

## NOTICE OF REQUEST FOR PROPOSALS

RFP-10-09

### Carnival and Related Facilities Operation, Evergreen State Fair

NOTICE IS HEREBY GIVEN that sealed written proposals are invited for qualified firms who can furnish and operate a combination of carnival rides, games, shows and concessions at the Annual Evergreen State Fair in Monroe, Washington. The contact person within Snohomish County is Debbie Donk, (360) 805-6705, [debbie.donk@snoco.org](mailto:debbie.donk@snoco.org)

Any qualified individual or firm interested in submitting a proposal may pick up a RFP package that includes specific information required. The package may be obtained at the address below or by calling (425) 388-3344 or can be downloaded at:

<http://www1.co.snohomish.wa.us/Departments/Facilities/Divisions/Purchasing/default.htm>

RFP Submittals must be received at the Snohomish County Purchasing Division as set forth below not later than 4:00 p.m., Thursday, January 14, 2010. **Late submittals will not be accepted.** Envelopes containing submittals shall be sealed and marked with the name of the individual/firm, the submittal deadline, and "RFP-10-09 Statements of Qualifications for "Carnival and Related Facilities Operation".

Sealed Proposals must be timely delivered either:

1. by hand to the Snohomish County Purchasing Division, which is located on the 6<sup>th</sup> Floor of the Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington 98201, or
2. by mail to the attention of the Snohomish County Purchasing Division, 3000 Rockefeller Avenue, MS 507, Everett, WA 98201.

**Note: Hand delivered submittals will not be accepted at any other County location other than the County Purchasing Division as described above.**

Four (4) copies of each submittal are requested.

Snohomish County reserves the right to reject any or all proposals, to waive all irregularities and informalities in the proposals, to re-advertise for proposals if desired, and to accept the proposal that is most advantageous to the public and the County.

Dated this 17th day of November 2009.

SNOHOMISH COUNTY PURCHASING DIVISION  
SNOHOMISH COUNTY, WASHINGTON

By \_\_\_\_\_  
Dave Gibson, Purchasing Manager

Publish: Herald - November 25, 2009  
Daily Journal - November 25, 2009

COPY RECEIVED: Daily Journal, Herald, Purchasing

Submit Affidavit to: Snohomish Co. Purchasing  
Submit Invoice to: 106435 – Evergreen Fair

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The attached package contains background information and specific information required.

RFP Submittals must be received at the Snohomish County Purchasing Division as set forth below not later than 4:00 p.m., Thursday, January 14, 2010. **Late submittals will not be accepted.** Envelopes containing submittals shall be sealed and marked with the name of the individual/firm, the submittal deadline, and "RFP-10-09 Statements of Qualifications for "Carnival and Related Facilities Operation".

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**Proposals received by Snohomish County in response to this solicitation become public records and are subject to Chapter 42.56 RCW, the Public Records Act.** The vendor should clearly identify in its proposal any specific information that it claims to be confidential or proprietary. If Snohomish County receives a Public Records Act request to view the information so marked in the vendor's proposal, its sole obligations shall be to notify the vendor (1) of the request and (2) of the date that such information will be released to the requester unless the vendor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.450. If the vendor fails to timely obtain a court order enjoining disclosure, Snohomish County will release the requested information on the date specified.

Governing law is Washington State and legal proceeding venue is Snohomish County, Washington.

Dated this 17th day of November 2009.

SNOHOMISH COUNTY PURCHASING DIVISION  
SNOHOMISH COUNTY, WASHINGTON

By \_\_\_\_\_  
Dave Gibson, Purchasing Manager

SNOHOMISH COUNTY EVERGREEN STATE FAIR  
MONROE, WA

CARNIVAL AND RELATED  
FACILITIES OPERATION

REQUEST FOR PROPOSAL

RFP 10-09

# REQUEST FOR PROPOSALS FOR CARNIVAL AND RELATED FACILITIES OPERATION, EVERGREEN STATE FAIRGROUNDS

## PROPOSAL INFORMATION

### I. PURPOSE/SCOPE OF SERVICES

The purpose of this Request For Proposal is to solicit proposals from qualified firms who can furnish and operate a combination of carnival rides, games, shows, and concessions at the annual Evergreen State Fair.

1. AMUSEMENT RIDES AND SHOWS
  - a. At least two (2) super spectacular rides
  - b. At least four (4) spectacular rides
  - c. At least fourteen (14) major adult rides
  - d. At least fourteen (14) kiddie rides
  - e. At least two (2) (with a maximum of 6) shows
2. NOVELTY AND GAME CONCESSIONS
  - a. No more than five (5) nor less than three (3) miscellaneous novelty concessions.
  - b. No more than thirty-five (35) nor less than twenty (20) game concessions.
3. FOOD CONCESSIONS
  - a. No more than seven (7) food concessions.
4. UNLIMITED RIDE WRISTBAND  
Proposers must agree to offer an unlimited ride wristband/pass for sale to customers good for rides only from Carnival opening to closing each day of the Fair each year of the contract.

### II. AGREEMENT TERM

The agreement terms will be for five (5) years, effective 2011 through 2015.

Scheduled Fair Dates are: August 25 - September 5, 2011  
August 23 - September 3, 2012  
August 22 - September 2, 2013  
August 21 - September 1, 2014  
August 27 - September 7, 2015

The County has the option to extend this agreement for an additional five (5) years (2016-2020 Fairs), subject to review and/or modification of terms and conditions of the extension by the County. If contract extension for an additional five years is granted, contractor will be required to provide capital and operational improvements at the same or greater level for the first three years of the extended term.

### III. **GENERAL INFORMATION**

Snohomish County has sponsored the Evergreen State Fair for over 50 years, with attendance steadily increasing. The attendance for the 2009 Fair was 714,756. The Evergreen State Fair consistently ranks in the Top 25 Fairs in the Nation.

### IV. **PRIMARY FAIRGROUNDS RIGHTS & RESPONSIBILITIES**

The Evergreen State Fairgrounds will have the following responsibilities:

- a. Provide the facilities and grounds, which comprise the Evergreen State Fairgrounds' main carnival area and Kiddie Land;
- b. Monitor all carnival activities for license agreement compliance;
- c. Review and approve any written modifications or changes to the Carnival License Agreement;
- d. Review and approve other aspects of the carnival operation, in accordance with license terms; and
- e. Collect all revenue owed the County in accordance with license agreement terms.

### V. **FINANCIAL OFFER TO THE COUNTY**

Proposers shall indicate offers on Exhibit "A" and "B" based on the requirements of this RFP.

Over the last five years (2005-2009), the average ride gross during the 12-day Fair was \$1,564,845, which included a pre-sale average of \$95,712.

