

Solicitation 375-11842

Beach Equipment Rental Concession

Bid Designation: Public



City of Fort Lauderdale

Bid 375-11842

Beach Equipment Rental Concession

Bid Number 375-11842
 Bid Title Beach Equipment Rental Concession

Bid Start Date Jan 13, 2017 9:41:54 AM EST
 Bid End Date Mar 3, 2017 2:00:00 PM EST
 Question & Answer End Date Feb 8, 2017 5:00:00 PM EST

Bid Contact Jim Hemphill
 Sr. Procurement Specialist
 Procurement Department
 954-828-5143
 jhemphill@fortlauderdale.gov

Bid Contact Ginah Joseph
 Procurement Specialist I
 Finance - Procurement Division
 954-828-5142
 gjoseph@fortlauderdale.gov

Pre-Bid Conference Jan 25, 2017 10:00:00 AM EST
Attendance is optional
Location: Fort Lauderdale Aquatic Complex
501 Seabreeze Blvd. 2nd Floor, Fort Lauderdale FL 33316.

Addendum # 1

New Documents 375-11842 Beach Equipment Rental Concession 1-26.docx
 11842 Addendum No 1..doc

Removed Documents Local Preference Certification.doc
 Contractor Payment by P-Card Form.doc.docx
 375-11842 Beach Equipment Rental Concession 1-13.docx

Changes were made to the following items:
 Beach Equipment Rental Concession

Addendum # 2

New Documents 11842 Addendum No 1..doc
 11842 Addendum No 2.doc
 375-11842 Beach Equipment Rental Concession Sign in Sheet.pdf

Removed Documents 11842 Addendum No 1..doc

Changes were made to the following items:

Beach Equipment Rental Concession

Addendum # 3

New Documents 11842 Addendum No 3.doc

Previous End Date Feb 14, 2017 2:00:00 PM EST

New End Date Feb 28, 2017 2:00:00 PM EST

Changes were made to the following items:

Beach Equipment Rental Concession

Addendum # 4

New Documents FTL_ Beach Chair Concession2016_102416 11x17.pdf
FTL_ Beach Chair Concession2016_Split Window102416 11x17.pdf

Changes were made to the following items:

Beach Equipment Rental Concession

Addendum # 5

New Documents 11842_Addendum_No_4.doc

Previous End Date Feb 28, 2017 2:00:00 PM EST

New End Date Mar 3, 2017 2:00:00 PM EST

Changes were made to the following items:

Beach Equipment Rental Concession

Description

The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified proposers, hereinafter referred to as proposer or Franchisee, to provide a beach equipment rental concession for the City's Parks and Recreation Department, in accordance with the terms, conditions, and specifications contained in this Request for Proposals (RFP). It is the intent of the City to award a single contract to the first ranked proposer responding to this RFP. The contract is for a Franchise, pursuant to Sec.8-55.2 of the Code of Ordinances of the City of Fort Lauderdale, hereinafter referred to as Franchise or concession.

Added on Jan 26, 2017:

Updated Bid Specification to correct the Frame Finish Color from "Parchment" to "Sonora" in Section 3.6, Equipment - A. Beach Lounge Chair.

Corrected percentage in Section 3.18 – Additional Amenities

Removed references of Local Business Preference – Sections 2.18, and 4.2.8 – Required Form.

Removed "Contract Payment Method by P Card" Form

All other terms, conditions and specification remain unchanged.

Added on Feb 6, 2017:

Uploaded the "Sign-in Sheet"

Corrected "Issued Date" on Addendum No.1

All other terms, conditions and specification remain unchanged.

Added on Feb 13, 2017:

Extended RFP End Date to February 28th, 2017 at 2:00 pm

All other terms, conditions and specification remain unchanged.

Added on Feb 23, 2017:

Documents - Location maps.

All other terms, conditions and specification remain unchanged.

Added on Feb 28, 2017:

Addendum 4 has been added to the DOCUMENTS Page - it extends the bid due date

Addendum # 1

Addendum # 2

Addendum # 3

Addendum # 4

Addendum # 5

City of Fort Lauderdale
Beach Equipment Rental Concession
RFP # 375-11842

SECTION I – INTRODUCTION AND INFORMATION

1.1 Purpose

The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified proposers, hereinafter referred to as proposer or Franchisee, to provide a beach equipment rental concession for the City's Parks and Recreation Department, in accordance with the terms, conditions, and specifications contained in this Request for Proposals (RFP). It is the intent of the City to award a single contract to the first ranked proposer responding to this RFP. The contract is for a Franchise, pursuant to Sec.8-55.2 of the Code of Ordinances of the City of Fort Lauderdale, hereinafter referred to as Franchise or concession.

1.2 Submission Deadline

Sealed proposals shall be delivered during the City's normal business hours in a sealed envelope and addressed to the City of Fort Lauderdale Procurement Services Division, 100 N. Andrews Avenue, #619, Fort Lauderdale, FL 33301 (City Hall) no later than the date and time specified, at which time and place the proposals will be publicly opened and the names of the firms will be read. After the deadline, proposals will not be accepted. Firms are responsible for making certain that their proposal is received at the location specified by the due date and time. The City of Fort Lauderdale is not responsible for delays caused by any mail, package or courier service, including the U.S. mail, or caused by any other occurrence or condition. The City's normal business hours are Monday through Friday, 8:00 a.m. through 5:00 p.m. excluding holidays observed by the City.

1.3 Pre-proposal Conference and Site Visit

There will be a pre-proposal conference and/or site visit scheduled for this Request for Proposal on Wednesday January 25, 2017 at 10:00 at the Fort Lauderdale Aquatic Complex, located at 501 Seabreeze Blvd. 2nd Floor, Fort Lauderdale FL 33316.

While attendance is not mandatory, tours at other times might not be available. It is the sole responsibility of the Contractor to become familiar with the scope of the City's requirements and systems prior to submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. It is strongly suggested that all Contractors attend the pre-proposal meeting and/or site visit. Submission of a proposal will be considered evidence that the proposer has familiarized themselves with the nature and extent of the work, equipment, materials, and labor required.

1.4 BidSync

The City of Fort Lauderdale uses BidSync (www.bidsync.com) to administer the competitive solicitation process, including but not limited to soliciting proposals, issuing addenda, posting results and issuing notification of an intended decision. There is no charge to register and download the RFP from BidSync. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available in BidSync well in advance of their intention of submitting a proposal to ensure familiarity with the use of BidSync. The City shall not be responsible for a Proposers inability to submit a Proposal by the end date and time for any reason, including issues arising from the use of BidSync.

1.5 Point of Contact

For information concerning procedures for responding to this solicitation, contact Procurement Specialist Ginah Joseph at (954) 828-5142 or email at gjoseph@fortlauderdale.gov. Such

contact shall be for clarification purposes only.

For information concerning technical specifications, please utilize the question / answer feature provided by BidSync at www.bidsync.com. Questions of a material nature must be received prior to the cut-off date specified in the RFP Schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. (See addendum section of BidSync Site). Contractors please note: Proposals shall be submitted as stated in PART IV – Submittal Requirements. No part of your proposal can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the Contractor has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire proposal must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in BidSync shall become part of any contract that is created from this RFP.

END OF SECTION

SECTION II - SPECIAL TERMS AND CONDITIONS

2.1 General Conditions

RFP General Conditions (Form G-107, Rev. 02/15) are included and made a part of this RFP.

2.2 Addenda, Changes, and Interpretations

It is the sole responsibility of each firm to notify the Buyer utilizing the question / answer feature provided by BidSync and request modification or clarification of any ambiguity, conflict, discrepancy, omission or other error discovered in this competitive solicitation. Requests for clarification, modification, interpretation, or changes must be received prior to the Question and Answer (Q & A) Deadline. Requests received after this date may not be addressed. Questions and requests for information that would not materially affect the scope of services to be performed or the solicitation process will be answered within the question / answer feature provided by BidSync and shall be for clarification purposes only. Material changes, if any, to the scope of services or the solicitation process will only be transmitted by official written addendum issued by the City and uploaded to BidSync as a separate addendum to the RFP. Under no circumstances shall an oral explanation given by any City official, officer, staff, or agent be binding upon the City and should be disregarded. All addenda are a part of the competitive solicitation documents and each firm will be bound by such addenda. It is the responsibility of each to read and comprehend all addenda issued.

2.3 Changes and Alterations

Proposer may change or withdraw a Proposal at any time prior to Proposal submission deadline; however, no oral modifications will be allowed. Modifications shall not be allowed following the Proposal deadline.

2.4 Proposer's Costs

The City shall not be liable for any costs incurred by proposers in responding to this RFP.

2.5 Pricing/Delivery

All pricing should be identified on the Cost Proposal page provided in this RFP. No additional costs may be accepted, other than the costs stated on the Cost Proposal page. Failure to use the City's Cost Proposal page and provide costs as requested in this RFP may deem your proposal non-responsive.

2.9 Mistakes

The proposer shall examine this RFP carefully. The submission of a Proposal shall be prima facie evidence that the proposer has full knowledge of the scope, nature, and quality of the work to be performed; the detailed requirements of the specifications; and the conditions under which the work is to be performed. Ignorance of the requirements will not relieve the proposer from liability and obligations under the Contract.

2.10 Acceptance of Proposals / Minor Irregularities

2.10.1 The City reserves the right to accept or reject any or all proposals, part of proposals, and to waive minor irregularities or variances to specifications contained in proposals which do not make the proposal conditional in nature and minor irregularities in the solicitation process. A minor irregularity shall be a variation from the solicitation that does not affect the price of the contract or does not give a respondent an advantage or benefit not enjoyed by other respondents, does not adversely impact the interests of

other firms or, does not affect the fundamental fairness of the solicitation process. The City also reserves the right to reissue a Request for Proposal.

- 2.10.2** The City reserves the right to disqualify Proposer during any phase of the competitive solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud or other illegal practices on the part of the Proposer.

2.11 Modification of Services

- 2.11.1** While this contract is for services provided to the department referenced in this Request for Proposals, the City may require similar work for other City departments. Successful Proposer agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Successful Proposer.

- 2.11.2** The City reserves the right to delete any portion of the work at any time without cause, and if such right is exercised by the City, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished and approved by the City on any portion of a contract resulting from this RFP, the Successful Proposer shall be paid for the work completed on the basis of the estimated percentage of completion of such portion to the total project cost.

- 2.11.3** The City may require additional items or services of a similar nature, but not specifically listed in the contract. The Successful Proposer agrees to provide such items or services, and shall provide the City prices on such additional items or services. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items or services from other vendors, or to cancel the contract upon giving the Successful Proposer thirty (30) days written notice.

- 2.11.4** If the Successful Proposer and the City agree on modifications or revisions to the task elements, after the City has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Successful Proposer will submit a revised budget to the City for approval prior to proceeding with the work.

2.12 No Exclusive Contract

Proposer agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services from another vendor at the City's sole option.

2.13 Sample Contract Agreement

A sample of the formal agreement template, which may be required to be executed by the awarded vendor can be found at our website

http://fortlauderdale.gov/purchasing/AWARDS/CONTRACT_TEMPLATE_SERVICES.pdf

2.14 Responsiveness

In order to be considered responsive to the solicitation, the firm's proposal shall fully conform in all material respects to the solicitation and all of its requirements, including all form and substance.

2.15 Responsibility

In order to be considered as a responsible firm, firm shall be fully capable to meet all of the requirements of the solicitation and subsequent contract, must possess the full capability, including financial and technical, to perform as contractually required, and must be able to fully document the ability to provide good faith performance.

2.16 Minimum Qualifications

Proposers shall be in the business of providing beach (or similar environment) equipment rentals and amenities and must possess sufficient financial support, equipment and organization to ensure that it can satisfactorily perform the services if awarded a Contract. Proposers must demonstrate that they, or the principals assigned to the project, have successfully provided services with similar magnitude to those specified in the scope of services to at least one entity similar in size and complexity to the City of Fort Lauderdale or can demonstrate they have the experience with large scale private sector clients and the managerial and financial ability to successfully perform the work.

Proposers shall satisfy each of the following requirements cited below. Failure to do so may result in the proposal being deemed non-responsive.

2.16.1 Proposer or principals shall have relevant experience in beach (or similar environment) equipment rentals and amenities. Project manager assigned to the work must have experience in the management and supervision of beach (or similar environment) equipment rentals and amenities and have served as project manager on similar projects.

2.16.2 Before awarding a contract, the City reserves the right to require that a Proposer submit such evidence of qualifications as the City may deem necessary. Further, the City may consider any evidence of the financial, technical, and other qualifications and abilities of a firm or principals, including previous experiences of same with the City and performance evaluation for services, in making the award in the best interest of the City.

