

Solicitation CSF-10-1028

Digital Billboard

State of California

Bid CSF-10-1028

Digital Billboard

Bid Number CSF-10-1028
Bid Title Digital Billboard

Bid Start Date Sep 1, 2010 2:34:38 PM PDT
Bid End Date Oct 5, 2010 3:00:00 PM PDT
Question & Answer End Date Sep 23, 2010 5:00:00 PM PDT

Bid Contact Janice Risso
Contracts Manager
916-263-4042
jrisso@calexpo.com

Pre-Bid Conference Sep 10, 2010 11:00:00 AM PDT
Attendance is mandatory
Location: California Exposition & State Fair
1600 Exposition Blvd.
Administration Building
Sacramento, CA 95815

Standard Disclaimer The State of California advises that prospective bidders periodically check the websites, including but not limited to Bidsync, and/or other state department links for modifications to bid documents. The State of California is not responsible for a prospective bidder's misunderstanding of the bid solicitation or nonresponsive bid due to failure to check these websites for updates or amendments to bid documents, and/or other information regarding the bid solicitations. Failure to periodically check these websites will be at the bidder's sole risk.

The information published and/or responded to on these websites is public information. Confidential questions/issues/concerns should be directed to the contact on the ad.

Description

California Exposition & State Fair (Cal Expo) currently owns a digital billboard located adjacent to Capital City Freeway at Exposition Boulevard in Sacramento, CA. Cal Expo desires to enter into an agreement with an outdoor advertising company that will install, operate, and maintain a new digital billboard at the same location, replacing the current billboard. The successful proposer will pay monthly rent to Cal Expo.



**State of California
California Exposition & State Fair**

REQUEST FOR PROPOSAL

**DIGITAL BILLBOARD
CSF-10-1028**

August 31, 2010

You are invited to review and respond to this Request for Proposal (RFP), entitled Digital Billboard, #CSF-10-1028. In submitting your proposal, you must comply with these instructions.

Note that all agreements entered into with California Exposition & State Fair (Cal Expo) will include by reference State of California General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site www.ols.dgs.ca.gov/standard+language. If you do not have Internet access, a hard copy can be provided by contacting the person listed below.

A mandatory pre-proposal conference will be held at 11:00 AM on September 10, 2010, at the address noted below. Any interested parties must send at least one representative to the conference in order to be eligible to submit a response to this RFP.

Location: California Exposition and State Fair (Cal Expo)
Administration Building
1600 Exposition Boulevard
Sacramento, CA 95815

Should you have any questions or need any additional information, please contact me at jrisso@calexpo.com.

Please note that no *verbal* information given will be binding upon Cal Expo unless such information is issued in writing as an official addendum.

Thank you for your interest in the California Exposition & State Fair.

Jan Risso
Jan Risso
Contracts Manager

CALIFORNIA EXPOSITION & STATE FAIR

P.O. Box 15649 • Sacramento, CA 95852-1649 State of California • Arnold Schwarzenegger, Governor

A. Purpose and Description of Services

California Exposition & State Fair (Cal Expo) currently owns a digital billboard located adjacent to Capital City Freeway at Exposition Boulevard in Sacramento, California. Cal Expo desires to enter into an agreement with an outdoor advertising company that will install, operate, and maintain a new digital billboard at the same location, replacing the current billboard. There may also be options to operate and/or maintain Cal Expo's Main Gate and East Gate digital billboards.

Existing Digital Billboard: The dimensions of the existing digital billboard adjacent to Capital City Freeway are:

- Overall sign height: 85'
- Monopole:
 - o From bottom up to 34': 4' in diameter
 - o 34' to 49': 3' 6" in diameter
 - o 49' up to 57': 3' in diameter
- Lower cabinet: 8' high x 32' wide
- Upper cabinet: 23' high x 32' wide

NOTE: Engineer drawings for the footing and monopole are available on request.

New Digital Billboard Specifications: The new digital billboard installed must meet the following specifications, at a minimum:

- Size: 14' x 48'
- Two-sided full color digital display
- Up-to-date technology which includes high resolution, high level of color intensity, dimming, etc.
- Eco-friendly features

The successful proposer will enter into an agreement with Cal Expo which will include the following terms and conditions.