### VI. **SITE INSPECTION**

Potential proposers are encouraged to attend a guided tour and information session on the Evergreen State Fair and its facilities at a time specified by Fair Management. Prospective Proposers will be able to inspect the carnival area and related facilities during this session. The date and time of the pre-proposal conference will be 11am PST, December 15, 2009.

Please see Attachment "A" of the Pro Forma License Agreement for the "carnival area" layout.

### VII. **PRO FORMA AGREEMENT**

Enclosed is a Pro Forma Carnival and Related Facilities Agreement that will be used as a guide for preparing a final agreement with the successful proposer. All proposers are advised to carefully read

this Pro Forma Agreement and to indicate any proposed changes in their proposals. If changes are not requested by the proposer, the Pro Forma Carnival Agreement will be considered acceptable as written.

#### VIII. **OBTAINING RFP INFORMATION**

Requests for information regarding this Request for Proposals (RFP) not covered in the pre-proposal conference should be directed to the Snohomish County Purchasing Division. Firms are invited to submit written questions to the County requesting clarifications or explanations of the information contained in this RFP document. The County will respond in a timely fashion with the appropriate answer, and disseminate the answer to all plan holders. The County Purchasing department will be the central location to send all questions and will be responsible for dissemination of answers.

Submit questions to [Kathy.jones@co.snohomish.wa.us](mailto:Kathy.jones@co.snohomish.wa.us) no later than 4:00 pm, Monday, January 4, 2010.

Questions must be in written form (email or fax 425-388-3931) to be answered by the County. If necessary, an amendment to this RFP may be issued by the County Purchasing Office as a result of the questions generated under this competitive solicitation.

#### IX. **PROPOSAL REVIEW PROCEDURES**

All proposers should submit four (4) copies of their proposal.

RFP Submittals must be received at the Snohomish County Purchasing Division as set forth below not later than 4:00 p.m., Thursday, January 14, 2010. **Late submittals will not be accepted.** Envelopes containing submittals shall be sealed and marked with the name of the individual/firm, the submittal deadline, and "RFP-10-09 Statements of Qualifications for "Carnival and Related Facilities Operation".

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#### **LATE PROPOSALS WILL NOT BE ACCEPTED.**

No proposals will be accepted after the stipulated due date and time. Failure to follow all proposal preparation instructions may be cause to return the Vendor's proposal unevaluated. All expenses for the preparation of proposals are the responsibility of the Vendor.

The County assumes no responsibility for delays caused by mail delivery services regarding the proposal submittal or any Vendor correspondence related to this RFP.

The Review Committee will evaluate proposals submitted which meet the requirements of the RFP.

The County reserves the right to waive any irregularity or informality in any proposal, to reject any and all proposals, to re-advertise for proposals if desired, and to accept a proposal that is considered most advantageous to the public and the County, although it may not offer the highest financial return. All proposals become the property of Snohomish County and will not be returned.

Following proposal evaluations by the Review Committee, a tentative license agreement will be negotiated with the selected firm and submitted to the appropriate County officials for approval.

## X. **EVALUATION CRITERIA**

The Review Committee will evaluate the proposals using the criteria listed below. The percentage weights for each criteria indicate their relative importance to the County. The major factors that will be considered in making a judgment about each criteria are listed.

This method of "scoring" proposals is intended to be as objective and fair as possible. However, since the assignment of points is inherently subjective, it is necessary that professional judgment be used. Therefore, points will be assigned at the discretion of and by the Proposal Review Committee.

### 1. **OPERATIONAL PLANS: 30%**

In evaluating the proposed plans for operation of the carnival, favorable consideration may be given for desirable innovative services. Consideration will be given to the following:

- a) Willingness of the Proposer to cooperate with the County in the coordination of carnival activities with all other fairgrounds events, to avoid hindering other scheduled events;
- b) Listing of all super spectacular, spectacular, major and kiddie rides proposed for placement at Fair;
- c) Proposed program for special days and other promotions;
- d) Proposed program for novelty game, and food concessions;
- e) Liability/loss safety record including a summary of all claims reserved or paid over \$50,000 for the past 36 months (3 years) prior to the date when proposals are due. The claims must be submitted on official insurance company loss reports not more than 30 days old; and
- f) Desirability of those activities proposed that are over and above the requirements of this RFP.

2. **MANAGEMENT/ORGANIZATIONAL RESOURCES: 30%**

- a) Consideration will be given to the following in evaluating the strength of the proposed management program:
  - 1) Experience of the proposed on-site manager. References will be checked to ascertain previous client satisfaction with the on-site manager.
  - 2) Ability of the proposed staffing plan to meet the need for efficient operation of all carnival activities.
- b) The proposals will be evaluated based on the experience of the proposer in managing a carnival operation and their ability to draw patronage to their show.
- c) Ability of the Proposer to efficiently manage the carnival operation as indicated in response to this RFP.

3. **FINANCIAL RETURN TO THE COUNTY: 40%**

The Proposers shall complete Exhibit "A" and Exhibit "B" as an offer to the County.

XI. **PROPOSAL INFORMATION REQUIRED**

All proposal forms included with the RFP shall be completed and submitted with your proposal package to the Snohomish County Purchasing Division prior to the submittal deadline.

You should include any additional information which you feel is appropriate to provide a more detailed explanation of your proposal.

Your proposal will be an offer to Snohomish County to enter into a license agreement for operating the Carnival and Related Facilities as described in the request for proposals. If the County accepts your proposal, a license agreement will be negotiated based on your proposal, the Pro Forma License Agreement, and the RFP.

XII. **PROPOSER MUST SUBMIT THE FOLLOWING INFORMATION WITH THE PROPOSAL SUBMITTAL FORMS:**

- 1. A detailed resume regarding Proposer's past and present operation of carnival facilities. Proposers must present verifiable evidence that they provided the carnival as the sole provider for at least two Fairs during the 2009 season with a ride gross that exceeded \$1.5 million dollars;
- 2. A detailed resume regarding Proposer's experience with governmental agencies in the operation of a carnival;



3. A detailed resume regarding Proposer's experience and professional standing with other agencies, private or public;
4. Liability/loss records for the last three (3) years as specified in Item X(1E) under the Operational Plans section of this RFP;
5. Identification and resume of the owner's representative who will provide continuing supervision for the operation of the Carnival, (participation of that officer in the agreement negotiations would be expected);
6. Resumes of key individuals who will be involved in operating the Carnival;
7. A complete listing of the following:
  - a. Rides & Shows: A complete list of all mechanical ride devices, broken down by name and type (kiddie, spectacular, major, super spectacular, etc.), size, riding capacity per hour, and admission price.
  - b. Game and Novelty Concessions: A list of the concession name, items offered and price.
  - c. Food Concessions: A list of the food concession, items offered and price.
  - d. Special Equipment: A list of support equipment (i.e. office, generators, ticket booths, signage, etc.).
8. Operating Guidelines, Safety Program, and ADA compliance Policies and Procedures for customers and employees;
9. Proposed program for "Kiddie Land", including special days; and
10. Additional proposed activities which are not requested in the RFP.