2.16.3 Firm or principals shall have no record of judgments, pending lawsuits against the City or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the City Commission.

2.16.4 Neither firm nor any principal, officer, or stockholder shall be in arrears or in default of any debt or contract involving the City, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the City.

2.17 Lobbying Activities

Any contractor submitting a response to this solicitation must comply, if applicable, with City of Fort Lauderdale Ordinance No. C-00-27 & Resolution No. 07-101, Lobbying Activities. Copies of Ordinance No. C-00-27 and Resolution No. 07-101 may be obtained from the City Clerk's Office on the 7th Floor of City Hall, 100 N. Andrews Avenue, Fort Lauderdale, Florida. The ordinance may also be viewed on the City's website at:

http://www.fortlauderdale.gov/clerk/LobbyistDocs/lobbyist_ordinance.pdf.

2.18 Local Business Preference – N/A

2.19 Protest Procedure

2.19.1 Any Proposer or Bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the director of procurement services division (director), by delivering a letter of protest to the director within five (5) days after a notice of intent to award is posted on the city's web site at the following link:

<http://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award>.

2.19.2 The complete protest ordinance may be found on the city's web site at the following link: <http://www.fortlauderdale.gov/purchasing/protestordinance.pdf>

2.20 Public Entity Crimes

Contractor, by submitting a proposal attests she/he/it has not been placed on the convicted vendor list. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

2.21 Subcontractors

2.21.1 If the Contractor proposes to use subcontractors in the course of providing these services to the City, this information shall be a part of the bid response. Such information shall be subject to review, acceptance and approval of the City, prior to any contract award. The City reserves the right to approve or disapprove of any subcontractor candidate in its best interest and to require Contractor to replace subcontractor with one that meets City approval.

2.21.2 Contractor shall ensure that all of Contractor's subcontractors perform in accordance with the terms and conditions of this Contract. Contractor shall be fully responsible for all of Contractor's subcontractors' performance, and liable for any of Contractor's subcontractors' non-performance and all of Contractor's subcontractors' acts and omissions. Contractor shall defend, at Contractor's expense, counsel being subject to the City's approval or disapproval, and indemnify and hold harmless the City and the City's officers, employees, and agents from and against any claim, lawsuit, third-party action, or judgment, including any award of attorney fees and any award of costs, by or in favor of any Contractor's subcontractors for payment for work performed for the City.

2.21.3 Contractor shall require all of its subcontractors to provide the required insurance coverage as well as any other coverage that the contractor may consider necessary, and any deficiency in the coverage or policy limits of said subcontractors will be the sole responsibility of the contractor..

2.22 Payment and Performance Bond

2.22.1 The Proposer shall within fifteen (15) working days after notification of award, furnish to the City a Payment and Performance Bond, in the amount of the proposed price as surety for faithful performance under the terms and conditions of the contract. If

the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Payment and Performance Bond. The Performance Bond must be executed by a surety company or recognized standing to do business in the State of Florida and having a resident agent.

2.22.2 The Proposer must have a Financial Size Categories (FSC) rating of no less than "A-" by the latest edition of Best's Key Rating Guide, or acceptance of insurance company that holds a valid Florida Certificate of Authority issued by the State of Florida, Department of Insurance, and are members of the Florida Guarantee Fund.

2.22.3 Acknowledgement and agreement is given by both parties that the amount herein set for the Payment and Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

2.23 Insurance Requirements

2.23.1 The Franchisee shall furnish proof of insurance requirements as indicated below. The coverage is to remain in force at all times during the contract period. The following minimum insurance coverage is required. The City is to be added as an "additional insured" with relation to General Liability Insurance. This MUST be written in the description section of the insurance certificate, even if you have a check-off box on your insurance certificate. Any costs for adding the City as "additional insured" will be at the contractor's expense.

2.23.2 The City of Fort Lauderdale shall be given notice 10 days prior to cancellation or modification of any stipulated insurance. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Procurement Services Division.

2.23.3 The Contractor's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Florida, subject to approval by the City's Risk Manager. Any exclusions or provisions in the insurance maintained by the contractor that precludes coverage for work contemplated in this RFP shall be deemed unacceptable, and shall be considered breach of contract.

2.24 Workers' Compensation and Employers' Liability Insurance

Limits: Workers' Compensation – Per Florida Statute 440
Employers' Liability - \$500,000

Any firm performing work on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute. For additional information contact the Department of Financial Services, Workers' Compensation Division at (850) 413-1601 or on the web at www.fldfs.com.

Commercial General Liability Insurance

Covering premises-operations, products-completed operations, independent contractors and contractual liability.

Limits: Combined single limit bodily injury/property damage \$1,000,000. This coverage must include, but not limited to:

- a. Coverage for the liability assumed by the contractor under the indemnity provision of the contract.
- b. Coverage for Premises/Operations
- c. Products/Completed Operations
- d. Broad Form Contractual Liability
- e. Independent Contractors

Automobile Liability Insurance

Covering all owned, hired and non-owned automobile equipment.

Limits: Bodily injury \$250,000 each person, \$500,000 each occurrence
Property damage \$100,000 each occurrence or
Combined single limit \$1,000,000 (bodily injury and property damage combined)

2.24.4 A copy of **ANY** current Certificate of Insurance should be included with your proposal.

2.24.5 In the event that you are the successful Proposer, you will be required to provide a certificate naming the City as an “additional insured” for General Liability. Certificate holder should be addressed as follows:

City of Fort Lauderdale
Procurement Services Division
100 N. Andrews Avenue, Room 619
Fort Lauderdale, FL 33301

2.25 Award of Contract

A Contract (the “Agreement”) may be awarded by the City Commission. The City reserves the right to execute or not execute, as applicable, a contract with the Proposer(s) that is determined to be in the City’s best interests. The City reserves the right to award a contract to more than one Proposer, at the sole and absolute discretion of the in the City.

2.26 Unauthorized Work

The Successful Proposer(s) shall not begin work until a Contract has been awarded by the City Commission and a notice to proceed has been issued. Proposer(s) agree and understand that the issuance of a Purchase Order and/or Task Order shall be issued and provided to the Successful Proposer(s) following Commission award; however, receipt of a purchase order and/or task order shall not prevent the Successful Proposer(s) from commencing the work once the City Commission has awarded the contract and notice to proceed is issued.

2.27 Damage to Public or Private Property

Extreme care shall be taken to safeguard all existing facilities, site amenities, irrigation systems, vehicles, etc. on or around the job site. Damage to public and/or private property shall be the responsibility of the Contractor and shall be repaired and/or replaced at no additional cost to the City.

2.28 Safety

The Contractor(s) shall adhere to the Florida Department of Transportation's Uniform manual on Traffic Control for construction and maintenance work zones when working on or near a roadway. It will be the sole responsibility of the Contractor to make themselves and their employees fully aware of these provisions, especially those applicable to safety.

2.29 Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

2.29.1 The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

2.29.2 The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

2.29.3 No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and

2.29.4 The non performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

2.30 Canadian Companies

The City may enforce in the United States of America or in Canada or in both countries a judgment entered against the Contractor. The Contractor waives any and all defenses to the City's enforcement in Canada, of a judgment entered by a court in the United States of America. All monetary amounts set forth in this Contract are in United States dollars.

2.31 News Releases/Publicity

News releases, publicity releases, or advertisements relating to this contract or the tasks or projects associated with the project shall not be made without prior City approval.

2.32 Contract Period

The initial contract term shall commence upon date of award by the City or April 30, 2017,

whichever is later, and shall expire five (5) years from that date.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the City as authorized by the awarding authority. The extension period shall not extend for more than 120 days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City.

2.33 Service Test Period

If the Proposer has not previously performed the services to the city, the City reserves the right to require a test period to determine if the Contractor can perform in accordance with the requirements of the contract, and to the City's satisfaction. Such test period can be from thirty to ninety days, and will be conducted under all specifications, terms and conditions contained in the contract. This trial period will then become part of the initial contract period.

A performance evaluation will be conducted prior to the end of the test period and that evaluation will be the basis for the City's decision to continue with the Contractor or to select another Contractor (if applicable).

2.34 Contract Coordinator

The City may designate a Contract Coordinator whose principal duties shall be:

- Liaison with Contractor.
- Coordinate and approve all work under the contract.
- Resolve any disputes.
- Assure consistency and quality of Contractor's performance.
- Schedule and conduct Contractor performance evaluations and document findings.
- Review and approve for payment all invoices for work performed or items delivered.

2.35 Franchisee Performance Reviews and Ratings

The City Contract Coordinator may develop a Contractor performance evaluation report. This report shall be used to periodically review and rate the Contractor's performance under the contract with performance rating as follows:

Excellent	Far exceeds requirements.
Good	Exceeds requirements
Fair	Just meets requirements.
Poor	Does not meet all requirements and contractor is subject to penalty provisions under the contract.
Non-compliance	Either continued poor performance after notice or a performance level that does not meet a significant portion of the requirements. This rating makes the Contractor subject to the default or cancellation for cause provisions of the contract.

The report shall also list all discrepancies found during the review period. The Contractor shall be provided with a copy of the report, and may respond in writing if he takes exception to the report or wishes to comment on the report. Contractor performance reviews and subsequent reports will be used in determining the suitability of contract extension.

2.36 Franchisee Fee Payments

The Franchisee shall pay to the City a guaranteed annual franchise fee monthly in advance (for initial contract term and any extension periods), as set forth in the Franchisee's response

to the proposal section of the RFP and accepted by the City. The initial monthly payment shall be paid within seven (7) working days after notification by the City, of its award of this contract. Payments are due seven (7) working days prior to the commencement of each month thereafter. If the payment is not received within thirty (30) days of payment due date, the City may take possession of, distraint, appropriate and/or dispose of the Franchisee's assets on City property, at the City's sole discretion, and cancel this contract. Paragraph 19 of Part III of the RFP is amended to require a payment and performance bond in the amount of one month of the guaranteed annual franchise fee.

In addition to the guaranteed annual franchise fee, annually, the Franchisee shall pay the City:

- 1) Ten (10%) percent of the Franchisee's annual gross revenue net of sales tax collected, in excess of the minimum guaranteed annual franchise fee, derived from the Franchisee's rental and/or sale of any and all items offered to customers in the operation of the Beach Equipment Rental Concession; Hotel Amenity Agreements; and Additional Amenities in accordance with the terms of this contract.
- 2) Ten (10%) percent of the gross revenue from the sale of beverages.
- 3) Within sixty (60) days after the end of each contract year the Franchisee shall deliver to the City a written annual statement of the gross revenue of the contract year together with such payments. All payments shall be submitted to the Parks and Recreation Department.

All payments shall be presented, in the form of a cashier's check or certified check, payable to the City of Fort Lauderdale.

The failure of the first ranked proposer to comply with the payment schedule as stated will result in the disqualification of this proposer and award of contract to the second ranked proposer.

2.37 Substitution of Personnel

It is the intention of the City that the Contractor's personnel proposed for the contract will be available for the contract term. In the event the Contractor wishes to substitute personnel, he shall propose personnel of equal or higher qualifications and all replacement personnel are subject to City approval. In the event substitute personnel are not satisfactory to the City and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel the Contract for cause. See Section 5.09 General Conditions.

2.38 Service Organization Controls

The Contractor may be required to provide a current SSAE 16, SOC 2, Type I report. Awarded Contractor may be required to provide an SSAE 16, SOC 2, Type II report annually during the term of this contract. If the Contractor cannot provide the SSAE 16, SOC 2, Type I report at time of proposal submittal, a current SOC 3 report will be accepted.

2.39 Permits, Licenses

The Franchisee agrees to obtain and pay for all permits, licenses, and business taxes necessary to conduct the business and agrees to comply with all laws governing the responsibility of the employer with respect to persons employed by the Franchisee.

The Franchisee shall also be solely responsible for payment of any taxes levied on the concession operation. In addition, the Franchisee shall comply with all rules, regulations and

laws, including permit requirements of Chapter 8 Boats, Docks, Beaches and Waterways; Article III - Public Beaches; Section 8-51 to 8-85, of the City of Fort Lauderdale, Broward County, State of Florida and the U.S. Government, now in force or hereafter to be adopted.

Franchisee is responsible for obtaining applicable Department of Environmental Protection (DEP) permits relative to beach operations with Florida Fish and Wildlife Conservation (FFWC) as required.

2.40 Sales Tax

The Franchisee shall pay all applicable taxes.

Florida State Sales Tax (Tax) and Broward County discretionary sales surtax, if any, is due on all transactions pursuant to Florida Statutes, the Florida Administrative Code, and Broward County ordinance, if any, as any of the above may be amended or revised. At this time, the Tax is due on:

Rental Fees - A Tax at the current rate of six percent is due on all rentals to the public. This tax is collected by the vendor and remitted to the Florida Department of Revenue utilizing the vendor's Sales Tax Identification Number.