1. Installation and Operation: Contractor will install and operate the digital billboard on the Cal Expo premises (Premises), at no cost to Cal Expo, in accordance with the terms and conditions of the agreement.
 - a) Installation: Installation of the new digital billboard must be complete and ready to operate no later than 120 days from the effective date of the agreement.
 - b) Plans and Specifications: Contractor will complete plans and specifications for the digital billboard, approved by a qualified engineer licensed in the State of

California, and submit the plans to Cal Expo for approval. Final design of the billboard is subject to Cal Expo's approval.

c) Operation and Maintenance:

- 1) Contractor will have complete responsibility, at its sole expense, for operation and maintenance of the billboard, including but not limited to obtaining any permits required to install and operate; proper operation of the billboard to Cal Expo's satisfaction; and removal of any graffiti.
- 2) Contractor agrees not to place any material on the digital billboard which, in the judgment of Cal Expo's representative:
 - (a) Is competitive with the programs at Cal Expo;
 - (b) Promotes the sale or use of tobacco products, alcoholic beverages, or medical marijuana;
 - (c) Depicts violence or anti-social behavior or relates to illegal activity;
 - (d) Contains obscene matter or obscene language; or
 - (e) Is an advertisement of a political nature or of matters pertaining to religion.

d) Utilities: All costs for utilities required for the operation of the billboard will be Contractor's sole responsibility.

e) Time Sharing: Cal Expo will be given the option of uploading messages during any open/unsold inventory on the billboard. For the annual California State Fair period, Cal Expo will have complete control of the messages displayed for a minimum of 30 days each year, with the 30th day being the last day of the State Fair for that year. For example, the 2010 State Fair was held July 14 through August 1. In this case, Cal Expo would have complete control of the messages displayed July 3 through August 1. The 2011 State Fair is planned to be held July 13 through July 31. For 2011, Cal Expo would have complete control of the messages displayed July 2 through July 31. If the East Gate digital billboard is included in the agreement, the same time sharing on that billboard would apply. For the Main Gate digital sign, Cal Expo would have complete control of the messages and its operation.

f) Upload Process: The system for uploading messages will be such that designated Cal Expo staff will have the capability to upload messages directly for instant display.

2. Technology Updates: Contractor will be required to provide the latest technology updates available every ten years, at a minimum.

3. Ownership: Contractor will be the owner of the digital billboard during the term of the agreement and shall be responsible for all permits required until the end of the term of the agreement, at which time Cal Expo will become the owner of the digital billboard, including any and all necessary equipment to operate the billboard.
4. Laws and Regulations: Contractor shall conform to all applicable laws and regulations pertaining to outdoor advertising.
5. Term and Use Period: The term of the agreement will begin on the effective date (the date that both parties have signed the agreement) and continue for 20 years. The agreement may be extended, at the option of Contractor, for five (5) additional years at terms agreeable to the parties.
6. Rent: Contractor will pay monthly rent to Cal Expo for the term of the agreement based on the proposal accepted.
7. Deposit: Upon signing the agreement, Contractor will pay a deposit to Cal Expo in the amount of \$20,000.00 in the form of a certified check. Cal Expo will keep, for the term of the agreement, the deposit as a performance guarantee, which guarantees performance under this agreement and payment of all monies due Cal Expo under this agreement. Cal Expo will return the unused deposit, if any, to Contractor at the expiration of the agreement.
8. Condition of the Premises: Cal Expo shall deliver to Contractor for its use and possession the Premises in an "as is" condition.

B. Minimum Qualifications for Proposers

Proposing firm must have been in business providing outdoor advertising services for a minimum of five (5) years.

C. Proposal Requirements and Information

1. Key Action Dates

<u>Event</u>	<u>Date</u>
Mandatory Pre-Proposal Conference.....	September 10, 2010, 11:00 AM
Written Questions Submittal Deadline	September 23, 2010
Final Date/Time for Proposal Submission	October 5, 2010, 3:00 PM
Notice of Intent to Award (tentative date)	October 12, 2010
Proposed Award Date.....	October 18, 2010
Cal Expo Board of Directors Approval of Agreement.....	October 29, 2010

2. Mandatory Pre-Proposal Conference

- a) A mandatory pre-proposal conference is scheduled at 11:00 AM on September 10, 2010, in the Administration Building at Cal Expo, 1600 Exposition Boulevard, Sacramento, CA, for the purpose of answering any questions regarding this RFP.
- b) In the event a potential proposer is unable to attend the mandatory pre-proposal conference, an authorized representative may attend in their behalf. The representative may only sign-in for one (1) company. Subcontractors may not represent a potential proposer at a mandatory pre-proposal conference. No proposal will be accepted unless the proposer or its authorized representative was in attendance.
- c) For proposers who need assistance due to a physical impairment, a reasonable accommodation will be provided by Cal Expo upon request for the pre-proposal conference. The proposer must call the Contracts Office at 916-263-4042 no later than the fifth working day prior to the scheduled date and time of the pre-proposal conference to arrange for a reasonable accommodation.