Proposers are advised to carefully read the Pro Forma License Agreement and include in the Proposal Submittal Form a list of any changes to the Pro Forma License Agreement the Proposer wishes to discuss with the County. If changes are not requested, the Pro Forma License Agreement will be considered acceptable to the Proposer as written.

The County may, at its discretion, accept your proposal, decline it, take no action whatsoever, or request or readvertise for additional proposals. The County, by furnishing this guide for its soliciting of proposals, does not bind itself to agreement with anyone. All Proposers, by submitting a proposal, relinquish any right to formally challenge the County's selection of a contractor.

Additional information not specifically requested in the RFP may be requested during the evaluation process in order to clarify the proposal or assure that all proposers provide information that will assist in the comparison of proposals. The County may elect to visit a site currently operated by the Proposer.

### **XIII. GENERAL BACKGROUND INFORMATION OF PROPOSER**

As required in Section XII, items 1-9.

**XIV. PERFORMANCE AND PAYMENT BOND**

Standard County form or equivalent. To be accomplished by the successful proposer. See Performance Bond – Section 7.11 of the Pro Forma License Agreement.

**XV. INSURANCE REQUIREMENTS**

See Insurance Requirements - Section 7.7 of the Pro Forma License Agreement.

**XVI. OPERATIONAL PLAN**

- 1) Carnival and Related Facilities Program.
- 2) Organizational Information.

**XVII. SUBMITTAL**

Exhibit A and B, Section XII, Items 1-9.

*Any supplier planning to submit a response must obtain a complete, original copy of the Request for Proposal (RFP) directly from Snohomish County Purchasing (rather than a second party). If you did not receive this document directly from Purchasing or download it from our website, please do so now from the link below under "View all Current Bids"*

<http://www1.co.snohomish.wa.us/Departments/Facilities/Divisions/Purchasing/default.htm>

*You may also obtain a Request for Proposal that is not downloadable by contacting the Purchasing Division at 425-388-3344. By doing this you will automatically be included on our "Plan Holders List". If you are not on our Plan Holders List, we are unable to send amendments directly to you or communicate other important related information prior to the RFP submittal deadline. The County is not responsible for any consequences resulting from a firm's failure to register directly with the County for a specific Request for Proposal.*

Snohomish County is committed to fostering a diverse vendor/supplier program. Minority (MBE) and Women (WBE) Owned Businesses are encouraged to participate in the county competitive solicitation process. Please indicate if your company is a MWBE:

MBE: Yes \_\_\_\_ No \_\_\_\_ or WBE: Yes \_\_\_\_ No \_\_\_\_

**Federal Suspension and Debarment Certification**

Federal Executive Order 12549 prohibits federal, state and local public agencies receiving grant funding from contracting with individuals, organizations, or companies who have been excluded from participating in federal contracts or grants.

The purpose of this certification is for the contractor/vendor to advise Snohomish County, in writing, of any current Federal Suspension and Debarment.

Debarment Certification. By signing and submitting a response to this competitive solicitation, I certify that this firm and its principals are not currently suspended or debarred by any Federal Department or Agency from participating in Federal Funded Contracts.

**Submittals received in response to this solicitation become County property and are subject to Public Disclosure Laws**

**FINANCIAL PROPOSAL FORM**

**EXHIBIT "A"**

Proposer offers to pay the following to the Fair:

**2011**            \_\_\_\_\_% of ride gross up to \$200,000, \_\_\_\_\_% of the next \$400,000 and  
                  \_\_\_\_\_ % of the gross over \$600,000  
                  \_\_\_\_\_ % of Super Spectacular Ride Gross\*  
                  \$ \_\_\_\_\_ for novelty sales  
                  \$ \_\_\_\_\_ per each game concession x \_\_\_\_\_ concessions  
                  \$ \_\_\_\_\_ per each food concession x \_\_\_\_\_ concessions

vs.            \$ \_\_\_\_\_ guarantee

**2012**            \_\_\_\_\_% of ride gross up to \$200,000, \_\_\_\_\_% of the next \$400,000 and  
                  \_\_\_\_\_ % of the gross over \$600,000  
                  \_\_\_\_\_ % of Super Spectacular Ride Gross\*  
                  \$ \_\_\_\_\_ for novelty sales  
                  \$ \_\_\_\_\_ per each game concession x \_\_\_\_\_ concessions  
                  \$ \_\_\_\_\_ per each food concession x \_\_\_\_\_ concessions

vs.            \$ \_\_\_\_\_ guarantee

**2013**            \_\_\_\_\_% of ride gross up to \$200,000, \_\_\_\_\_% of the next \$400,000 and  
                  \_\_\_\_\_ % of the gross over \$600,000  
                  \_\_\_\_\_ % of Super Spectacular Ride Gross\*  
                  \$ \_\_\_\_\_ for novelty sales  
                  \$ \_\_\_\_\_ per each game concession x \_\_\_\_\_ concessions  
                  \$ \_\_\_\_\_ per each food concession x \_\_\_\_\_ concessions

vs.            \$ \_\_\_\_\_ guarantee

**2014**            \_\_\_\_\_% of ride gross up to \$200,000, \_\_\_\_\_% of the next \$400,000 and  
                  \_\_\_\_\_ % of the gross over \$600,000  
                  \_\_\_\_\_ % of Super Spectacular Ride Gross\*  
                  \$ \_\_\_\_\_ for novelty sales  
                  \$ \_\_\_\_\_ per each game concession x \_\_\_\_\_ concessions  
                  \$ \_\_\_\_\_ per each food concession x \_\_\_\_\_ concessions

vs.            \$ \_\_\_\_\_ guarantee

**2015**            \_\_\_\_\_% of ride gross up to \$200,000, \_\_\_\_\_% of the next \$400,000 and  
                  \_\_\_\_\_ % of the gross over \$600,000  
                  \_\_\_\_\_ % of Super Spectacular Ride Gross\*  
                  \$ \_\_\_\_\_ for novelty sales  
                  \$ \_\_\_\_\_ per each game concession x \_\_\_\_\_ concessions  
                  \$ \_\_\_\_\_ per each food concession x \_\_\_\_\_ concessions

vs.            \$ \_\_\_\_\_ guarantee

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Authorized Signature of Proposer

Date

\*Super Spectacular Ride Gross: \_\_\_% payment of Super Spectacular Ride Gross shall not be applicable to more than 3 total rides in any year. The designation of Super Spectacular Rides must be pre-approved by the Fairgrounds Manager not less than 60 days prior to the first opening day of the annual Fair.