Sales Tax on Franchise Payments to the City - A Tax at the current rate of six percent is due on all Franchise payments to the City (including minimum guaranteed annual franchise fee and the eight percent of annual gross revenue in excess of minimum guaranteed annual franchisee fee net of sales tax collected. This tax is computed on the gross payment for right of occupancy due the City and is payable to the City together with the Franchise fee payment. This tax must be separately stated on the vendor's payment to the City.

Gross revenues include all revenues from the sale and/or rental of beach equipment, Hotel Amenity agreements and Additional Amenities.

Additional detail may be reviewed at the Florida Department of Revenue's Website <http://www.myflorida.com/dor/taxes/>. The FAC may be reviewed at <http://www.flrules.org>.

2.41 Annual Reports

The Franchisee shall submit to the City an annual CPA-certified statement of Franchisee's gross revenue in a form consistent with generally accepted accounting principles. Such statement shall be accompanied by a report from an independent CPA firm. The period covered by the certified statement of gross revenue shall coincide with the contract year and will be submitted to the City within sixty (60) days after the end of each contract year.

The annual CPA certified gross revenue statement shall be submitted to the City's Parks and Recreation Department.

The form of all records and reports shall be subject to the approval of the city manager or designee. Recommendations for changes, additions, or deletions by the city manager or designee must be complied with by the Franchisee. The city manager or the city manager's designee must be permitted during normal business hours to audit and examine the books of account, reports, and records relating to this contract.

2.42 Records

Franchisee shall maintain current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this contract. Franchisee shall keep on the premises, or such other place approved by the City, true, accurate, and complete records and accounts of all sales, rentals, and any other type of business being transacted on or off the premises related to Beach Equipment Rental Concessions. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit by the city manager or the city manager's designee upon 72 hours notice. Such records and accounts shall include a breakdown of gross revenue, expenses, and profit and loss statements. Such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross revenue and profit and loss statement pursuant to generally accepted accounting principles.

2.43 Receipts

Franchisee shall use sequentially pre-numbered receipts in duplicate form. Receipts shall reference the name of the Franchisee and the City of Fort Lauderdale and include current rates. One copy of such receipt shall be provided to the customer and one copy shall be maintained with Franchisee's records.

2.44 One Franchisee/Minimum Fees

The City intends to award a single contract for five Concession Areas as defined in Section III, Paragraph 5.

Minimum acceptable guaranteed annual franchise fee payable to the City:

Year 1	\$ 363,250
Year 2	\$ 381,400
Year 3	\$ 400,500
Year 4	\$ 420,500
Year 5	\$ 441,400

The above is the minimum acceptable guaranteed annual franchise fees for years 1 through 5. Proposer may propose higher minimum guaranteed annual franchise fees as part of the response to the proposal section of this RFP.

2.45 Default

In the event of any of the following the City may terminate this contract for default:

1. If the Franchisee fails to perform in the manner called for in the contract, or if the Franchisee fails to comply with any other provision of the contract, or
2. If Franchisee abandons or vacates the premises prior to the expiration of the term hereof, or
3. If Franchisee fails to make the payments as set forth herein and said payment is not made within fifteen (15) days after written notice is given to Franchisee.

If Franchisee fails to perform in accordance with any of the other terms and conditions of this contract, and such default is not cured within fourteen (14) days after written notice is given to Franchisee, the City may, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting

from such defaults, including but not limited to, the right to give to Franchisee a notice of termination of this contract. If such notice is given, the term of this contract shall terminate upon the date specified in such notice from City to Franchisee. On the date so specified, Franchisee shall then quit and surrender the Concession Area(s) to City.

Upon the termination of this contract, all rights and interest of Franchisee in and to the Concession Area(s) and to this contract, and every part thereof, shall cease and terminate, and City may, in addition to all rights and remedies it may have, including but not limited to, beginning procedures to collect the Performance Bond in Part I, Paragraph 6, retain all sums paid to it by Franchisee under this contract. In addition to the rights set forth above, City shall have the right to pursue any and all of the following:

- a. take possession of all equipment, and other personal property of Franchisee, and remove such property or any part of it and store it at Franchisee's expense or sell it or otherwise dispose of it as the City deems appropriate; and/or,
- b. the right to injunction or other similar relief available to it under Florida law against Franchisee; and/or,
- c. the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Franchisee's default.

If it is later determined by the City that the Franchisee had an excusable reason for not performing, such as a strike, fire, flood, or events which are not the fault of, or beyond the control of the Franchisee, City after setting up a new performance or delivery schedule, may allow the Franchisee to continue work, or treat the termination as a termination for convenience.

2.46 Termination for Convenience/Partial Termination

In the event of termination or partial termination by City of the contract pursuant to this Subsection, Franchisee hereby acknowledges and agrees that it shall not have any claim, demand, or cause of action of whatsoever kind of nature, against the City, its agents, servants and employees, including but not limited to, claims for interference in business or damages for interruption of services or interference in its concession operations for beach equipment rental.

2.47 Surrender of Concession Area

At the expiration of this contract, or earlier termination in accordance with the terms of this contract, Franchisee shall surrender the Concession Area(s) in same condition as the Concession Area(s) were prior to the commencement of this contract, reasonable wear and tear excepted (including any beach erosion not caused by Franchisee and/or its operation). Franchisee shall remove all its equipment, fixtures, personal property, etc., upon forty-eight (48) hours written notice from the city manager or the city manager's designee, unless a longer time period is agreed to by the City. Franchisee's obligation to observe or perform this covenant shall survive the expiration or other termination of this contract. Continued occupancy of the Concession Area(s) after termination of the contract shall constitute trespass by the Franchisee, and may be prosecuted as such.

2.48 Bankruptcy

If Franchisee shall be adjudicated bankrupt or insolvent, or makes an assignment for benefit of creditors, or if the contractual rights are sold under a legal order or judgment, or Franchisee

shall file a voluntary petition in bankruptcy or insolvency or a petition in bankruptcy or insolvency is filed against the Franchisee, or Franchisee shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, then the City may immediately, or at any time thereafter, and without further demand or notice, terminate this contract without being prejudiced as to any remedies which may be available to it for Franchisee's breach of contract.

2.49 Inspection of Premises

For the purposes of inspection, City reserves the right to enter any part of the Concession Areas at any time.

2.50 Notices

All notices and franchise fee payments shall be sent to the City at the following address:

City of Fort Lauderdale
Holiday Park
1150 G. Harold Martin Drive
Fort Lauderdale, FL 33304

City and Franchisee may change their addresses at any time upon giving the other party written notification.

All notices under this contract must be in writing and shall be deemed to be served when delivered to the address of the addressee. All notices served by mail shall be registered mail, return-receipt requested.

Franchisee may designate additional persons for notification of default.

2.51 Attorney Fees

Franchisee agrees to pay the cost of collection and reasonable attorney fees on any part of said payment that may be collected by suit or by attorney after the same is past due. In the event of any other litigation the prevailing party shall be entitled to collect attorney fees and court costs from the losing party.

2.52 Signs

No signs whatsoever, including advertising signs, shall be erected or permitted upon the premises until the plans have first been submitted to the City in accordance with all federal, state and city laws, statutes and ordinances and approval received in writing.

Notice of equipment rental rates shall be made available to the public in each Concession Area. The City shall determine type, size, location and placement of notice.

2.53 Approved Equal or Alternate Product Proposal

The Technical Specifications contained in this RFP are to be used as a reference only and are not to be considered of a proprietary nature. These specifications represent a level of quality and features, which are desired by the City of Fort Lauderdale. The City is receptive to any product, which would be considered by qualified City personnel as an approved equal.

The proposer must state clearly in his/her/its proposal pages any proposed variance to the specifications. If proposing an approved equal or alternate product, it will be the proposer's responsibility to provide adequate information in his proposal to enable the City to ensure that

the proposal meets the required criteria. If adequate information is not submitted with the proposal, it may be rejected.

The City of Fort Lauderdale will be the sole judge in determining if the product proposed qualified as approved equal. The City reserves the right to award to that proposal which will best serve the interest of the City as determined by the City. The City further reserves the right to waive minor variations to specifications and in the bidding process.

2.54 Service Agreement

Service Agreement Form (Attachment B) is included and made a part of this RFP.

END OF SECTION

SECTION III - TECHNICAL SPECIFICATIONS/SCOPE OF SERVICES

3.1 General Information / Intent

It is the intent of this RFP to award a single contract to provide beach rental equipment, as specified in this RFP, for the Fort Lauderdale public beaches.

3.2 Operating Regulations

All city, county, federal and state laws, ordinances, and regulations relating to the operational use of the City's beachfront areas, shall be adhered to by the Franchisee, his/her representatives and employees. This shall relate to laws, ordinances, and regulations currently in force and those adopted hereafter.

The Franchisee will conduct his/her/its operation and provide contracted services, in such a manner as to maintain reasonable quiet and minimize disturbance to the general public.

The security for all property, equipment and supplies owned and provided by the Franchisee shall remain the responsibility of the Franchisee. Costs relating to the repair or replacement of such items, stolen, lost or damaged shall be at the sole cost and expense of the Franchisee.

The Franchisee will be responsible for all damage to City property or the City beachfront caused by the Franchisee or his/her/its officers, employees, subcontractors, or agents. Any such damage shall be corrected at the sole cost and expense of the Franchisee.

The Franchisee shall have a neat and orderly operation to the City's satisfaction at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Concession Area(s) and all facilities incident thereto. The Franchisee shall make available all facilities within the Concession Area(s) under its control for the City's inspection during hours of operation.

Franchisee shall perform any repairs, cleaning and other maintenance as required to maintain a clean and safe working environment on a continuous and immediate schedule. Franchisee shall maintain the Concession operation so as to provide an aesthetically pleasing appearance and not be detrimental to the immediate surroundings.

The Franchisee shall staff, operate, manage, and provide all services and facilities offered in a first class manner and comparable to other high quality concessions providing similar facilities and services.

The Franchisee's vehicles, trailers and equipment shall be in a neat, clean and well-maintained condition at all times. Any repairs, cleaning or other maintenance as required to maintain a clean and safe working environment, shall be provided on a continuous and immediate schedule.

There shall be no overnight storage of any type on the beach except chairs, umbrellas, windbreaker/clamshells and storage boxes as approved by the City. Any other equipment and/or storage shall be subject to prior City approval and in accordance with Ordinance C-93-26. The security for all property, equipment and supplies owned and provided by the Franchisee, shall remain the responsibility of the Franchisee. Costs relating to the repair or replacement of such items, stolen, lost, or damaged, shall be at the expense of the Franchisee.

As part of the administration of the contract, the city manager or designee may conduct periodic inspections of concession facilities, equipment, services, and programs to determine compliance with the terms of this contract.

3.3 Parking Requirements

No parking spaces will be provided by the City. Franchisee and his/her/its customers shall utilize those parking facilities available to the general public.

3.4 Use of Concessions Areas

The Franchisee shall not use the Concession Area for any other purpose, unless specifically authorized by the City and made a part of this contract, than the renting of beach equipment and additional amenities pursuant to this contract, and he/she/it shall so conduct his/her/its business as to render a service to the public in a dignified manner. No pressure, coercion, persuasion, or hawking shall be done by the Franchisee or his/her/its attendants in an attempt to influence the public to use his/her/its service. The City may allow the sale of water and sunscreen lotion by the successful proposer.

3.5 Location of Services

For the purpose of defining and awarding the concession contract for beach equipment rental services to the public, the Fort Lauderdale beach is divided into five Concession Areas. The Concession areas are described as follows:

Concession Area A: An area with the southern boundary beginning 10 feet North of the beginning point of the public beach boundary extended to the waters of the Atlantic Ocean, and the northern boundary line being Hall of Fame Drive to the south extended to the waters of the Atlantic Ocean, but not including DC Alexander Park.

Concession Area B: An area with the southern boundary being the north right-of-way line of SE 5th Street extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line at Las Olas Boulevard extended to the waters of the Atlantic Ocean.

Concession Area C: An area with the southern boundary being the north right-of-way line of Banyan Street if extended, extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line of Sebastian Street extended to the waters of the Atlantic Ocean.

Concession Area D: An area with the southern boundary being the north right-of-way line of Seville Street extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line of Terramar Street extended to the waters of the Atlantic Ocean.

Concession Area E: An area with the southern boundary being the north right-of-way line of Terramar Street extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line of Sunrise Blvd. extended to the waters of the Atlantic Ocean.

3.6 Equipment

Beach equipment as referred to herein shall mean beach chairs, pads, umbrellas, windbreaker/clamshells, Welcome Station beach chair and Welcome Station umbrella.

