Fort Collins	
Purchasing Division	Attn: Timothy Wilder	Attn:
P.O. Box 580	P.O. Box 580	
Fort Collins, CO 80522	Fort Collins, CO 80522	

K. Notwithstanding the time periods contained herein, either party may terminate this Agreement at any time without cause by providing written notice of termination to the other party. Such notice shall be delivered at least fifteen (15) days prior to the termination date contained in said notice unless otherwise agreed in writing by the parties. All notices provided under this Agreement shall be effective when mailed, postage prepaid and sent to the above addresses.

Section 5. Default

A. The Concessionaire shall be in default under the terms and conditions of this Agreement, if the Concessionaire fails to cure the default within ten (10) days after written notice setting forth the nature of the default is delivered to the Concessionaire.

B. In the event the default is not timely cured, the City may elect to (a) terminate this Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance or (c) avail itself of any other remedy at law or equity.

Section 6. Prohibition Against Employing Illegal Aliens.

Pursuant to Section 8-17.5-101, C.R.S., et. seq., Service Provider represents and agrees that:

- a. As of the date of this Agreement:
 1. Service Provider does not knowingly employ or contract with an illegal alien who will perform work under this Agreement; and
 2. Service Provider will participate in either the e-Verify program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "e-Verify Program") or the Department Program (the "Department Program"), an employment verification program established pursuant to Section 8-17.5-102(5)(c) C.R.S. in order to confirm the employment eligibility of all newly hired employees to perform work under this Agreement.
- b. Service Provider shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement.
- c. Service Provider is prohibited from using the e-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

- d. If Service Provider obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Service Provider shall:
1. Notify such subcontractor and the City within three days that Service Provider has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 2. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Service Provider shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- e. Service Provider shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.
- f. If Service Provider violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City may terminate this Agreement. If this Agreement is so terminated, Service Provider shall be liable for actual and consequential damages to the City arising out of Service Provider's violation of Subsection 8-17.5-102, C.R.S.
- g. The City will notify the Office of the Secretary of State if Service Provider violates this provision of this Agreement and the City terminates the Agreement for such breach.

Section 7. Special Provisions.

Special provisions or conditions relating to the services to be performed pursuant to this Agreement are set forth in **Exhibit "C"** Affidavit Pursuant to C.R.S. 24-76.5-103, consisting of one (1) page, attached hereto and incorporated herein by this reference. This is for unincorporated concessionaires.

City:

City of Fort Collins

By: _____

Gerald Paul
Director of Purchasing and Risk Management

Date: _____

Concessionaire:

By: _____

Print Name: _____

Title: _____

Date: _____

Exhibit A

Map of Downtown Transit Center Mobile Vendor Parking Location



EXHIBIT B
INSURANCE REQUIREMENTS

1. The Service Provider will provide, from insurance companies acceptable to the City, the insurance coverage designated hereinafter and pay all costs. Before commencing work under this bid, the Service Provider shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statement:

"The insurance evidenced by this Certificate will not be cancelled or materially altered, except after ten (10) days written notice has been received by the City of Fort Collins."

In case of the breach of any provision of the Insurance Requirements, the City, at its option, may take out and maintain, at the expense of the Service Provider, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Service Provider under this Agreement. The City, its officers, agents and employees shall be named as additional insured on the Service Provider's general liability and automobile liability insurance policies for any claims arising out of work performed under this Agreement.

2. Insurance coverage shall be as follows:
 - A. Workers' Compensation & Employer's Liability. The Service Provider shall maintain during the life of this Agreement for all of the Service Provider's employees engaged in work performed under this agreement:
 1. Workers' Compensation insurance with statutory limits as required by Colorado law.
 2. Employer's Liability insurance with limits of \$100,000 per accident, \$500,000 disease aggregate, and \$100,000 disease each employee.
 - B. Commercial General & Vehicle Liability. The Service Provider shall maintain during the life of this Agreement such commercial general liability and automobile liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a "broad form" basis. The amount of insurance for each coverage, Commercial General and Vehicle, shall not be less than \$1,000,000 combined single limits for bodily injury and property damage.

In the event any work is performed by a subcontractor, the Service Provider shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a subcontractor, which liability is not covered by the subcontractor's insurance.

EXHIBIT C

AFFIDAVIT PURSUANT TO C.R.S. 24-76.5-103

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

I am a United States citizen, or

I am a Permanent Resident of the United States, or

I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date