**CAPITAL AND OPERATIONAL IMPROVEMENTS TO THE EVERGREEN STATE FAIRGROUNDS:**

Refer to Section 7.4 of the Pro Forma License Agreement.

Licensee shall be responsible for providing capital and operational improvements over the initial term of this agreement. Those capital improvements shall include, but are not limited to: asphalt paving, RV hookups, or other projects mutually agreed upon. These projects may be completed in phases, but must not exceed the third (3<sup>rd</sup>) year of the agreement for their completion. If contract extension for an additional five years is granted, contractor will be required to provide capital and operational improvements at the same or greater level for the first three years of the extended term. All projects must meet industry and government standards. Specific timelines and projects must be mutually agreed upon by Fair Management and Licensee. All capital improvements will become the property of Snohomish County.

Licensee shall pay directly to the Capital Improvement Contractor(s) for projects as billed to Licensee for each year (phase) of completion.

**PHASE I: 2011**

Proposed Capital Improvements:

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Estimated Value: \_\_\_\_\_

**PHASE II: 2012**

Proposed Capital Improvements:

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Estimated Value: \_\_\_\_\_

**PHASE III: 2013**

Proposed Capital Improvements:

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Estimated Value: \_\_\_\_\_

**TOTAL ESTIMATED VALUE:** \_\_\_\_\_

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Authorized Signature of Proposer

Date

**PRO-FORMA**  
**AGREEMENT FOR OPERATION OF CARNIVAL AND RELATED FACILITIES AT**  
**THE SNOHOMISH COUNTY EVERGREEN STATE FAIR**

I. PREAMBLE

1.1 Parties. THIS AGREEMENT is made and entered into this date by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington, hereinafter referred to as “County”, operator of the annual Evergreen State Fair, hereinafter referred to as “Fair”, and \_\_\_\_\_, a \_\_\_\_\_ Corporation authorized to transact business in the State of Washington, hereinafter referred to as “Licensee”.

1.2 Purpose. The purpose of this agreement is to provide for operation of a carnival and related facilities for family entertainment during the 2011, 2012, 2013, 2014 and 2015 Fairs.

The carnival and related facilities shall include:

- (a) Amusement rides,
- (b) Shows,
- (c) Novelty concessions,
- (d) Game concessions, and
- (e) Food concessions.

1.3 Grant of License. The County grants a license to Licensee to occupy and use certain real property at the times and for the purposes set out herein subject to all terms and conditions hereof.

1.4 Premises. The real property subject to this agreement consists of designated portions of section 35 and 46, Township 28, Range 6 E.W.M., commonly known as the Snohomish County Fairgrounds, Monroe, Washington. Annually the Fairgrounds Manager will designate one or more specific areas within the fairgrounds consisting in the aggregate of approximately 235,200 square feet for use by Licensee, hereinafter referred to as “premises”, depicted on Attachment “A” hereto.

1.5 Dates of use and hours of operation.

(a) This agreement provides for operation of carnival and related facilities during the 2011, 2012, 2013, 2014 and 2015 fairs. Licensee is licensed to occupy and use the premises for the purposes herein permitted on the following dates:

2011 Fair (including move-in/move-out time)			- August 20 – September 8
2012 Fair	“	“	- August 18 – September 6
2013 Fair	“	“	- August 17 – September 5
2014 Fair	“	“	- August 16 – September 4
2015 Fair	“	“	- August 22 – September 10

(b) The County has the option to extend this agreement for an additional five (5) years (2016-2020 Fairs), subject to review and/or modification of the terms and conditions by the County; PROVIDED any changes to the terms and conditions shall be agreed to by both parties before the agreement may be extended.

(c) The hours of operation shall be determined by the Fairgrounds Manager no later than May 15 of each year of this agreement.

1.6 Possession. Possession of the premises shall at all times remain in the County and the rights of use and occupancy are subject to limitation, suspension, or revocation by the County when the County determines it has a need for the premises inconsistent with the rights herein granted; provided, the County shall give such notice as is reasonable under the circumstances.

## II. AMUSEMENT RIDES AND SHOWS

2.1 Basic Obligations. Licensee is obligated to bring to the Snohomish County Fairgrounds and cause to be operated during the hours of operation, determined by the Fairgrounds Manager, a carnival consisting of at least the following minimum amusement rides and shows. Minimum rides and shows are:

- (a) At least two (2) super spectacular rides;
- (b) At least four (4) spectacular rides;
- (c) At least fourteen (14) major adult rides;
- (d) At least fourteen (14) kiddie rides;
- (e) At least two (2) (with a maximum of 6) shows.

2.2 Kiddie Land obligation. Licensee will operate a separate carnival facility to be known as “Kiddie Land” which will contain amusement rides designed to accommodate small children or families.

2.3 Amusement ride and show price and duration. The gross price to be charged for an amusement ride or show shall include any local, state or federal taxes collected by Licensee in connection with selling admission tickets for the amusement ride or show. The gross price charged by Licensee must be approved by the Fairgrounds Manager as provided for in paragraph 6.4. The period of each ride shall be not less than three minutes, including loading and unloading.

2.4 Tickets. Licensee shall obtain (order and purchase) for all amusement rides and shows, sequentially numbered tickets within each denomination to be sold. Ticket color and format will be determined on an annual basis.

Licensee will make tickets accessible for Fairgrounds Personnel to inventory two days prior to the opening day of the Fair.

REPORTING: Licensee shall use such ticket as it may need for operation of the amusement rides and shows, and shall account for such use on a daily basis by submittal of a *Daily Ticket Sales Report*. Daily reports must include, at a minimum, seller name/number, ticket type, ticket price, starting and ending ticket number, quantity sold and total receipts. Report shall include seller reports with all types of tickets sold on that date, with a summary

indicating quantity by ticket type and gross receipts. The term “gross receipts” in this agreement shall mean all receipts from the operation of amusement rides and shows, before any deduction of any nature whatsoever, but shall not include any sales tax collected by Licensee. Licensee shall submit daily reports to Fair Administration by 12:00 Noon the day following sales.

After Fair, Licensee will make unused tickets available for post event inventory. All tickets shown to be used by the inventory shall be deemed to have been sold by Licensee. If such sales have not been included in the daily sales reports, the value of these tickets shall be added to the gross receipts of Licensee.

2.5 Advance Sale Program. Licensee shall provide an Advance Sale Program in which amusement ride coupons will be discounted by at least 50% over the price of individual coupons at the carnival. Licensee shall pay to the County each year of the agreement 30% of the gross revenue from the advance sale program on or before thirty (30) days after the close of the fair. This payment is in addition to the guarantee as stated in the “Financial Proposal Form”, Exhibit “A”, attached hereto.