The Franchisee shall not be authorized to rent any equipment, which is not scheduled in his/her proposal and covered by his/her insurance policy furnished to the City, unless prior to such rental, the Franchisee shall have furnished an additional list of equipment to the Contract Administrator and received approval from the City in writing.

The City's Parks and Recreation Department shall approve the design, type, material and color as defined below in writing prior to the commencement date of this contract. Franchisee shall not change, alter, or modify City approved design, type, material or color of any beach equipment without the prior written consent of the city manager or the city manager's designee.

A. Beach Lounge Chair

The minimum specifications for the design, type, material, and color of all Beach Lounge Chairs shall be as follows:

- Brand/Manufacturing Company: Tropitone or equivalent
- Style: Millenia EZ SPAN Chaise Lounge or equivalent
- Aluminum construction
- Size: 27.5"W x 82.5" L
- Seat height : 14.5" H
- Weight: 24 pounds
- Frame Finish Color: Sonora
- Segment Color: Parchment
- Stacking Quantity: 15
- Alternate color is subject to City approval.

B. Beach Chair Pad:

The minimum specifications for the design, type, material, and color of all Beach Chairs Pads shall be as follows:

- Fabric: Sunbrella Marine Grade fabric or equivalent
- Thickness: Minimum 3" thickness
- Color: Pacific Blue
- Alternate colors are subject to City approval.

C. Umbrella

The minimum specifications for the design, type, material, and color of all Umbrellas shall be as follows:

- AnyWhere Chair, Inc. Fiberlite Umbrella or equivalent
- Fabric: Sunbrella Marine Grade fabric or equivalent
- Size: Standard 7 ½" x 8" rib beach umbrella
- Wood bottom pole with Fiberglass Ribs for support
- Color: Sunbrella Pacific Blue
- Alternate colors are subject to City approval.

D. Windbreaker/Clamshell

The minimum specifications for the design, type, material, and color of all /Clamshells shall be as follows:

- AnyWhere Chair, Inc. or equivalent
- Fabric: Sunbrella Marine Grade fabric or equivalent
- Size: 5 ½" H x 7 ½" W
- Aluminum rods and stainless steel bolts
- Anchors for support
- Windbreaker/clamshells should be free standing and self-supporting
- Color: Sunbrella Pacific Blue
- Alternate colors are subject to City approval.

E. Welcome Station Beach Chair

The minimum specifications for the design, type, material, and color of all Welcome Station Beach Chairs shall be as follows:

- AnyWhere Chair, Inc., or equivalent
- Fabric for chair: Sunbrella Marine Grade fabric or equivalent
- Frame: Solid oak wood frames with brass hardware
- Color of wood: Walnut Brown
- Double-dowel assembly
- Color: Sunbrella Pacific Blue
- Alternate colors are subject to City approval.

F. Welcome Station Umbrella

The minimum specifications for the design, type, material, and color of all Welcome Station Umbrellas shall be as follows:

- AnyWhere Chair, Inc., or equivalent
- Fabric: Sunbrella Marine Grade fabric or equivalent
- Insignia: Beach Concession logo design and specifications as determined at the sole discretion of the City
- Frame, ribs, and pole: Asian hardwood or equivalent
- Color of Pole: Walnut Brown
- Type: outdoor umbrella
- Color: Sunbrella Pacific Blue
- Alternate colors are subject to City approval.

All beach equipment shall be maintained in excellent condition and free of defects such as visible wear, tears, stains, fading, dirt, grime or any condition that would diminish appearance. All rental equipment shall be inspected on a schedule as is necessary to ensure the sound mechanical and working condition and appearance.

A detailed plan for the method to secure umbrellas and windbreaker/clamshells while in use, to ensure the safety of customers and beachgoers, must be provided in the response to the proposal section of this RFP.

3.7 Location of Equipment

A detailed site plan for placement of Beach Equipment and additional amenities must be provided in the response to the proposal section of this RFP. Beach Equipment and additional amenities within each Concession Area shall be placed substantially in accordance with the site plan(s) submitted by Franchisee and approved by the City. Franchisee shall not deviate

from the approved site plan(s) without the prior written consent of the city manager or the city manager's designee.

Site plan shall be in accordance with the following guidelines:

- A. Beach equipment and additional amenities shall be placed in each Concession Area (A, B, C, D, E) in designated Placement Areas, defined as areas within the Concession Area where equipment may be set up.
- B. Each Placement Area shall be set up in accordance with the following:
 - 1. Equipment may be placed 20 feet from the eastern most boundary from Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A, and no more than 30 feet west of the high water mark.
 - 2. Equipment shall be placed in straight rows, of equal length, from North to South for a maximum distance of approximately 240 feet.
 - 3. Beach umbrellas shall be placed a minimum distance of 16 feet apart with no more than 15 umbrellas in any row.
 - 4. One chair may be placed on either side of each beach umbrella.
 - 5. The initial daily set up in each placement area shall include at least one row of a minimum of 12 umbrellas and 24 chairs, with one chair placed on each side the umbrella. A minimum of 4 padded chairs, with one chair placed on each side the umbrella, shall be provided in each placement area daily. Site plan must demonstrate where chairs with and without pads will be placed.
 - 6. Windbreaker/clamshells shall be placed so that there is a minimum clearance of 12 feet between each windbreaker/clamshells on all sides. All windbreaker/clamshells shall include two chairs.
 - 7. The quantity of equipment (umbrellas, chairs, etc.) placed on the beach in each Concession Area (A, B, C, D, E) is subject to approval by the City.

Franchisee personnel shall be available to serve as the equipment attendant and representative at the Welcome Stations in each Concession Area. Personnel plan for how the franchise will be staffed must be provided in the response to the proposal section of this RFP.

A Buffer Area, defined as an area where no beach equipment may be placed, shall separate each Placement Area. Buffer Area shall be a minimum distance of 90 feet.

No equipment shall be placed on or within those portions of the beach where a lifeguard stand is currently located including the area extending from the eastern most boundary of Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A to the shore line and bounded by a line 90 feet north of the lifeguard stand and bounded by a line 90 feet to the south of the lifeguard stand.

No equipment shall be placed within those portions of the beach where there exists a beach access point (evidenced by a designed break in the beach wall) from the eastern most boundary of Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A to the shore line and bounded by a line 20 feet to the north of the northern boundary of the break and 20 feet to the south of the southern boundary of the break.

Each Concession Area shall have a minimum of one "Welcome Station," defined as an area consisting of a single Welcome Station Beach Chair and Welcome Station Umbrella placed at the approximate midpoint of a Buffer Area between Placement Areas, approximately 12 feet from the eastern most boundary of Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A. The beach chair shall be positioned facing west toward Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A. A competent person must staff each "Welcome Station" at all times while the concession is in operation.

The City reserves the right to identify the Concession Area(s), Placement Areas, Buffer Areas and Welcome Stations.

The parties acknowledge that Franchisee's patrons may themselves relocate chairs and other beach equipment within a Concession Area and/or to an immediately adjacent Buffer Area. Such relocation shall be permitted, provided that, in the aggregate, Franchisee does not materially alter, or allow to be materially altered, the configuration of a particular Concession Area, as set forth in the approved site plan(s) and/or an adjacent Buffer Area. In the event of this occurrence, Franchisee shall immediately correct any material alteration within a Concession Area to bring same back into substantial conformance with the approved site plan(s).

Notwithstanding the above, the City's Ocean Rescue shall at all times have the sole and absolute discretion to require Franchisee, and/or Franchisee's patrons, to relocate chairs and other beach equipment in the event that such chairs and/or beach equipment in any way impede and/or obstruct sightlines, or have any other effect whatsoever which would directly or indirectly impede the performance of Ocean Rescue activities. Notwithstanding the Ocean Rescue's right to require relocation of chairs and/or beach equipment as provided herein, Franchisee will cooperate with Ocean Rescue in compliance with the preceding sentence.

3.8 Operation Schedule

Beach equipment shall be placed within a Concession Area, substantially in accordance with an approved site plan(s). Set-up of beach equipment shall be permitted daily before 10:00 a.m., but no earlier than one hour after sunrise.

During the term of this contract each Concession Area (A, B, C, D, E) shall be open and continuously staffed 7 days a week, on a 52-week per year schedule in accordance with the Franchisee's approved site plan(s). Each Concession Area (A, B, C, D, E) shall be open the minimal acceptable hours of operation which shall be between 10:00 a.m. and 5:00 p.m. for the months of October - May and 10:00 a.m. and 6:00 p.m. for the months of June, July, August, and September. Any change in the hours of operation shall be at the City's sole option and discretion, and any request by Franchisee for an increase or decrease in same shall be subject to the prior written approval of the city manager or the city manager's designee.

Exceptions shall be considered when inclement weather conditions do not warrant the operation of this concession service or with an advance request for such change and approval by the city manager or the city manager's designee.

3.9 Use of Beach

The beach is for the use and enjoyment of the public for recreation and other public purposes and the right to such use shall not be infringed upon by any activity of the Franchisee. Upon execution of this contract, Franchisee acknowledges that all of the beaches are public and as such concession operations must not restrict, or appear to restrict, access to the general public, or in any way limit the public nature or ambiance of the beachfront. The Franchisee will conduct its operations so as to maintain a reasonably quiet and tranquil environment for the adjacent area, and make no public disturbances.

Notwithstanding the Concession Areas as defined above, Franchisee understands, agrees and acknowledges that the aforesated Concession Areas along with any and all other public beachfront areas not specifically identified herein, are public and, as such, must remain available for the use and enjoyment of the general public whether or not the public chooses to use any of the Franchisee's equipment. In the event that a member of the public is within a particular Concession Area, as set forth herein, Franchisee agrees to allow for his/her continued peaceful enjoyment of said area.

3.10 Advertising

The Franchisee shall not display any signs or advertising matter, except a list of prices charged in a format and design approved by the City.

3.11 Rental Rates

Concession services shall be consistent with those charges for similar services and merchandise in the area of recreational facilities and tourist attractions in the Broward County area.

The rates and charges for rental of such equipment must be provided in the response to the proposal section of this RFP. Such rates must be reviewed and approved by the City prior to the commencement of any contract. Such stated rates and charges shall be consistent throughout the term of this contract.

Any requests for modification and changes in such rates must be presented to the City, with a minimum of 30 days prior to the desired date of rate change. Such change requests must be in writing and directed to the City's contract administrator. The City shall review and accept, deny, or modify such rate change requests. The City shall have the last and final decision relating to any such change requests.

3.12 Equipment Storage

A detailed plan for storage and removal of beach equipment must be provided in the response to the proposal section of this RFP. The storage plan must include a detailed site plan depicting type, size, number and location of storage boxes, content of storage boxes, manner and placement of stacked chairs and if applicable water and sunscreen lotion. Plan must include details for off-site storage of pads. Pads may not be stored on the beach. Water and sunscreen lotion may not be stored on the beach.

The design, type, material, and color of all Storage Boxes shall be as follows:

- Taylor Made Products or equivalent

- Type: Taylor made Fiberglass dock type box or equivalent
- Color: White
- Size: Maximum outer dimensions:
 - width: 72 “
 - depth: 28.5”
 - height: 27”

The Franchisee agrees to abide by all city, county, state, and federal laws and ordinances with regard to use of beachfront areas, as amended or adopted hereafter. Franchisee herein further acknowledges that it shall not hold the City liable for any expenses and/or other damages incurred as a result of compliance with such requirements as referred to herein.

3.13 Hurricane Evacuation Plan

Franchisee agrees that all its storage facilities, beach equipment and any and all other equipment or other items used in the concession operations will be removed from the beachfront immediately within one (1) hour of notification by appropriate City authorities, and stored at an approved, private, off-site location. A detailed hurricane preparedness/evacuation plan, which shall include the location and proof of ownership and/or control by Franchisee (either through a deed, lease or other form satisfactory to the City Manager and/or his designee) of a proposed hurricane storage facility, must be provided in the response to the proposal section of this RFP.

3.14 Sea Turtles

Franchisee agrees and understands that the State of Florida has advised that in order to place facilities and/or equipment on the beach, surveys for marine turtle nesting activity must be ongoing between the period of March 1 and October 31, or as determined by the State of Florida each year:

- a. It is the responsibility of the Franchisee to abide by any order issued by the State of Florida and/or cooperate with Broward County to ensure that nesting surveys may be conducted in accordance with the conditions set forth by the State.
- b. In the event an unmarked marine turtle nest is exposed, or a dead, injured, or a sick marine turtle is discovered, Franchisee shall call the Sea Turtle Hotline (954) 328-0580 or immediately notify the appropriate City authority such that appropriate conservation measures may be taken.
- c. If Franchisee or his/her staff sees someone harassing a sea turtle or poaching a nest, Franchisee shall immediately call the Florida Fish and Wildlife Conservation (FFWC) commission at 1-888-404-3922 to report the matter.
- d. No temporary lighting associated with the concession will be permitted at any time during the marine turtle-nesting season and no permanent lighting is authorized.
- e. The placement and removal of facilities and equipment on the beach shall be conducted during daylight hours and shall not occur in any location prior to completion of the necessary marine turtle protection measures.
- f. Disturbing the existing beach, and dune topography and vegetation is prohibited.
- g. Franchisee is responsible for obtaining Department of Environmental Protection

(DEP) permits relative to beach operations with Florida Fish Wildlife Conservation (FFWC) commission as required.