3. Required Proposal Content: A complete proposal package will include the items listed in this paragraph. Additional information and/or documentation may be included at the proposer's discretion.

- a) Proposal/Proposer Certificate Sheet (Attachment 1) – This form is mandatory.
 - b) Proposer References (Attachment 2) – This information is mandatory; however, the information may be submitted in a format other than this form.
 - c) Description of firm, including:
 - (1) Qualifications of firm and performance/success history
 - (2) Description of digital billboards that the proposing firm is currently operating and sales/gross revenue for each. As part of the evaluation process, Cal Expo may conduct a physical inspection of the digital billboards currently operated by the proposing firm.
 - d) Financial statement to include the last five years
 - e) Description of firm's maintenance and customer service plan and procedure
 - f) Detailed description/specifications of the electronic billboard proposed, including:
 - (1) Manufacturer and size of sign
 - (2) Description of technology and when it was developed, including animation rate, video rate, pixel density, brightness, color intensity, weatherproofing, etc.
 - (3) Life expectancy of sign
 - (4) Technology upgrades available
 - (5) Drawing of sign design showing creative approach to include identification of Cal Expo
 - g) Financial Proposal (Attachment 3) - Provide the firm's financial proposal to include amount of monthly rent to be paid to Cal Expo for the term of the agreement. There are four (4) options for the financial proposal portion of this RFP. Cal Expo will choose the option that is in its best interest. A financial proposal must be submitted for all four options. Omitting any of the options in the proposal may be cause for rejection of the proposal.
4. Submission of Proposal:
- a) Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.

- b) The proposal package should be prepared in the least expensive method.
- c) All proposals must be submitted under **sealed** cover and sent to Cal Expo by dates and times shown in Section C, Proposal Requirements and Information. Proposals received after this date and time will not be considered.
- d) A minimum of three (3) copies of the proposal must be submitted.
- e) The original proposal must be marked "ORIGINAL COPY" and contain an original signature of a person who is authorized to bind the proposing firm. An unsigned proposal may be rejected. All additional proposal sets may contain photocopies of the original package.
- f) The proposal envelopes must be plainly marked with the RFP number and title, proposing firm's name and address, and must be marked with "DO NOT OPEN," as shown in the following example:

Jan Risso
Contracts Manager
California Exposition & State Fair
PO Box 15649
Sacramento, CA 95852
RFP # CSF-10-1028
DIGITAL BILLBOARD
DO NOT OPEN

If the proposal is made under a fictitious name or business title, the actual legal name of proposer must be provided.

Proposals not submitted under sealed cover and marked as indicated may be rejected.

- g) Mail or deliver proposals to the following address:

U.S. Postal Service Deliveries

Jan Risso, Contracts Manager
California Exposition & State Fair
PO Box 15649
Sacramento, CA 95852

Hand Deliveries

(UPS, Express Mail, Federal Express)
Jan Risso, Contracts Manager
California Exposition & State Fair
1600 Exposition Boulevard
Sacramento, CA 95815

- h) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. Cal Expo may reject any or

all proposals and may waive any immaterial deviation in a proposal. Cal Expo's waiver of immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.

- i) Costs incurred for developing proposals and in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to Cal Expo.
- j) A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered.
- k) A proposer may withdraw its proposal by submitting a written withdrawal request to Cal Expo, signed by the proposer or an authorized agent. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- l) Cal Expo may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package.
- m) Cal Expo reserves the right to reject all proposals. Cal Expo is not required to award an agreement.
- n) Before submitting a response to this solicitation, proposers should review, correct all errors and confirm compliance with the RFP requirements.
- o) Where applicable, proposer should carefully examine work sites and specifications.
- p) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered.
- q) Cal Expo does not accept alternate contract language from a prospective contractor. A proposal with such language will be considered a counter proposal and will be rejected. The State's General Terms and Conditions are not negotiable.
- r) No oral understanding or agreement shall be binding on either party.