2.6 Special Days. Licensee will provide on an annual basis a presentation of special days featuring reduced prices for amusement rides and shows. Special days will not include Saturdays or Sundays. On these days Licensee shall make available in addition to regular tickets a unit price ticket for all amusement rides and shows. The dates and operating hours of such special days, ticket price, and supplemental ticketing system shall be presented to and approved by the Fairgrounds Manager which approval may be granted or denied in the Fairgrounds Manager’s sole discretion, on or before May 15 of each year.

2.7 Payment. Licensee hereby agrees to pay the County each year of this agreement according to the attached “Financial Proposal Form”, Exhibit “A”, which is incorporated herein and made part of this contract for the amusement rides and shows.



### III. NOVELTY AND GAME CONCESSIONS

3.1 Concession obligation. Licensee shall provide no more than five (5) nor less than three (3) miscellaneous novelty, and no more than thirty-five (35) nor less than twenty (20) game concessions. Additional novelty and game concession may not be provided unless authorized by a separate “Concessionaire License Agreement”.

3.2 Restrictions. Licensee shall not operate any games which are in violation of state laws or regulations; offer cash prizes or re-purchase prizes in any game; offer as prizes live ducks, chicks, or other live animals, (goldfish are permitted); knives, firearms, or any items which could be used as a weapon; offer as prizes, or display, drug paraphernalia, posters or other items deemed to be inappropriate by the Fairgrounds Manager.

3.3 Payment. Licensee hereby agrees to pay the County each year of this agreement according to the attached “Financial Proposal Form”, Exhibit “A”, which is incorporated herein and made part of this contract for novelty and game concessions.

### IV. FOOD CONCESSIONS

4.1 Concessions obligation. Licensee may operate no more than seven (7) food concessions. Additional food concessions may not be provided unless authorized by a separate “Concessionaire Percentage License Agreement.” All food concessions must submit to the Fairgrounds Manager a list of menu items for approval on an annual basis, refer to Section 6.4b. All concessions shall conform to the State Board of Health, County Health District and other regulatory agencies’ rules and regulations. Licensee must use the Fairgrounds’ soft drink and dairy exclusive contractors, if such exists. All drinks shall be served in paper or plastic containers. Licensee shall not sell beer or alcoholic beverages. All concessions will be located within the carnival area as designated by the Fairgrounds Manager.

4.2 Payment. Licensee hereby agrees to pay the County each year of this agreement according to the attached “Financial Proposal Form”, Exhibit “A”, which is incorporated herein and made part of this contract for food concessions.

## V. PAYMENT PROCEDURE

5.1 Payments due. Final payment of the amounts owed to the County each year shall be made on or before the fifth day following the closure of the fair in that year, except as otherwise provided in paragraphs 2.5 and 7.4.

5.2 Annual report and adjustment. The Licensee shall annually provide the County a verified statement of its gross receipts from the operation of the amusement rides and shows at the fair. The verified statement shall be submitted to the County at the end of each fair and in no event shall be later than five (5) days following the closing date of each fair. Gross receipts from amusement rides and shows will be subject to adjustment as provided in paragraph 2.4.

5.3 Deposit and accounting requirements. Gross receipts shall be initially deposited in a single bank located in the State of Washington. The name of the designated bank must be disclosed in writing to the County at the time of execution of this agreement and may not be changed without prior written notice and approval. Daily expenses paid in cash shall be accounted for by a detailed ledger listing those parties paid and the amount received, to be initialed by recipient. County agents, employees and officers of the State Auditor’s office shall be provided access to bank statements, deposit slips, canceled checks, check registers, and such other supporting data as reasonably incident to the audit and/or review of Licensee’s business.

## VI. CONDITIONS OF USE

6.1 Location of carnival. The amusement rides, shows and concessions shall be operated exclusively within the areas designated annually by the Fairgrounds Manager, which designation shall be made at least thirty (30) days prior to the fair opening day. The County will designate a

separate area to be known as “Kiddie Land”. This separate area may be within, adjacent to, or separated from the general carnival area and other rides, within the discretion of the Fairgrounds Manager.

6.2 Operation terms. The Licensee shall:

(a) Conform to and comply with all federal, state, county and local sanitation, safety and health rules, regulations and laws governing such use.

(b) Report and pay all federal, state, county and local taxes that may be due or payable by reason of any operation hereunder.

(c) Reduce the volume of sound amplifying devices when determined necessary by the Fairgrounds Manager.

(d) Restrict all activities, signs, and advertising matter to the space assigned and place no signs or advertising on the outside of permanent buildings.

(e) Post in a conspicuous place a plainly printed placard showing menus and the prices of all menu items.

(f) Provide a public relations area with personnel, to deal with complaints/concerns from the general public.

(g) Licensee must use the Fairgrounds’ soft drink and dairy exclusive contractors, if such exists. All drinks shall be served in paper or plastic containers.

(h) Maintain designated area free of all garbage and debris at all times. Garbage and debris to be bagged and deposited in designated collection area.

(i) Provide bench seating throughout the main carnival and “Kiddie Land” for guest seating.

(j) Promptly close operation of concessions, games, or novelties, which in the opinion of the Fairgrounds Manager are offensive to good taste or in any particular way objectionable.

(k) Abide by all general conditions and rules and regulations, written or orally made by the County from time to time and at any time governing the conduct of concessionaires during the fair, agreeing especially that future oral or written conditions and rules and regulations shall become part of this contract the same as now published.

(l) Use only fire resistant materials for decorating.

(m) Put grease in designated containers.

(n) Provide own extension cords and hoses for water and sewer hookup to County facilities where necessary.

(o) Be responsible for and remove any hazardous products generated during the fair and comply with all laws, rules and regulations concerning hazardous waste.

(p) Require all employees to wear distinctive uniforms in a color and design approved in advance by the Fairgrounds Manager, which uniforms shall be maintained and laundered as necessary. The cost of such uniforms and their maintenance and laundering shall not be borne by the County.

(q) Have all employees provide courteous, efficient, and sanitary service to patrons. Abusive language will not be tolerated. Persons handling and vending products under this agreement shall meet all applicable county and state health regulations.

(r) Licensee is required to provide portable showers for carnival employees in an area designated by the Fairgrounds Manager.

(s) No bicycles, skateboards, or rollerblades will be allowed on the main fairgrounds.

(t) Licensee shall provide their own power source (i.e. generators) and wiring for rides, games, and equipment operation, except where provided and metered by the County at the expense of the Licensee.

(u) The quality of the carnival rides, games, attractions and concessions is expected to improve each year of this license agreement.

(v) No dogs, birds or other pets are permitted on the Fairgrounds, including in vehicles or living quarters. Exception: physical assistance dogs (i.e. seeing eye, etc.).