3.15 Appearance of Premises

The Franchisee shall be responsible to have a neat, clean and orderly operation at all times and is responsible for maintaining that condition during operating hours within an area of 100 feet of the concession site. Franchisee shall rake the area and remove all debris as needed to maintain a neat and clean operation. Franchisee shall cooperate with City staff, and set-up and break down of rental equipment shall not interfere with City beach maintenance operations.

The Franchisee shall provide a trash receptacle and a recycle receptacle, at their sole cost and expense, which is accessible to the Concession Area, placement area, and/or Welcome Station. City trash/recycle containers may NOT be used by Franchisee for disposal of trash and/or recycling of bottles. The Franchisee is responsible for the removal of the receptacle and contents daily. The City shall have the final approval on the design, type and location of such receptacle.

3.16 Employee Qualifications and Appearance

During all hours of operation, Franchisee shall maintain adequate on-duty personnel to comply with all terms and conditions of this contract. Franchisee shall ensure that adequate personnel, to the City's satisfaction, are available to serve as an equipment attendant/Welcome Station representative at each Concession Area.

The Franchisee shall employ workers to service this operation who are literate, neat, clean, well groomed and courteous.

Franchisee is strongly encouraged to require its employees to complete a Florida Department of Law Enforcement (FDLE) background screening.

"Hawking" to attract attention and/or summoning or accosting any person is prohibited.

The playing of music or allowing other activity that disturbs the public is prohibited.

Customer Service Training - The Franchisee shall ensure that all personnel assigned to provide services on the beach successfully complete customer service training approved by the city manager or the city manager's designee, prior to being assigned to beach duties.

Manager - In addition to the equipment attendant/Welcome Station representative, Franchisee shall provide an experienced manager who shall be present at all times the concession is in operation. The manager shall oversee the daily operation of this franchise and shall have authority to direct the operation and immediately take all corrective action required to correct erroneous procedures and ensure complete and continuous compliance with requirements and specifications of the contract.

Nametags - All personnel assigned to provide services on the beach shall wear a City approved identification nametag to be provided at the Franchisee's sole cost and expense. The nametag is to include only the person's name. Proposed nametags are subject to prior City approval.

Uniform - All personnel assigned to provide services on the beach shall wear the City approved standardized uniform, provided at the Franchisee's sole cost and expense. The uniform shall be in accordance with the following specifications:

- i. **Shorts:** Navy in color – “Dickies” type Flat Front - cotton material
- ii. **Shirts:** White Polo Style Collared Shirt – cotton material or blend. Shirt will have approved Fort Lauderdale's Beach Logo embroidered on it.
- iii. **Caps:** Baseball hats - Navy in color – embroidered with approved Fort Lauderdale's Beach Logo

Or in lieu of above, Proposer may propose an alternate color or design for shorts, shirt and cap. Approved Fort Lauderdale Beach Logo must be a part of shirt and hat design. Proposed uniforms are subject to prior City approval.

Proposed uniforms and nametags, including photos and specifications, must be provided in the response to the proposal section of this RFP.

3.17 Beverage Service

Proposers desiring to sell water and/or sunscreen lotion must submit a plan as part of the response to this RFP. The plan must include, but is not limited to the following:

- Products to be offered
- Product sizing - ounces
- Proposed pricing - cost (price list) to customer
- How the products will be offered for sale
- Signage
- Plan for trash collection and recycling
- Plan for storage and restocking inventory

If permitted by City, beverage sales will be limited to plastic bottles. Plan must include provisions for waste disposal and recycling of bottles. Water bottles may not be stored overnight on the beach. The sale of alcoholic beverages is prohibited.

The City will receive ten (10%) percent of the gross revenue from the sale of beverages.

3.18 Additional Amenities

Additional Amenities may include, but are not limited to, beach equipment upgrades, equipment color changes, day beds, and sunscreen lotion. Additional Amenities shall not include food, alcoholic beverages, clothing, or any other items for sale, or any activity that would limit or curtail public use of the beach. All proposed Additional Amenities and related pricing and plans are subject to approval by the City.

A proposed Additional Amenities plan must be provided in the proposal section of this RFP. Placement of Additional Amenities must be included as part of the proposed site plan and in accordance with Section III, Paragraph 7.

The City will receive ten (10%) percent of the Franchisee's annual gross revenue net of sales tax collected, derived from the Franchisee's rental and/or sale of any and all items offered to

customers in the operation of Additional Amenities in accordance with the terms of this contract.

3.19 Hotel Amenity Agreements

Subject to the City's prior approval, the Franchisee may enter into Hotel Amenity Agreements with hotels to provide beach services for hotels with the objective of providing simplified access for hotel guests to the various beachfront amenities offered by Franchisee, including beachfront chairs, umbrellas, windbreakers/clamshells, and Additional Amenities, as provided in the response to the proposal section of this RFP and as may be approved by the City. All Hotel Amenity Agreements are subject to City approval.

3.20 Beach Regulations

The Franchisee shall comply with all City rules and regulations established for and/or posted at the beach.

3.21 Special Events

The City will hold sponsored and cosponsored events and activities on the beach from time to time. In such cases, the City may direct the Franchisee to suspend operations in any of the Concession Areas before, during, and after the special event and/or production, and the Franchisee shall suspend his/her/its operations and activities accordingly. If the Franchisee is not required to close and chooses to remain open without interfering with the special event and/or production, Franchisee agrees to cooperate with the City. During such events, the City may allow the Franchisee to continue operations or assign the Franchisee a temporary location elsewhere within close proximity to the Beach Concessions Areas. Before the event during set-up, during the event, and after the event during take-down and clean-up the Franchisee has the option of operating his/her/its equipment from the temporary site or stopping operations until the event site is ready for the Franchisee to resume operations. The City reserves the right to allow other concessions to operate in the Beach Concession Areas or in close proximity to those areas during special events as may be approved by the City.

3.22 Advisory Committee

Concessionaire shall meet with the Parks & Recreation Advisory Board and Beach Improvement District Advisory Committee upon award of the contract.

END OF SECTION

SECTION IV – SUBMITTAL REQUIREMENTS

4.1 Instructions

- 4.1.1** Although proposals are accepted 'hard copy', the City of Fort Lauderdale uses Bidsync (www.bidsync.com) to administer the competitive solicitation process, including but not limited to soliciting proposals, issuing addenda, responding to questions / requests for information. There is no charge to register and download the RFP from Bidsync. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available in Bidsync well in advance of their intention of submitting a proposal to ensure familiarity with the use of Bidsync. The City shall not be responsible for a Proposer's inability to submit a proposal by the end date and time for any reason, including issues arising from the use of Bidsync.
- 4.1.2** Careful attention must be given to all requested items contained in this RFP. Proposers are invited to submit proposals in accordance with the requirements of this RFP. Please read entire solicitation before submitting a proposal. Proposers must provide a response to each requirement of the RFP. Proposals should be prepared in a concise manner with an emphasis on completeness and clarity. Notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFP text is followed.
- 4.1.3** All information submitted by Proposer shall be typewritten or provided as otherwise instructed to in the RFP. Proposers shall use and submit any applicable or required forms provided by the City and attach such to their proposal. Failure to use the forms may cause the proposal to be rejected and deemed non-responsive.
- 4.1.4** Proposals shall be submitted by an authorized representative of the firm. Proposals must be submitted in the business entities name by the President, Partner, Officer or Representative authorized to contractually bind the business entity. Proposals shall include an attachment evidencing that the individual submitting the proposal, does in fact have the required authority stated herein.
- 1.1.5** All proposals will become the property of the City. The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes. Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person

or entity as a result of the city's treatment of records as public records. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT. CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (954-828-5002, PRRCONTRACT@FORTLAUDERDALE.GOV, CITY CLERK'S OFFICE, 100 NORTH ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301)

4.1.6 Two (2) original and One (1) copies plus Five (5) electronic (soft) copy of your proposal shall be delivered in a sealed package with the RFP number, due and open date, and RFP title clearly marked on the outside by the due date and time (deadline) to the address specified in Section I, 1.2 – Submission Deadline. It is the sole responsibility of the respondent to ensure their proposal is received on or before the date and time stated, in the specified number of copies and in the format stated herein.

4.1.7 By submitting a response Proposer is confirming that the firm has not been placed on the convicted vendors list as described in Section §287.133 (2) (a) Florida Statutes; that the only person(s), company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person(s), company or parties submitting a proposal; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the proposal has full authority to bind the firm.

4.2 Contents of the Proposal

The City deems certain documentation and information important in the determination of responsiveness and for the purpose of evaluating proposals. Proposals should seek to avoid information in excess of that requested, must be concise, and must specifically address the issues of this RFP. The City prefers that proposals be no more than 50 pages double-sided, be bound in a soft cover binder, and utilize recyclable materials as much as practical. Elaborate binders are neither necessary nor desired. Please place the labeled DVD/CD in a paper sleeve. The proposals shall be organized and divided into the sections indicated herein. These are not inclusive of all the information that may be necessary to properly evaluate the proposal and meet the requirements of the scope of work and/or specifications. Additional documents and information should be provided as deemed appropriate by the respondent in proposal to specific requirements stated herein or through the RFP.

4.2.1 Table of Contents

The table of contents should outline in sequential order the major areas of the submittal, including enclosures. All pages should be consecutively numbered and correspond to the Table of Contents.

4.2.2 Executive Summary

Each Offeror must submit an executive summary that identifies the business entity, its background, main office(s), and office location that will service this contract. Identify the officers, principals, supervisory staff and key individuals who will be directly involved with the work and their office locations. The executive summary should also summarize the key elements of the proposal.

4.2.3 Experience and Qualifications

Indicate the firm's number of years of experience in providing the professional services as it relates the work contemplated. Provide details of past projects for agencies of similar size and scope, including information on your firm's ability to meet time and budget requirements. Indicate the firm's initiatives towards its own sustainable business practices that demonstrate a commitment to conservation. Indicate business structure, IE: Corp., Partnership, LLC. Firm should be registered as a legal entity in the State of Florida; Minority or Woman owned Business (if applicable); Company address, phone number, fax number, E-Mail address, web site, contact person(s), etc. Relative size of the firm, including management, technical and support staff; licenses and any other pertinent information shall be submitted.

4.2.4 Approach to Scope of Work

Letter of Interest - The letter of interest may contain any other information not in the proposal but should not exceed two (2) pages, stating your understanding of the City's needs for the concession and your overall approach to those needs, how many calendar days from award of contract would you need prior to initiating operations and the number of years experience the proposer has had in providing similar services?

Proposed Operational plan, including:

- a. Concession Area site plan
- b. Storage plan including on-site and off-site storage and any vehicle usage
- c. Hurricane preparedness /evacuation plan
- d. Management and staffing plan including daily personnel assignments and duties
- e. Written policy and procedure for internal controls to record sales for Concession Area(s) income
- f. Beach maintenance plan of Concession Area, including proposed waste disposal container and proposed recycle container for water bottle(s) including placement of each container at each concession area site plan
- g. Concession marketing plans
- h. Method proposed to anchor umbrellas, market umbrellas, and windbreaker/clamshells
- i. Photos and specifications of Proposed Uniforms
- j. Additional Amenities (proposed additional amenities must be included as part of above paragraph a. Concession Area site plan)
- k. Hotel Amenity Agreement plan
- l. Any other information you feel will assist the City in evaluating your proposal

Type and quantity of equipment that you plan to provide for rental including specifications. Photos or brochures of the equipment will be helpful in evaluation.

Proposed rental rates for each Contract year. Describe equipment and list proposed rates for an hour, more than an hour, half day, full day, and any other rental arrangements.

Provide the type of product(s), size of product(s) and cost in the form of a price list for proposed items for inclusion as part of the Beverage Service per section 3.17.

4.2.5 References

Provide at least three references, preferably government agencies, for projects with similar scope as listed in this RFP. Information should include:

- Client Name, address, contact person telephone and E-mail addresses.
- Description of work.
- Year the project was completed.
- Total cost of the project, estimated and actual.