5. Evaluation Process

- a) At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP.
- b) Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, may be rejected.
- c) Award, if made, will be to the highest scored responsible proposal.
- d) Proposal Evaluation: The proposals that meet the minimum qualifications will be evaluated and scored according to the criteria indicated below. (See paragraph C3 for documentation to be submitted in support of the scoring criteria.)

Written Proposal Rating/Scoring Criteria	Maximum Possible Points
QUALIFICATIONS OF FIRM • Experience and success in selling advertising on electronic billboards (15 points) • Financial stability (15 points) • Maintenance/customer service plan (10 points)	40
EQUIPMENT PROVIDED • Size, technology, updates available, etc.	30
FINANCIAL PROPOSAL • Maximum services are provided in relation to the financial proposal submitted	30
TOTAL POSSIBLE POINTS	100

6. Award and Protest

- a) Notice of the proposed award shall be posted in a public place in the office of California Exposition & State Fair, 1600 Exposition Boulevard, Sacramento, CA for five (5) working days prior to awarding the agreement.
- b) If any proposer, prior to the award of agreement, files a protest with Cal Expo and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds that the (protesting) proposer would have been awarded the contract had the agency correctly applied the evaluation standard in the RFP, or if the agency followed the evaluation and scoring methods in the RFP, the agreement shall not be awarded

until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that you submit any protest by certified or registered mail.

- c) Within five (5) days after filing the initial protest, the protesting proposer shall file with the Department of General Services, Office of Legal Services and Cal Expo a detailed statement specifying the grounds for the protest.
- d) Upon resolution of the protest and award of the agreement, Contractor must sign and submit to the awarding agency, *page one (1)* of the Contractor Certification Clauses (CCC), which can be found on the Internet at www.dgs.ca.gov/contracts.

7. Disposition of Proposals

- a) Upon proposal opening, all documents submitted in response to this RFP will become the property of Cal Expo and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public.
- b) Proposal packages may be returned only at the proposer's expense, unless such expense is waived by the awarding agency.

ATTACHMENT 1

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

- A. Place all required attachments behind this certification sheet.
- B. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. ☐ Sole Proprietorship	5. ☐ Partnership	6. ☐ Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Yes ☐ No ☐ If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes ☐ No ☐ If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is Date application was submitted to OSBCR, if an application is pending:		

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a California Small Business, place a check in the "Yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 2

PROPOSER REFERENCES

Submission of this attachment is mandatory. Failure to complete and return this attachment with your proposal will cause your bid to be rejected and deemed non-responsive.

List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract.

REFERENCE 1

Name of Company			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 2

Name of Company			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 3

Name of Company			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

ATTACHMENT 3**FINANCIAL PROPOSAL**

Company Name _____

Signature _____

Indicate the financial proposal in the spaces below to include the amount of monthly rent to be paid to Cal Expo for the term of the agreement. A financial proposal must be submitted for all four options. Omitting any of the options in the proposal may be cause for rejection of the proposal.

1. The monthly rent proposed must be no less than \$15,000.00.
2. For the successful proposer, the monthly rent will be adjusted for inflation every five (5) years based on the Consumer Price Index for All Items (CPI-U) for the San Francisco-Oakland-San Jose region. The adjustment will be 50 percent (50%) of the cumulative total percentage increase for the previous five (5) years. For example, if the monthly rent is \$15,000 and the increase for inflation is a cumulative total of ten percent (10%) for the previous five (5) years, the rent would increase by \$750.00 per month for the next five (5) years [$\$15,000 \times 10\% \times 50\% = \750.00].