6.3 Alterations. The Licensee shall:

(a) Permit no electrical wiring to be done on any portion of the fairgrounds electrical system without permission from the Fairgrounds Manager and then only under the supervision of the Fairgrounds Maintenance Supervisor. Licensee must comply with all laws, rules, and regulations including local ordinances and electrical codes.

(b) Make no alterations to County property without prior approval of the Fairgrounds Manager.

6.4 County approval. Only those amusement rides, shows and concessions approved by the Fairgrounds Manager shall be allowed on the fairgrounds and operated by Licensee under this agreement.

(a) On or before May 15 of each year of this agreement, Licensee shall submit to the County for its approval a written listing of all amusement rides and shows, which Licensee intends to operate, and the prices which it intends to charge for each. The County shall on or before June 1 of each year of this agreement, indicate its approval or disapproval of the listing or portion thereof. If any amusement ride, show, or price is disapproved by the County, Licensee shall on or before June 15 of each year of this agreement submit an alternative to meet the approval of the County.

(b) On or before May 15 of each year of this agreement, Licensee shall submit to the County for its approval a written listing of all food concessions which Licensee intends to operate and items to be sold. The County shall on or before June 1 of each year of this

agreement, indicate its approval or disapproval of the listing or portion thereof. If any food concession or item to be sold is disapproved by the County, Licensee shall on or before June 15 of each year of this agreement submit an alternative to meet the approval of the County.

(c) Game Concessions: Prior to fair opening, Licensee must submit a written listing with specific names of each game concession.

(d) Approval of all amusement rides, shows and concessions shall be at the sole discretion of the County. Failure of Licensee to submit the listings as required by this paragraph shall constitute a breach of this agreement.

(e) Nothing in this section shall preclude Licensee from adding additional or substitute amusement rides and shows within seven (7) days prior to the fair when, in the opinion of the County, such addition or substitution would materially enhance the overall quality of the fair. Any additional or substitute amusement ride or show shall be submitted to the County for its approval.

6.5 Annual review. There will be an annual review for a period of thirty (30) days after the close of each fair during which either party may cancel this agreement. Written notice of such cancellation shall be effective if mailed to the other party within the same time period by certified or registered mail.

6.6 Approvals conditional. Any approval by County under this agreement is conditional upon the amusement rides, shows and concessions meeting the requirements of all federal, state and local laws and the County reserves the right at any time without liability or penalty, to disapprove any ride, show, or concession upon its sole determination that there is or may be a violation of any law. The responsibility and cost of obtaining any and all permits as may be necessary to assure compliance with law shall be borne entirely by the Licensee.

6.7 Compliance with law required. Licensee covenants that its carnival and all amusement rides, shows, novelty and game concessions, and food concessions or those of any sub-licensee or subcontractor shall strictly comply in all particulars with every provision of this agreement, and with applicable city, county, state and federal laws, rules and regulations, in any matter concerning the operations contemplated by this agreement. Licensee further covenants that in operation of its carnival and in the operation of all amusement rides, shows, and concessions under this agreement there shall be no obscene or objectionable devices or practices, shows, or exhibits of any kind whatsoever. Licensee will immediately upon demand of the County close and remove from the fairgrounds any such device or practice, show or exhibit that is operated in violation of any city, county, state or federal law, rule or regulation, or which is, in the County's opinion, in any manner obscene or otherwise objectionable. Licensee agrees to save the County and its officers and employees harmless from any liability or damage for closure or removal from the fairgrounds. Such closure or removal will in no way reduce the amount of money due the County from Licensee under this agreement.

6.8 Exclusivity of Licensee's rights. The County shall not permit any commercial carnival offering mechanized amusement rides, except animal rides, to be operated on the fairgrounds during the fair, except that of Licensee, unless Licensee fails to comply with the terms and conditions of this agreement, thereby making it necessary for the County to obtain the services of another operator; PROVIDED THAT the County or its other contractors may operate any activity classed as transportation, motorized or otherwise, to convey visitors to or from the fair, to or from the parking lot, and to or from various points on the fairgrounds; and PROVIDED FURTHER that such exclusivity of right shall not apply to the operation of novelty, game, and food concessions, and the County shall be free to authorize such additional concessions as it may deem necessary so long as said concessions are not located within the designated carnival area;

and, PROVIDED FURTHER that the County may operate or cause to be operated a specialty ride which the Licensee cannot or will not provide, such operation to be no less than fifteen (15) yards away from the designated carnival area.

6.9 Abide by rules and regulations. Licensee shall cause all its agents, employees, and any sub-licensee or subcontractor to abide by all rules and regulations prescribed by the County Council, County Risk/Safety Personnel, or the Fairgrounds Manager governing the operation of and admission to and exit from the fairgrounds during the fair or providing for parking or traffic control and by such other reasonable rules and regulations of the Fairgrounds Manager as may be communicated to Licensee prior to or during the fair.

6.10 Vehicles. Personal vehicles and business vehicles of the Licensee, Licensee's agents, employees and any sub-licensee or subcontractor, not needed for actual carnival operation shall at no cost to Licensee be parked only in a parking area to be designated annually by the Fairgrounds Manager.

6.11 Condition of premises. Licensee accepts the premises, including any designated carnival areas, structures, grounds, and access thereto, in the condition which they now are. The Licensee agrees that they County shall not be bound by any warranty or representation regarding the condition of premises except as expressly stated in this agreement.

6.12 Clean premises. Licensee agrees to clean at Licensee's expense, the designated carnival area and dispose of all refuse within twenty-four (24) hours of the close of the fair and to repair all damage to such area and restore it to the same condition as originally found. Additionally, during the period which the fair is operating, Licensee shall observe good housekeeping practices and keep the area provided for operation of its facilities and those of its subcontractors and sub-Licensees neat and clean at all times so that they will be in a presentable condition as will be deemed reasonably satisfactory to the Fairgrounds Manager. All refuse



shall be placed in containers to be provided by the County, with the County to assume the expense of transportation for disposal of such waste at an approved landfill site. Any failure to comply gives the County authority to restore and clean the premises at Licensee's expense.

## VII. GENERAL CONDITIONS

7.1 Payments. All payments due and owing under this contract shall be paid to the County by the Licensee in accordance with paragraphs 2.5, 2.7, 3.3, 4.2, 5.1, 7.4 and 7.11.

7.2 Liquidated damages.

(a) In the event that any required item of equipment, or its equivalent, herein agreed to be furnished by Licensee should not be so available during the Fair, the sum TEN THOUSAND DOLLARS (\$10,000.00) for each item of equipment shall be paid by Licensee to the County, in addition to other amounts herein provided for. This subsection shall not apply where unavailability is not longer than three (3) days.

(b) If Licensee fails or refuses to bring its carnival to the fair in accordance with this agreement, Licensee will pay to the County the sum equal to the minimum guarantee of the corresponding year, as stated in Exhibit "A" for each year Licensee defaults and County may terminate this agreement upon notice to Licensee.