Note: Do not include City of Fort Lauderdale work or staff as references to demonstrate your capabilities. The Committee is interested in work experience and references other than the City of Fort Lauderdale.

4.2.6 Minority/Women (M/WBE) Participation

If your firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, provide copies of your certification(s). If your firm is not a certified M/WBE, describe your company's previous efforts, as well as planned efforts in meeting M/WBE procurement goals under Florida Statutes 287.09451.

4.2.7 Subcontractors

Proposer must clearly identify any subcontractors that may be utilized during the term of this contract.

4.2.8 Required Forms

a. Proposal Certification

Complete and attach the Proposal Certification provided herein.

b. Cost Proposal

Provide firm, fixed, costs for all services/products using the form provided in this request for proposal. These firm fixed costs for the project include any costs for travel and miscellaneous expenses. No other costs will be accepted.

c. Non-Collusion Statement

This form is to be completed, if applicable, and inserted in this section.

This form is to be completed, if applicable, and inserted in this section

d. Contract Payment Method

This form must be completed and returned with your proposal. Proposers must presently have the ability to accept these credit cards or take whatever steps necessary to implement acceptance of a card before the start of the contract term, or contract award by the City.

e. Sample Insurance Certificate

Demonstrate your firm's ability to comply with insurance requirements. Provide a previous certificate or other evidence listing the Insurance Companies names for the required coverage and limits.

f. Business License

Evidence that your firm and/or persons performing the work are licensed to do business in the State of Florida

END OF SECTION

SECTION V – EVALUATION AND AWARD

5.1 Evaluation Procedure

5.1.1 Bid Tabulations/Intent to Award

Notice of Intent to Award Contract/Bid, resulting from the City's Formal solicitation process, requiring City Commission action, may be found at <http://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award>. Tabulations of receipt of those parties responding to a formal solicitation may be found at <http://www.fortlauderdale.gov/departments/finance/procurement-services/bid-results>, or any interested party may call the Procurement Office at 954-828-5933.

5.1.2 Evaluation of proposals will be conducted by an Evaluation Committee, consisting of a minimum of three members of City Staff, or other persons selected by the City Manager or designee. All committee members must be present at scheduled evaluation meetings. Proposals shall be evaluated based upon the information and references contained in the responses as submitted.

5.1.3 The Committee may short list no less than three Proposals, assuming that three proposals have been received, that it deems best satisfy the weighted criteria set forth herein. The committee may then conduct interviews and/or require oral presentations from the short listed Proposers. The Evaluation Committee shall then re-score and re-rank the short listed firms in accordance with the weighted criteria.

5.1.4 The City may require visits to the Proposer's facilities to inspect record keeping procedures, staff, facilities and equipment as part of the evaluation process.

5.1.5 The final ranking and the Evaluation Committee's recommendation may then be reported to the City Manager for consideration of contract award.

5.2 Evaluation Criteria

5.2.1 The City uses a mathematical formula to determine the scoring for each individual responsive and responsible firm based on the weighted criteria stated herein. Each evaluation committee member will rank each firm by criteria, giving their first ranked firm a number 1, the second ranked firm a number 2, and so on. The City shall multiply that average ranking by the weighted criterion identified herein to determine the total the points for each proposer. The lowest average final ranking score will determine the recommendation by the evaluation committee to the City Manager.

5.2.2 Weighted Criteria

<u>ABILITY TO MEET OBJECTIVES</u>	
Total revenue above minimum guaranteed annual franchise fees.	35%
Understands the scope of the project	20%
Proposed plan for management, staffing and operation of concession. (Quality of plan, number of staff available to provide services, etc.)	10%
<u>QUALIFICATIONS</u>	

Experience, qualifications, and references of the proposing firm.	15%
Quality of storage plan, concession area site plan, hurricane preparedness plan with regard to aesthetics, impact on beach and public safety	10%
Availability, diversity and quality of service offered and additional amenities proposed for the public and hotel guests.	10%
TOTAL PERCENT AVAILABLE:	100%

5.3 Contract Award

The City reserves the right to award a contract to that Consultant who will best serve the interest of the City. The City reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all proposals. The City also reserves the right to waive minor irregularities or variations of the submittal requirements and RFP process.

END OF SECTION

SECTION VI - PROPOSAL PAGE

Proposer Name: _____

Proposer agrees to supply the products and services at the prices bid below in accordance with the terms, conditions and specifications contained in this RFP.

Year One:

Guaranteed annual franchise fee:

\$ _____ (minimum acceptable \$363,250)

Year Two:

Guaranteed Annual franchise fee:

\$ _____ (minimum acceptable \$381,400)

Year Three:

Guaranteed Annual franchise fee:

\$ _____ (minimum acceptable \$400,500)

Year Four:

Guaranteed Annual franchise fee:

\$ _____ (minimum acceptable \$420,500)

Year Five:

Guaranteed Annual franchise fee:

\$ _____ (minimum acceptable \$441,500)

Total five (5) year annual franchise fee:

\$ _____ (minimum acceptable (\$2,007,150)

Submitted by:

Name (printed)

Signature

Date

Title

RFP #375-11842

BEACH EQUIPMENT RENTAL CONCESSION

FORT LAUDERDALE BEACH



RFP #375-11887

Attachment B

**AGREEMENT FOR
(TITLE)**

THIS AGREEMENT, made this ____ day of ____ 2017, by and between the City of Fort Lauderdale, a Florida municipality, ("City"), whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301-1016, and _____, a _____ corporation, ("Contractor" or "Company"), whose address and phone number are _____, for the term specified herein,

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, the City and the Contractor covenant and agree as follows:

WITNESSETH:

I. DOCUMENTS

The following documents are hereby incorporated into and made part of this agreement.

- (1) Specifications and Contract Documents, including any and all addenda, prepared by the City of Fort Lauderdale, "TITLE" "RFP/ITB #", Exhibit A).
- (2) Response to the Proposal for the City of Fort Lauderdale prepared by Contractor dated _____ (Exhibit B).

All contract documents may also be collectively referred to as the "Documents." In the event of any conflict between or among the Documents or any ambiguity or missing specifications or instruction, the following priority is established:

- A. First, specific direction from the City Manager (or designee)
- B. Second, this Agreement dated _____, 2011, and any attachments.
- C. Third, Exhibit A
- D. Fourth, Exhibit B

II. SCOPE

The Contractor shall perform the Work under the general direction of the City as set forth in Exhibits "A" and "B", to the ITB or RFP, which are incorporated herein by reference and made a part hereof.

Unless otherwise specified herein, the Contractor shall perform all Work identified in this Agreement. The parties agree that the scope of services is a description of Contractor's obligations and responsibilities, and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

Contractor acknowledges and agrees that the City's Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement.

RFP #715-10794

Attachment B

By signing this Agreement, the Contractor represents that it thoroughly reviewed the documents incorporated into this Agreement by reference and that it accepts the description of the Work and the conditions under which the Work is to be performed.

III. TERM OF AGREEMENT

The initial contract period shall commence on "DATE" and shall end on "DATE". Performance under this Agreement shall commence no later than _____, 2011. In the event the term of this Agreement extends beyond the end of any fiscal year of City, to wit, September 30, the continuation of this Agreement beyond the end of such fiscal year shall be subject to both the appropriation and the availability of funds.

IV. COMPENSATION

The Contractor agrees to provide the services and/or materials as specified in Contractor's proposal to the City at the cost specified in said proposal and addenda, if any, the proposal and any addenda thereto being attached as Exhibit "B", which is incorporated herein by reference and made a part hereof. It is acknowledged and agreed by Contractor that this amount is the maximum payable and constitutes a limitation upon City's obligation to compensate Contractor for Contractor's services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. Except as otherwise provided in the solicitation, no amount shall be paid to Contractor to reimburse Contractor's expenses.

V. METHOD OF BILLING AND PAYMENT

Contractor may submit invoices for compensation no more often than monthly, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Invoices shall designate the nature of the services performed and/or the goods provided.

City shall pay Contractor within forty-five (45) days of receipt of Contractor's proper invoice, as provided in the Florida Local Government Prompt Payment Act.

To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the City's Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement.

Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the City's Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by City.

VI. GENERAL CONDITIONS

A. Indemnification

RFP #715-10794

Attachment B

(Modification of this language will be made as necessary to adhere to Florida Statutory limitations for construction and design professional contracts).

Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City and the City's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager, any sums due Contractor under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.

B. Intellectual Property

Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the Contractor's or the City's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

C. Termination for Cause

The aggrieved party may terminate this Agreement for cause if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. The City Manager may also terminate this Agreement upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health or safety. The parties agree that if the City erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

This Agreement may be terminated for cause for reasons including, but not limited to, Contractor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to perform the Work to the City's satisfaction; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.

RFP #715-10794

Attachment B

D. Termination for Convenience

The City reserves the right, in its best interest as determined by the City, to cancel this contract for convenience by giving written notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the City's satisfaction pursuant to the Agreement through the termination date specified in the written notice of termination. Contractor acknowledges and agrees that he/she/it has received good, valuable and sufficient consideration from City, the receipt and adequacy of which are hereby acknowledged by Contractor, for City's right to terminate this Agreement for convenience.

E. Cancellation for Unappropriated Funds

The City reserves the right, in its best interest as determined by the City, to cancel this contract for unappropriated funds or unavailability of funds by giving written notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise provided by law.

F. Insurance

The Contractor shall furnish proof of insurance requirements as indicated below. The coverage is to remain in force at all times during the contract period. The following minimum insurance coverage is required. The commercial general liability insurance policy shall name the City of Fort Lauderdale, a Florida municipality, as an "additional insured." This MUST be written in the description section of the insurance certificate, even if there is a check-off box on the insurance certificate. Any costs for adding the City as "additional insured" shall be at the Contractor's expense.

The City of Fort Lauderdale shall be given notice 10 days prior to cancellation or modification of any required insurance. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Procurement Services Division.

The Contractor's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Florida, subject to approval by the City's Risk Manager. Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this RFP shall be deemed unacceptable, and shall be considered breach of contract.

Workers' Compensation and Employers' Liability Insurance

Limits: Workers' Compensation – Per Chapter 440, Florida Statutes
Employers' Liability - \$500,000

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Attachment B

Any firm performing work for or on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance. Exceptions and exemptions can only be made, by the City's Risk Manager, if they are in accordance with Florida Statutes.

Commercial General Liability Insurance

Covering premises-operations, products-completed operations, independent contractors and contractual liability.

Limits: Combined single limit bodily injury/property damage \$1,000,000.

This coverage must include, but not limited to:

- a. Coverage for the liability assumed by the contractor under the indemnity provision of the contract.
- b. Coverage for Premises/Operations
- c. Products/Completed Operations
- d. Broad Form Contractual Liability
- e. Independent Contractors

Automobile Liability Insurance

Covering all owned, hired and non-owned automobile equipment.

Limits: Bodily injury	\$250,000 each person, \$500,000 each occurrence
Property damage	\$100,000 each occurrence

Professional Liability (Errors & Omissions) – "IF REQUIRED IN BID SPECS"**Consultants**

Limits: _____ \$2,000,000 per occurrence

Certificate holder should be addressed as follows:

City of Fort Lauderdale
Procurement Services Division
100 N. Andrews Avenue, Room 619
Ft. Lauderdale, FL 33301

G. Environmental, Health and Safety

Contractor shall place the highest priority on health and safety and shall maintain a safe working environment during performance of the Work. Contractor shall comply, and shall secure compliance by its employees, agents, and subcontractors, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of Contractor. Contractor shall be responsible for examining all requirements and determine whether additional or more stringent environmental,

RFP #715-10794

Attachment B

health, safety and security provisions are required for the Work. Contractor agrees to utilize protective devices as required by applicable laws, regulations, and any industry or Contractor's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

H. Standard of Care

Contractor represents that is qualified to perform the Work, that Contractor and its subcontractors possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified contractors under similar circumstances.

I. Rights in Documents and Work

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City; and Contractor disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of City and shall be delivered by Contractor to the City's Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to Contractor shall be withheld until Contractor delivers all documents to the City as provided herein.

J. Audit Right and Retention of Records

City shall have the right to audit the books, records, and accounts of Contractor and Contractor's subcontractors that are related to this Agreement. Contractor shall keep, and Contractor shall cause Contractor's subcontractors to keep, such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of Contractor and Contractor's subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor or Contractor's subcontractor, as applicable, shall make same available at no cost to City in written form.

Contractor and Contractor's subcontractors shall preserve and make available, at reasonable times for examination and audit by City in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by City to be applicable to Contractor and Contractor's subcontractors' records, Contractor and Contractor's subcontractors shall comply with all requirements thereof; however, Contractor and Contractor's subcontractors shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

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Contractor shall, by written contract, require Contractor's subcontractors to agree to the requirements and obligations of this Section.