Option No.	Description	Monthly Rent Proposed
Option 1	Installation, operation, and maintenance of digital billboard at Capital City Freeway, including removal of existing digital billboard (monopole can remain)	\$
Option 2	Installation, operation, and maintenance of digital billboard at Capital City Freeway, with another party removing the existing sign at no cost to proposer (monopole can remain)	\$
Option 3	Installation, operation, and maintenance of digital billboard at Capital City Freeway, including removal of existing digital billboard (monopole can remain); operation and maintenance of digital billboard at Cal Expo's East Gate; and maintenance (no advertising sales) of digital billboard at Cal Expo's Main Gate	\$
Option 4	Installation, operation, and maintenance of digital billboard at Capital City Freeway, with another party removing the existing sign at no cost to proposer (monopole can remain); operation and maintenance of digital billboard at Cal Expo's East Gate; and maintenance (no advertising sales) of digital billboard at Cal Expo's Main Gate	\$

Sample Agreement

General Terms and Conditions

1. Amendment: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
2. Assignment: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of Cal Expo in the form of a formal written amendment.
3. Audit: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896.)
4. Non-Discrimination Clause: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Palace Entertainment and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

5. No Liens: During the term provided for in this Agreement, subject to the terms hereof, Contractor (including any of its contractors or concessionaires), will not in any way encumber or cloud its title to all or any portion of the Water Park Premises real property, or any improvements to it, and will promptly pay and discharge any and all debts contracted by it in reference thereto for labor, material, or services, or anything connected with or used by it upon the Premises to the end that no such liens shall attach unless being contested by or on behalf of Contractor in accordance with paragraph 11(l)(2).
6. Permits: Contractor shall at all times abide by and comply with all applicable federal, state, and local laws and at all times shall have in good standing necessary licenses or permits to conduct its operation on the Cal Expo grounds.
7. Damage to Equipment: Cal Expo does not have responsibility for loss or damage to Contractor's property arising from causes beyond the control of Cal Expo.
8. Indemnification and Hold Harmless:
 - a) Contractor shall indemnify, hold harmless and defend Cal Expo and the State of California, its officers, agents and employees against any and all claims, suits, actions of every name, kind and description, brought forth from, or on account of, damage to property or injuries to or death of any person, including but not limited to workers or the public, resulting from any activities on the Premises, except for (1) claims arising out of the sole negligence of Cal Expo and the State of California, its officers, agents or employees, and (2) claims arising out of conditions or occurrences with respect to the Premises and adjacent areas occurring or existing prior to the date of this Agreement, which conditions or occurrences do not comply with, or may result in liability under the environmental laws or regulations of any governmental authority.
 - b) Contractor hereby waives all claims and recourse against Cal Expo and the State of California including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Agreement. The duty of Contractor to indemnify and save harmless includes the duties to defend as set forth in section 2778 of the Civil Code.
 - c) Contractor waives any and all rights to any type of express or implied indemnity against Cal Expo and the State of California, its officers or employees.
 - d) In the event Cal Expo is named as co-defendant, Contractor shall notify Cal Expo of such fact and shall represent Cal Expo in such legal action unless Cal Expo undertakes to represent itself as co-defendant in such legal action, in which event Contractor shall bear Cal Expo's litigation costs, expenses, and attorney's fees.

- e) Notwithstanding paragraph 20b), Cal Expo shall not be liable for loss or damage to the property owned, leased, or operated by Contractor.
9. General Liability Insurance: At all times Contractor shall maintain at its own cost and expense commercial general liability insurance coverage with minimum limits of at least \$1,000,000 per occurrence combined single limit for bodily injury and property damage and cover damages for bodily injury, property damage, personal injury liability, and products and completed operations liability. The general liability insurance coverage shall include the following provisions:
- a) State of California, California Exposition & State Fair, its agents, officers, directors, employees, and servants are made additional insured but only insofar as the operations under this agreement are concerned.
 - b) The coverage will not be cancelled or reduced in coverage without 30 days prior written notice to Cal Expo.
 - c) Cal Expo shall not be responsible for the payment of any premiums or assessments on the policy.
 - d) Contractor shall submit insurance certificates to Cal Expo for approval by appropriate agencies prior to the commencement of operation on the premises. At least thirty (30) days prior to the expiration of any policy, a new insurance certificate with renewal information shall be filed with Cal Expo. Contractor shall furnish Cal Expo a certified copy of the policy within ten (10) days upon request.
 - e) Certificate of Insurance and/or policy must cover for the term of the agreement including the period described as set-up and clean-up period, if any.
 - f) Contractor agrees that the liability insurance herein provided shall be in effect at all times during the term of this agreement. In the event said insurance coverage expires at any time or times during the term of this agreement, Contractor agrees to provide the California Exposition & State Fair, PO Box 15649, Sacramento, CA 95852, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than one year or the remainder of the term of this agreement. New Certificates of Insurance are subject to the approval of the California Exposition & State Fair and Contractor agrees that no activity by Contractor contemplated by this agreement be performed after the insurance expires and prior to the giving of such approval. In the event Contractor fails to keep in effect at all times during the term of this agreement the insurance coverage as herein provided, Cal Expo may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