(c) In the event that the Licensee shall fail to meet any of the terms specified in Section 7.2 (a) or (b) herein, or shall fail to pay the sums specified in Section 7.11 herein in the time and manner required, the Licensee hereby agrees that the County will sustain irreparable, immediate and immeasurable injury and shall be entitled to an injunction and specific performance in any competent court to enjoin and restrain the breach of this agreement. The County shall be entitled to its costs, expenses and attorney's fees of such enforcement of this agreement, in addition to any other damages or remedy available to it under the law.

7.3 County or State Auditor may audit sales.

(a) The County or State Auditor, as designated by the County, may take steps it deems reasonable and necessary to monitor and to audit ticket sales and any other business records relating to business of the Licensee, including but not limited to auditing receipts by:

- (1) Stationing its own representative in any booth;
- (2) Checking cash register totals or subtotals;
- (3) Examining Licensee's ticket sales booths;
- (4) Checking ticket inventories; and
- (5) Taking all other steps necessary or appropriate to monitor the use and distribution of tickets and audit the amount or gross receipts from sales of goods and services.

(b) Licensee agrees to keep accurate and complete books and records of accounts including but not limited to payroll and general ledgers which will be available on reasonable notice for inspection by agents or employees of the County or State Auditor. Licensee shall keep all records required by this agreement for five (5) years after termination of this agreement.

7.4 Capital and Operational Improvements (Exhibit "B" of the RFP).

Phase I (2011): \_\_\_\_\_ (\$\_\_\_\_\_ value).

Phase II (2012): \_\_\_\_\_ (\$\_\_\_\_\_ value).

Phase III (2013) \_\_\_\_\_ (\$\_\_\_\_\_ value).

Total Capital Improvements Value: \$\_\_\_\_\_.

Licensee shall pay directly to the capital improvement contractor(s) for projects as billed to Licensee for each year (phase) of completion. All Capital and Operational Improvement Projects must meet with the Fairground Manager's advanced approval and be signed off by the Fairgrounds Manager or his Designee upon completion. All projects will be completed within

the first three years of this agreement with specific timelines mutually agreed upon by Fairgrounds Manager and Licensee. All projects must meet industry and government standards. All capital improvements will become the property of Snohomish County.

7.5 County to furnish water. The County agrees to furnish to Licensee for use on the fairgrounds reasonable quantities of potable water for domestic purposes only. All other utilities and services required or convenient to Licensee for the operation of its amusement rides, shows, concessions, and equipment will be arranged for, obtained and furnished by at the expense of Licensee. House trailers and motor homes parked within the designated carnival area will be charged by the County during the fair at the established RV parking rate per unit parking space and furnished water and electric hookups.

7.6 Hold Harmless agreement. Licensee shall protect, save harmless, indemnify, and defend at its own expense, Snohomish County, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever, arising out of the performance of this agreement, including claims by Licensee's employees, third parties, or sub-contractors, except for those damages solely caused by the negligence or willful misconduct of Snohomish County, its elected and appointed officials, officers, employees, or agents. Neither Snohomish County, nor its elected and appointed officials, officers, employees and agents shall be liable for any damage or injury to the Licensee, its sub-Licensees or sub-contractors or its or their employees or its or their properties occurring through, or caused by a defect to the premises used or property licensed pursuant to this agreement. Licensee shall assume the entire risk by loss of or damage to its property or property of its sub-Licensees or sub-contractors used in connection with this agreement. Property shall include but not be limited to the amusement rides, shows, novelty and game concessions, and food concession booths together

with all of their fixtures, supplies, and inventory of merchandise for sale, owned or leased by or consigned to the Licensee or his sub-Licensees or sub-contractors.

This hold harmless agreement expressly provides for waiver of the Licensee's immunity under RCW Title 51 Industrial Insurance for claims by its employees and this hold harmless agreement and waiver of immunity were mutually and expressly negotiated and agreed between the parties.

Indemnification for damage to County. The Licensee's duty to indemnify the County shall include any and all damages to the County's property caused by the Licensee's negligence.

#### 7.7 Insurance.

(a) Licensee shall obtain, and maintain continuously for the term of this agreement, primary occurrence form Commercial General Liability Insurance and Commercial Auto Insurance for ANY AUTO with endorsements and/or other insurance to indemnify for the activities and services of this contract, and include products liability, premises liability and contract liability coverages with a carrier subject to the approval of the County. Minimum limit of coverage shall be TWO MILLION DOLLARS (\$2,000,000) each occurrence/combined single limit, and FIVE MILLION DOLLARS (\$5,000,000) aggregate exclusive to this contract with Snohomish County. Workers' Compensation – The County shall not be responsible for payment of workers' compensation premiums or for any other claim or benefit for the Licensee which might arise under the optional owner coverage provision of the State of Washington Industrial Insurance Laws.

(b) Such insurance shall be endorsed to include Snohomish County, its officers, elected officials, employees and agents as an additional insured, and shall not be reduced or canceled without thirty (30) days written prior notice to the County. Deductibles are subject to approval by the County Risk Manager.

(c) Licensee shall provide to the County a certificate of insurance with a copy of the additional insured endorsements as evidence of coverage. Approval of insurance documentation is a condition precedent to full execution of this agreement. The County Risk Manager reserves the right to receive a certified complete copy of the insurance policy.

7.8 Governing law and stipulation of venue. This agreement shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit regarding this agreement must be brought in Snohomish County, Washington.

7.9 Service of process. Service of process on the Licensee may be made on the registered agent of the Licensee as set forth in paragraph 7.12.

7.10 Attorney's fees. The prevailing party shall be entitled to recover its reasonable attorney's fees and costs in the event it is necessary to commence any legal action, suit or proceeding against the other party by reason of any breach of this agreement.

7.11 Performance bond. Licensee shall furnish to the County, in a form acceptable to the County, a performance bond in the amount of Five Hundred Thousand Dollars (\$500,000) to protect against loss due to the inability or refusal of the Licensee to perform under this agreement. Licensee shall provide evidence to the County of its having obtained such bond no later than thirty (30) days before the beginning of each Fair during the term of this agreement.

7.12 Registered office and address. The name, street address, city and telephone number of the Washington registered agent of Licensee is: \_\_\_\_\_  
\_\_\_\_\_, (\_\_\_\_) \_\_\_\_\_ and Fax (\_\_\_\_) \_\_\_\_\_.

Any notices given or service of process under this agreement may be given to Licensee's Washington registered agent.

7.13 Impossibility. If either party is prevented from performing its obligations under this agreement because of any act of God, fire, strike, riot, war, blackout, or by any law or act of

the United States, State of Washington, or any political subdivision thereof, then this agreement, at the option of either party, shall become null and void and each party shall be released from any or all terms and provisions thereof as of the date of such occurrence.