The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract.

K. Public Entity Crime Act

Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, as may be amended from time to time, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by City pursuant to this Agreement, and may result in debarment from City's competitive procurement activities.

L. Independent Contractor

Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of the Contractor. In providing such services, neither Contractor nor Contractor's agents shall act as officers, employees, or agents of City. No partnership, joint venture, or other joint relationship is created hereby. City does not extend to Contractor or Contractor's agents any authority of any kind to bind City in any respect whatsoever.

M. Inspection and Non-Waiver

Contractor shall permit the representatives of CITY to inspect and observe the Work at all times.

The failure of the City to insist upon strict performance of any other terms of this Agreement or to exercise any rights conferred by this Agreement shall not be construed by Contractor as a waiver of the City's right to assert or rely on any such terms or rights on any future occasion or as a waiver of any other terms or rights.

N. Assignment and Performance

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. In addition, Contractor shall not subcontract any portion of the work required by this Agreement, except as provided in the Schedule of Subcontractor Participation. City may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or

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encumbrance, by Contractor of this Agreement or any right or interest herein without City's written consent.

Contractor represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

Contractor shall perform Contractor's duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Contractor's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to the best local and national standards.

In the event Contractor engages any subcontractor in the performance of this Agreement, Contractor shall ensure that all of Contractor's subcontractors perform in accordance with the terms and conditions of this Agreement. Contractor shall be fully responsible for all of Contractor's subcontractors' performance, and liable for any of Contractor's subcontractors' non-performance and all of Contractor's subcontractors' acts and omissions. Contractor shall defend at Contractor's expense, counsel being subject to City's approval or disapproval, and indemnify and hold City and City's officers, employees, and agents harmless from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, by or in favor of any of Contractor's subcontractors for payment for work performed for City by any of such subcontractors, and from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, occasioned by or arising out of any act or omission by any of Contractor's subcontractors or by any of Contractor's subcontractors' officers, agents, or employees. Contractor's use of subcontractors in connection with this Agreement shall be subject to City's prior written approval, which approval City may revoke at any time.

O. Conflicts

Neither Contractor nor any of Contractor's employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to Contractor's performance under this Agreement.

Contractor further agrees that none of Contractor's officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event Contractor is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to require such

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subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

P. Schedule and Delays

Time is of the essence in this Agreement. By signing, Contractor affirms that it believes the schedule to be reasonable; provided, however, the parties acknowledge that the schedule might be modified as the City directs.

Q. Materiality and Waiver of Breach

City and Contractor agree that each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the parties in exchange for *quid pro quo*, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

R. Compliance With Laws

Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing Contractor's duties, responsibilities, and obligations pursuant to this Agreement.

S. Severance

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the provisions not having been found by a court of competent jurisdiction to be invalid or unenforceable shall continue to be effective.

T. Limitation of Liability

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$1,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of \$1,000 less the amount of all funds actually paid by the City to Contractor pursuant to this Agreement.

Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in an amount in excess of \$1,000 which amount shall be reduced by the amount actually paid by the City to Contractor pursuant to this Agreement, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph

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or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Article 768.28, Florida Statutes.

U. Jurisdiction, Venue, Waiver, Waiver of Jury Trial

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in the Seventeenth Judicial Circuit in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida, Fort Lauderdale Division.

In the event Contractor is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the City may enforce in the United States of America or in Canada or in both countries a judgment entered against the Contractor. The Contractor waives any and all defenses to the City's enforcement in Canada of a judgment entered by a court in the United States of America.

V. Amendments

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Mayor-Commissioner and/or City Manager, as determined by City Charter and Ordinances, and Contractor or others delegated authority to or otherwise authorized to execute same on their behalf.

W. Prior Agreements

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

X. Payable Interest

Except as required and provided for by the Florida Local Government Prompt Payment Act, City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

Y. Representation of Authority

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

Z. Prevailing Wage Requirement

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[WHEN DETERMINED TO BE APPLICABLE IN THE SOLICITATION DOCUMENTS]

Contractor shall fully comply with the requirements of Broward County Ordinance 83-72.

AA. Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

A. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and

D. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

BB. Scrutinized Companies

This Section applies to any contract for goods or services of \$1 million or more:

The Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as provided in section 287.135, Florida Statutes (2011), as may be amended or revised. The City may terminate this Contract at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2011), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

IN WITNESS WHEREOF, the City and the Contractor execute this Contract as follows:

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CITY OF FORT LAUDERDALE

By: _____
City Manager

ATTEST

By: _____
Print Name: _____
Title: _____

CONTRACTOR

By: _____
Print Name: _____
Title: _____

(CORPORATE SEAL)

STATE OF _____:
COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by _____ as (title): _____ for _____ (Contractor name), a _____ corporation.

(SEAL)

Notary Public, State of _____
(Signature of Notary Public)_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

**CITY OF FORT LAUDERDALE
GENERAL CONDITIONS**

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Procurement Services Division. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement. In this general conditions document, Invitation to Bid (ITB), Request for Qualifications (RFQ), and Request for Proposal (RFP) are interchangeable.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 BIDDER ADDRESS:** The City maintains automated vendor address lists that have been generated for each specific Commodity Class item through our bid issuing service, BidSync. Notices of Invitations to Bid (ITB'S) are sent by e-mail to the selection of bidders who have fully registered with BidSync or faxed (if applicable) to every vendor on those lists, who may then view the bid documents online. Bidders who have been informed of a bid's availability in any other manner are responsible for registering with BidSync in order to view the bid documents. There is no fee for doing so. If you wish bid notifications be provided to another e-mail address or fax, please contact BidSync. If you wish purchase orders sent to a different address, please so indicate in your bid response. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 PACKING SLIPS:** It will be the responsibility of the awarded Contractor, to attach all packing slips to the OUTSIDE of each shipment. Packing slips must provide a detailed description of what is to be received and reference the City of Fort Lauderdale purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.
- 1.04 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
- 1.05 TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.06 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that the bid and the prices quoted in the bid will be firm for acceptance by the City for a period of one hundred twenty (120) days from the date of bid opening unless otherwise stated in the ITB.
- 1.07 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.
- By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.
- 1.08 NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.
- 1.09 MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its procurement activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term "Minority Business Enterprise" means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business" is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than \$1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.

HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.

NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.

ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.10 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he or she will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

1.11 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2016), that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2016), as may be amended or revised. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2016), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2016), or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2016), as may be amended or revised.

1.12 DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS

The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

2.01 BIDDING DEFINITIONS The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:

INVITATION TO BID (ITB) when the City is requesting bids from qualified Bidders.

REQUEST FOR PROPOSALS (RFP) when the City is requesting proposals from qualified Proposers.

REQUEST FOR QUALIFICATIONS (RFQ) when the City is requesting qualifications from qualified Proposers.

BID – a price and terms quote received in response to an ITB.

PROPOSAL – a proposal received in response to an RFP.

BIDDER – Person or firm submitting a Bid.

PROPOSER – Person or firm submitting a Proposal.

RESPONSIVE BIDDER – A person whose bid conforms in all material respects to the terms and conditions included in the ITB.

RESPONSIBLE BIDDER – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance.

FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.

SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.

CONTRACTOR – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City.

CONTRACT – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction.

CONSULTANT – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.

The following terms may be used interchangeably by the City: ITB and/or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

2.02 SPECIAL CONDITIONS: Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

3.01 SUBMISSION AND RECEIPT OF BIDS: To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidders should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the Form G-107 Rev. 08/2016

presence of Bidders, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.

- 3.02 MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.
- 3.04 TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for EIN is 59-6000319, and State Sales tax exemption number is 85-8013875578C-1.
- 3.05 WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.06 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in the bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in the bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.07 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet or exceed these items, and feels that the technical specifications are overly restrictive, the bidder must notify the Procurement Services Division immediately. Such notification must be received by the Procurement Services Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.
- 3.08 MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle the bidder to any relief from the conditions imposed in the contract.
- 3.09 SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Director reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 3.14 BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond or cashier's check. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS/TRADE SECRETS/COPYRIGHT:** The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes.

Form G-107 Rev. 08/2016

Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE RFP AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE RFP OR ANY PART THEREOF AS COPYRIGHTED.

3.16 PROHIBITION OF INTEREST: No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.

3.17 RESERVATIONS FOR AWARD AND REJECTION OF BIDS: The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

3.18 LEGAL REQUIREMENTS: Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

3.19 BID PROTEST PROCEDURE: ANY PROPOSER OR BIDDER WHO IS NOT RECOMMENDED FOR AWARD OF A CONTRACT AND WHO ALLEGES A FAILURE BY THE CITY TO FOLLOW THE CITY'S PROCUREMENT ORDINANCE OR ANY APPLICABLE LAW MAY PROTEST TO THE DIRECTOR OF PROCUREMENT SERVICES DIVISION (DIRECTOR), BY DELIVERING A LETTER OF PROTEST TO THE DIRECTOR WITHIN FIVE (5) DAYS AFTER A NOTICE OF INTENT TO AWARD IS POSTED ON THE CITY'S WEB SITE AT THE FOLLOWING LINK: http://www.fortlauderdale.gov/purchasing/notices_of_intent.htm

THE COMPLETE PROTEST ORDINANCE MAY BE FOUND ON THE CITY'S WEB SITE AT THE FOLLOWING LINK:
<http://www.fortlauderdale.gov/purchasing/protestordinance.pdf>

PART IV BONDS AND INSURANCE

4.01 PERFORMANCE BOND: If a performance bond is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond, payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

4.02 INSURANCE: If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Procurement Services Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED for General Liability Insurance, and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting the bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

- 5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:
- Bidders name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
 - All City Departments being advised to refrain from doing business with the Bidder.
 - All other remedies in law or equity.
- 5.02 ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.
- 5.03 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Safety Data Sheet (SDS).
- 5.04 ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB the bidder will supply only material or equipment that is 100% asbestos free.
- 5.05 OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, the bidder may, if the bidder has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.07 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.08 INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney's fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.
- 5.09 TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
- 5.10 TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.11 CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 5.12 RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The Contractor agrees to make available to the City Auditor or designee, during normal business hours and in Broward, Miami-Dade or Palm Beach Counties, all books of account, reports and records relating to this contract should be retained for the duration of the contract and for three years after the final payment under this Agreement, or until all pending audits, investigations or litigation matters relating to the contract are closed, whichever is later.
- 5.13 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at their own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this contract.

- 5.14 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:
1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
 2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
 3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve them of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a stated period of time.
- If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.
- 5.17 ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.
- 5.19 ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Commission or the City Manager or City Manager's designee, depending on original award approval.
- 5.20 LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.
- 5.21 LOCATION OF UNDERGROUND FACILITIES:** If the Contractor, for the purpose of responding to this solicitation, requests the location of underground facilities through the Sunshine State One-Call of Florida, Inc. notification system or through any person or entity providing a facility locating service, and underground facilities are marked with paint, stakes or other markings within the City pursuant to such a request, then the Contractor, shall be deemed non-responsive to this solicitation in accordance with Section 2-184(5) of the City of Fort Lauderdale Code of Ordinances.

5.22 PUBLIC RECORDS

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT. CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (954-828-5002, PRRCONTRACT@FORTLAUDERDALE.GOV, CITY CLERK'S OFFICE, 100 NORTH ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301)

Contractor shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2016), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Contractor does not transfer the records to the City.
4. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of this Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

NON-COLLUSION STATEMENT:

By signing this offer, the vendor/contractor certifies that this offer is made independently and *free* from collusion. Vendor shall disclose below any City of Fort Lauderdale, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement.

Any City of Fort Lauderdale, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

In accordance with City of Fort Lauderdale, FL Policy and Standards Manual, 6.10.8.3,

3.3. City employees may not contract with the City through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more).

3.4. Immediate family members (spouse, parents and children) are also prohibited from contracting with the City subject to the same general rules.

Failure of a vendor to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the City Procurement Code.

NAME**RELATIONSHIPS**

In the event the vendor does not indicate any names, the City shall interpret this to mean that the vendor has indicated that no such relationships exist.

BID/PROPOSAL CERTIFICATION

Please Note: If responding to this solicitation through BidSync, the electronic version of the bid response will prevail, unless a paper version is clearly marked **by the bidder** in some manner to indicate that it will supplant the electronic version. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit <http://www.dos.state.fl.us/>).