10. Workers' Compensation Insurance: Contractor certifies that it is aware of the provisions of Section 3700 of the 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 affirms to comply with such provisions before commencing the performance of the work of this agreement.
11. Property Insurance: At all times Contractor shall maintain at its own cost and expense all-risk property insurance coverage on the buildings, improvements, fixtures, furnishings, equipment and all other personal property, including supplies of the Contractor on the premises, on replacement of the property in event of loss.
12. Automobile Liability Insurance: At all times Contractor shall maintain at its own cost and expense commercial automobile liability insurance coverage with limits not less than \$1,000,000 combined single limit per accident.
13. Cal Expo Sponsors:
 - a. Cal Expo has a marketing and pourage exclusivity in the categories of carbonated beverage, non-carbonated beverage, sports drinks, packaged water, ice, cups and support services. As such, Contractor cannot advertise products that are in conflict with Cal Expo's sponsorship agreement in this category.
 - b. Cal Expo has a marketing exclusivity in the category of malt beverage. As such, Contractor cannot advertise products that are in conflict with Cal Expo's sponsorship agreement in this category.
14. Potential Subcontractors: Nothing contained in this agreement or otherwise shall create any contractual relation between Cal Expo and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to Cal Expo for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from Cal Expo's obligation to make payments to the Contractor. As a result, Cal Expo shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
15. Dispute Resolution
 - a) Mediation: In the event a dispute or disagreement arises in connection with an interpretation or meaning of a particular term or provision of this Agreement, and such dispute cannot be informally resolved by the parties, the parties agree to formally mediate the dispute prior to initiating litigation. The parties agree to equally share the costs associated with such mediation.

- b) Venue in Sacramento: The parties to this Agreement agree that any action at law or suit in equity, relating to this Agreement or any provision thereof, shall only be instituted and maintained in a court of competent jurisdiction in the County of Sacramento, State of California. Each party hereto waives the right to change of venue.
- c) In the event of litigation that is instituted by one party against the other, the parties agree that, in addition to any other remedies that this Agreement or the law may allow, the prevailing party in such litigation shall recover all reasonable costs, including attorney's fees.

16. Termination Prior to Expiration of Term:

- a) Events of Default Defined: Any of the following acts or omissions shall constitute breach of this Agreement if not cured within applicable notice and cure periods (each referred to herein as an "Event of Default" or "breach" of this Agreement) which shall give Cal Expo the right to terminate this Agreement as set forth in this paragraph if not cured within applicable notice and cure periods and take such other actions to enforce this Agreement as are permitted by law. Due performance of this Agreement by Contractor is an express condition of its continuance, as provided in this paragraph.
 - 1) Breach of Agreement: If a material breach is made by Contractor of any of the terms, conditions or covenants contained in this Agreement which is not cured within 30 days of receipt of written notice thereof, or if not reasonably capable of being cured within 30 days, as soon thereafter as is commercially practicable so long as Contractor diligently prosecutes such cure to completion; or
 - 2) Nonpayment of Rent: If the required monthly rent is delinquent in the amount of payment, or in the prescribed time of payment, for a period in excess of fifteen (15) days (acceptance by Cal Expo of any portion of the delinquent rent, at the option of Cal Expo shall not constitute waiver of said breach).
- b) Remedies for Breach: In the event of a breach of this Agreement by Contractor, Cal Expo may send written notice to Contractor of said breach. If Contractor shall fail to remedy (1) commence cure of the breach described in such notice within 90 days of receipt or (2) diligently prosecute such cure to completion thereafter, Cal Expo, at its option, may declare this Agreement terminated and may thereupon take immediate possession of the Water Park Premises. In addition, Cal Expo may seek redress against the Escrow Funds on deposit with Cal Expo as set forth in this Agreement and the Escrow Agreement.