7.14 Termination. This agreement may be terminated by the County if:

(a) In the judgment of the County, it is unable to present an agricultural fair on the dates specified in this agreement;

(b) There is failure to make payment as required or violation of any term or condition provided for herein which Licensee, having been given written notice of any such violation, has failed to correct within two (2) calendar days;

(c) There occurs an assignment for the benefit of creditors by, or an institution of bankruptcy proceedings for or against, the Licensee;

(d) There is shown to exist fraud, collusion, or conflict of interest on the part of any of the parties and/or their agents in obtaining this agreement or carrying out the provisions hereof. For these purposes, the above terms are as defined by the laws of the State of Washington, including, but not in lieu of these laws, conflict of interest is also defined to include the giving or receiving of any gratuity or the entering of any employment relationship between a county officer or employee and the Licensee that is not first disclosed and approved by the County in public meeting.

(e) There is compelling governmental need for the premises which the County determines is inconsistent with the privileges granted herein.

(f) There is a sale of more than forty-nine percent (49%) of the stock of Licensee corporation to a person not now a shareholder, or the officers or directors of Licensee corporation are changed. Licensee agrees to promptly inform the County of any such sale or change.

(g) Termination by the County is otherwise provided for in this agreement.

7.15 Termination rights. In the event of termination, the Licensee shall be obligated to pay all sums due and owing at the date of termination and the County shall not be liable for any damages resulting from the termination.

7.16 License is personal. It is agreed that the personal and business integrity of Licensee's officers and directors is a major consideration on the part of the County in entering into this agreement, and that the agreement is personal to Licensee and may not be assigned, delegated, transferred or seized by or through any legal proceedings, either voluntarily or involuntarily without express written approval of the County.

7.17 Independent contractor. Licensee agrees that Licensee will perform services under this agreement as an independent contractor and not as an agent, employee, or servant of County. The parties agree that Licensee and its employees are not entitled to any benefits or rights enjoyed by employees of County. Licensee specifically has the right to direct and control Licensee's own activities in providing services in accordance with the specifications set out in this agreement. County shall only have the right to ensure performance. Licensee agrees that neither it nor its employees, agents, subcontractors or sub-Licensees shall in any manner represent itself or themselves or permit itself or themselves to be represented to the public as an agent of the County.

7.18 Modifications. This agreement may not be modified orally and modification must be accomplished with the same formalities as are required for the execution of this agreement.

This agreement constitutes the whole and entire agreement between the parties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

SNOHOMISH COUNTY:

LICENSEE:

\_\_\_\_\_  
County Executive

\_\_\_\_\_  
Print Name

APPROVED AS TO FORM:

Title: \_\_\_\_\_

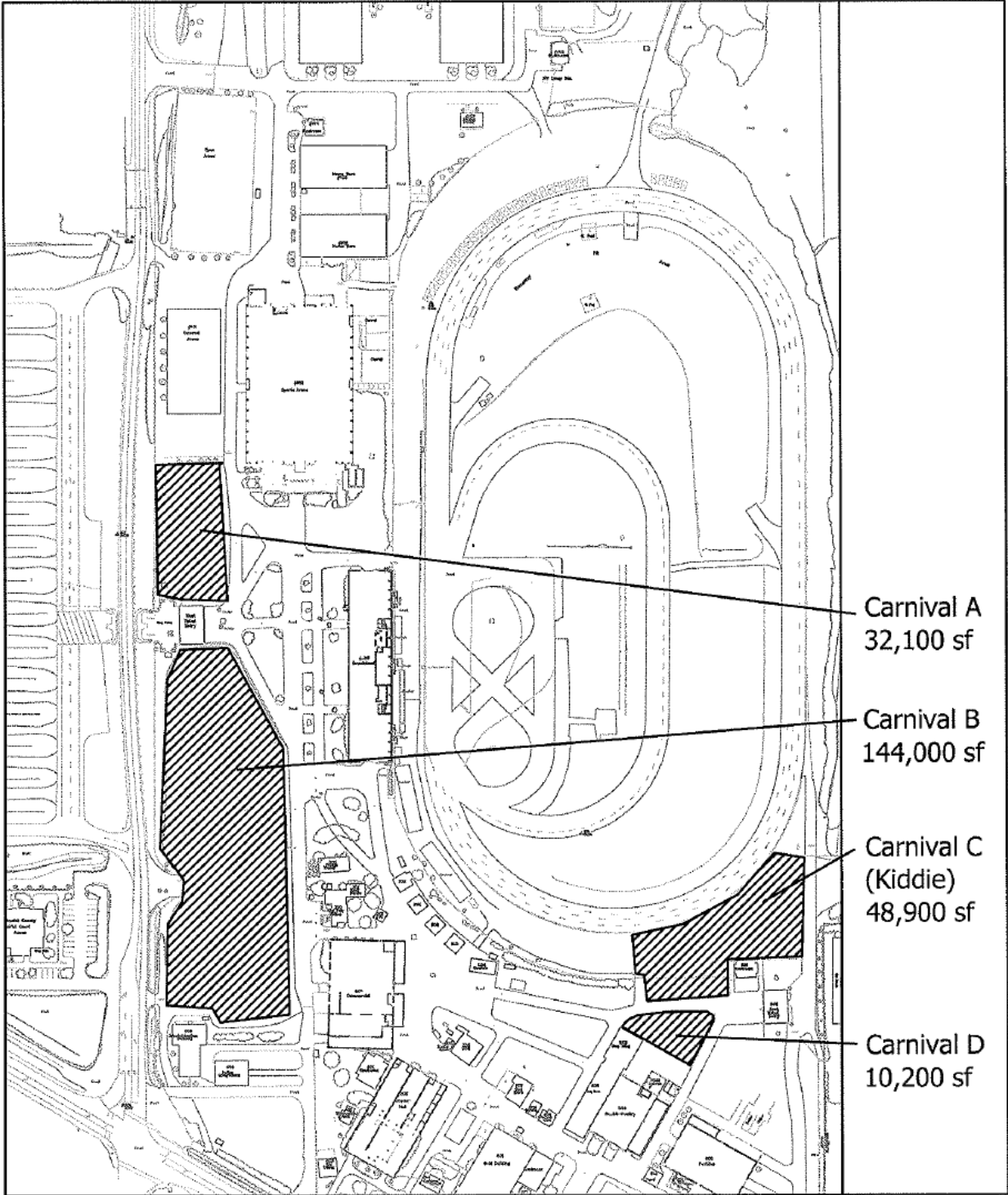
\_\_\_\_\_  
Deputy Prosecuting Attorney

INSURANCE APPROVAL:

\_\_\_\_\_  
Risk Management



ATTACHMENT "A"



Attachment A

*All Areas Approximate*