- c) Bankruptcy: Subject to the provisions of the United States Bankruptcy Code, as amended, should Contractor file a voluntary petition in bankruptcy or be adjudged a bankrupt either upon the voluntary petition in bankruptcy of Contractor or upon the involuntary petition of creditors of Contractor, or should Cal Expo seek a remedy afforded by any statute of the United States relating to bankruptcy, or should Contractor make an assignment for the benefit of its creditors, or should a receiver be appointed over its assets, or should an attachment be levied, and permitted to remain for a period of more than thirty (30) days, upon any interest of Contractor under this Agreement, then, all interest of Contractor in this Agreement, except such interest as may have been validly assigned by Contractor pursuant to the conditions of this Agreement, shall at the sole option of Cal Expo terminate upon ninety (90) days written notice to Contractor and Cal Expo may enter and take possession of the Water Park Premises.
17. Relationship of the Parties: The parties hereto agree that Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of Cal Expo.
18. Force Majeure: Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.
19. Timeliness: Time is of the essence in this Agreement.
20. Governing Law: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
21. Unenforceable Provision: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
22. Interest in Property: The parties agree that this Agreement does not convey, demise or let any interest of Cal Expo in any real property, and the occupancy of such premises by Contractor or the acceptance of rent by Cal Expo during the term of, or during any holdover under this Agreement shall not confer on Contractor any title, interest, or right in real property against Cal Expo.
23. Inspection of Premises: Cal Expo reserves the right to enter the Premises to inspect, investigate and survey the Premises as deemed necessary by Cal Expo and the right to do any work of any nature in any location on the Cal Expo grounds necessary for its preservation, maintenance, and operation. Contractor shall use the premises in such a manner so as not to cause interference to Cal Expo.

24. Taxes: Contractor agrees to pay all lawful taxes, assessments or charges which at any time may be levied upon any interest in this Agreement. It is understood that this Agreement may create a possessor interest subject to the payment of property taxes levied on such interest.
25. Change of Venue: The parties to this Agreement agree that any action at law or suit in equity, relating to this Agreement or any provision therefore, shall only be instituted and maintained in a court of competent jurisdiction in the County of Sacramento, State of California. Each party hereto waives the right to change of venue.
26. Attorney's Fees: If any legal action is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which the party may be entitled. If the party who commenced the legal or equitable proceedings dismisses the action or proceeding with or without prejudice, the defending or responding party shall be deemed the prevailing party for the purposes of recovery of attorney fees. The rights of Contractor under this paragraph are limited by and subject to the restrictions in the State of California Budget Act, as well as any other present or future restrictions enacted by the Legislature.
27. The route of access to the premises may be designated and redesignated by Cal Expo.
28. Miscellaneous
- a) Gender and Headings: As used herein, whenever the context so requires, the neuter gender includes the masculine and the feminine, and the singular includes the plural and vice versa. Defined terms are to have their defined meanings regardless of the grammatical form or number of tenses of such terms. The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed a part of this Agreement or considered in construing this Agreement.
 - b) Covenants: Whenever words or provisions imposing an obligation or duty on either party are used herein, such word or provision shall have the same force and effect as though phrased in the form of express covenants.
 - c) Construction: The language in all parts of this Agreement shall in all cases be construed simply and according to its fair meaning and not strictly for or against either of the parties.
 - d) Successors and Assigns: The terms, provisions, and conditions hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. All rights, options, privileges and obligations of Cal Expo may be assumed, enforced or performed by any person designed by it or by its successors or assigns.
 - e) Definition of "Law": "Law," as used herein, includes all valid laws, statutes, ordinances, rules, orders and regulations promulgated or issued by federal, state, municipal, local and administrative authorities.

- f) Partial Invalidity: In the event that any term, covenant, provision or condition of this Agreement or any article, section, subsection, sentence, clause or phrase of this Agreement is held to be invalid by final judgment or any court of competent jurisdiction, such invalidity shall not in any way affect the remainder of this Agreement.
- g) Representations Not Herein Contained: This Agreement contains all of the representations, provisions, agreements, understandings and warranties either express or implied and it is understood that no person, employee, agent or representative of Cal Expo or any instrumentality thereof, has authority to make, and Contractor warrants that it is not relying on any written or oral statement, express or implied, except as herein set forth, leading up to or including it to execute or enter into this Agreement.

Question and Answers for Bid #CSF-10-1028 - Digital Billboard

OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.

Question Deadline: Sep 23, 2010 5:00:00 PM PDT