Company: (Legal Registration) _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone No. _____ FAX No. _____ Email: _____

Delivery: Calendar days after receipt of Purchase Order (**section 1.02 of General Conditions**): _____

Total Bid Discount (**section 1.05 of General Conditions**): _____

Does your firm qualify for MBE or WBE status (**section 1.09 of General Conditions**): MBE _____ WBE _____

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

VARIANCES: If you take exception or have variances to any term, condition, specification, scope of service, or requirement in this competitive solicitation you must specify such exception or variance in the space provided below or reference in the space provided below all variances contained on other pages within your response. Additional pages may be attached if necessary. No exceptions or variances will be deemed to be part of the response submitted unless such is listed and contained in the space provided below. The City does not, by virtue of submitting a variance, necessarily accept any variances. If no statement is contained in the below space, it is hereby implied that your response is in full compliance with this competitive solicitation. If you do not have variances, simply mark N/A. **If submitting your response electronically through BIDS SYNC you must also click the "Take Exception" button.**

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal. I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the City's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars (\$500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

Name (printed)

Signature

Date:

Title

revised 04/10/15



City of Fort Lauderdale • Procurement Services Division
100 N. Andrews Avenue, 619 • Fort Lauderdale, Florida 33301
954-828-5933 Fax 954-828-5576
www.fortlauderdale.gov/purchasing

ADDENDUM NO. 1

RFP No. 375-11842

TITLE: Beach Equipment Rental Concession

ISSUED: January 13, 2017

This addendum is being issued to make the following changes:

1. Updated Bid Specification to correct the Frame Finish Color from "Parchment" to "Sonora" in Section 3.6 – Equipment - A. Beach Lounge Chair.
2. Corrected percentage in Section 3.18 – Additional Amenities
3. Removed references of Local Business Preference – Sections 2.18, and 4.2.8 – Required Form.
4. Removed "Contract Payment Method by P Card" Form
5. All other terms, conditions and specification remain unchanged.

Ginah Joseph
Procurement Specialist II

Company Name:

(Please print)

Bidder's Signature:

Date: _____



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ADDENDUM NO. 2

RFP No. 375-11842

TITLE: Beach Equipment Rental Concession

ISSUED: January 13, 2017

This addendum is being issued to make the following changes:

1. Uploaded "Sign-in Sheet"
2. Corrected "Issued Date" on Addendum No. 1
3. All other terms, conditions and specification remain unchanged.

Ginah Joseph
Procurement Specialist II

Company Name:

(Please print)

Bidder's Signature:

Date: _____

DEPARTMENT OF FINANCE – PROCUREMENT**ITB PRE-BID MEETING SIGN-IN FORM**

Rev: 1 | Date: 08/29/15 | I.D. Number: PSM 1-03

MEETING DATE: 1/25/2017

ITB TITLE: Beach Equipment Rental Concession

ITB # 375-11842

PURCHASING CONTACT: Ginah Joseph, Procurement II

NAME	COMPANY	PHONE	E-MAIL
Ginah Joseph	City	9) 828-5142	gjoseph@balaud.com
Seth Platt	LSN Partners	9) 522-3588	gsplatt@lsnpartners.com
Charles Pern	Boucher Brothers	(915) 20-4318	Pern 922 2nd bellvue
Adan Cesari	Boucher Brother	305-535-8177	adan.cesari@boucherbros.com
Stephanio Toothaker	Tripp Scott	954/448-9374	sjt@trippscott.com
Gregory McAloon	Tripp Scott Boucher	954-937-9443	gmc@trippscott.com
George Platt	gsplatt@lsnpartners.com	954 522 3588	
Laura Voet	City	954-828-4582	lvoet@cityof.com
Todd Stilphen	City	954-828-4614	todd@cityof.com
Larry Weiner	TROPITONE	954.205.4612	larry@laurencasso.com



City of Fort Lauderdale • Procurement Services Division
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www.fortlauderdale.gov/purchasing

ADDENDUM NO. 3

RFP No. 375-11842

TITLE: Beach Equipment Rental Concession

ISSUED: January 13, 2017

This addendum is being issued to make the following changes:

1. Extended RFP End Date to February 28th, 2017 at 2:00 pm
2. All other terms, conditions and specification remain unchanged.

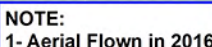
Ginah Joseph
Procurement Specialist II

Company Name:

(Please print)

Bidder's Signature:

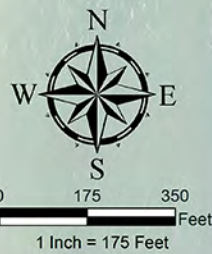
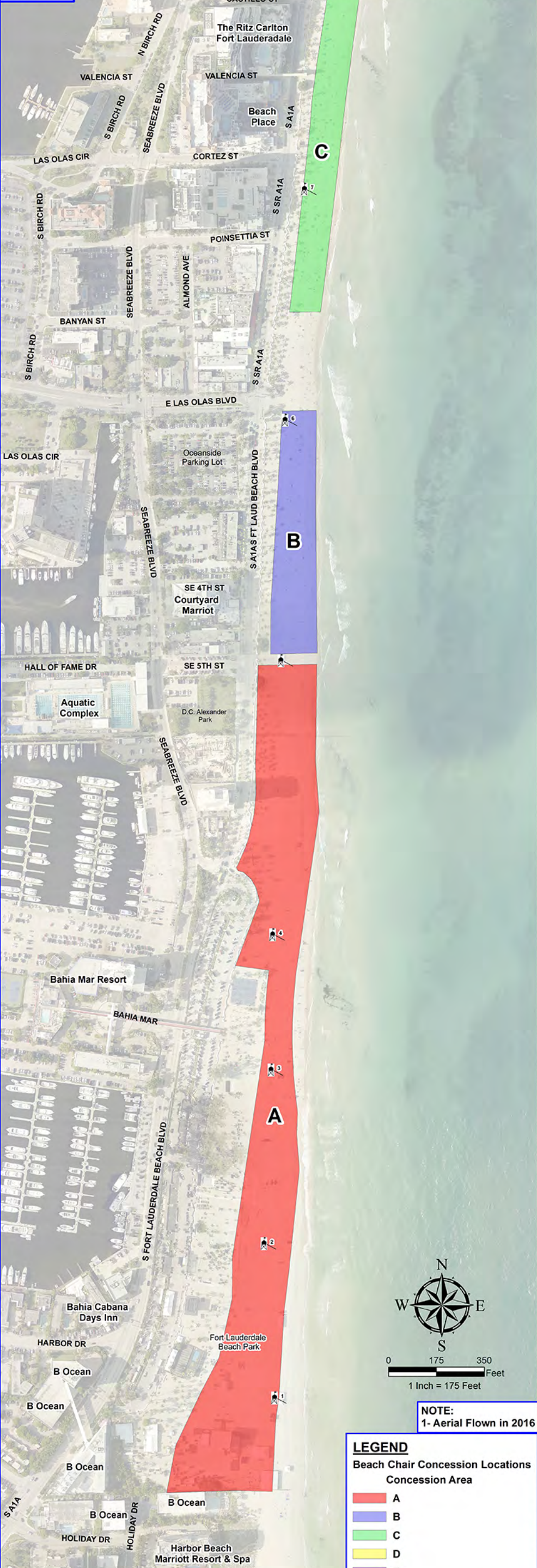
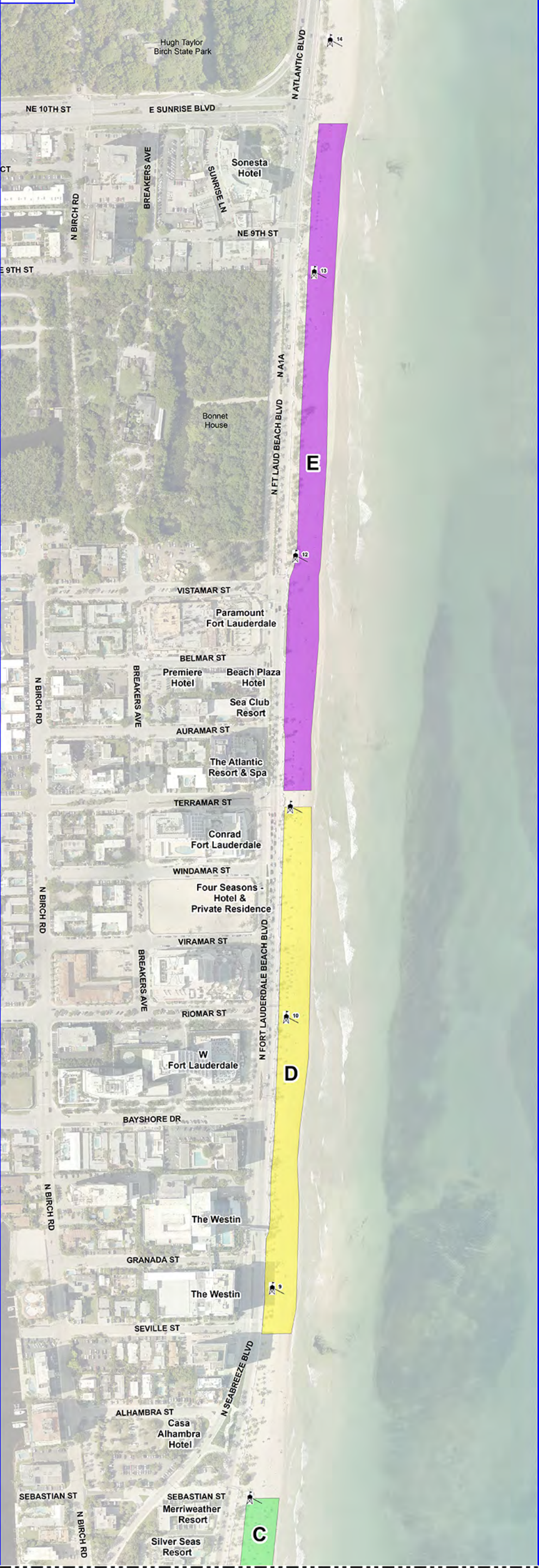
Date: _____



Beach Chair Concession Locations

Concession Area
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NOTE:
1- Aerial Flown in 2016

LEGEND	
Beach Chair Concession Locations	
Concession Area	
■	A
■	B
■	C
■	D
■	E



Beach Chair Concession Locations

(Between Sunrise Blvd to Fort Lauderdale Beach Park)





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ADDENDUM NO. 4

RFP No. 375-11842

TITLE: Beach Equipment Rental Concession

ISSUED: February 28th, 2017

This addendum is being issued to make the following changes:

1. Extended RFP End Date to March 3, 2017 at 2:00 pm
2. All other terms, conditions and specification remain unchanged.

James Hemphill
Sr. Procurement Specialist

Company Name:

(Please print)

Bidder's Signature:

Date: _____

Question and Answers for Bid #375-11842 - Beach Equipment Rental Concession

Overall Bid Questions

Question 1

Provide Sign-in Sheet from pre-bid conference. (Submitted: Feb 6, 2017 8:32:58 AM EST)

Answer

- Attached. (Answered: Feb 6, 2017 12:02:37 PM EST)

Question 2

Ginah,

I have a few questions pertaining to this bid:

1. It appears there was only one potential bidder, the incumbent, at the pre conference. We would like to put together a proper bid for the City, but the window of time is very short from the time the bid was sent out to when it's due, it's only one month. Since there is such a short time frame, could we get an extension of 30 days for the bid due date? For instance, there isn't a sufficient amount of time to speak with the local resorts concerning the resort fee that is currently established.
2. Could we get a list of the resorts that participate in the "Resort Fee"?
3. In reference to the 2015 Revenue Monthly Report to the City, what is the difference between the Room Charge and Resort Fee?
4. Is it mandatory to have strap chairs on the beach, or can we have different types of chairs that would be approved by the city?
5. Regarding Addendum #1, what is the corrected % in sec 3.18?
6. Is there a cone of silence? (Submitted: Feb 8, 2017 4:45:04 PM EST)

Answer

- 1. At this time, no extension.
- 3. Room Charge: A charge to a hotel guest, charged directly to their room. Resort Fee: Negotiated pricing between the vendor and hotel for use of chairs on the beach.
- 4. The minimum specifications for the design, type, material, and color of all Beach Lounge Chairs is outlined in the bid specifications.
Any proposed equivalent chairs or alternate colors will be subject to approval by the City.
- 5. Corrected %: 10%
- 6.. Our ordinance does not provide for a cone of silence. However the State Statute allows for 30 days or when notice of intent to award has been posted, whichever occurs first. (Answered: Feb 10, 2017 4:12:12 PM EST)
- Ritz Carlton, Hilton, Sonesta, W Hotel (Answered: Feb 14, 2017 3:33:15 PM EST)

Question 3

- Why is there no Local Business Preference consideration? It was removed on January 26th.
- Did the City conduct performance evaluations pursuant to the current concession contract? If so, are those available via a public records request?
- How much, on an annual basis, was paid to the City by the current vendor in fulfillment of the current concession contract? (Submitted: Feb 21, 2017 4:07:33 PM EST)

Answer

- #1

I was advised that Local Business Preference (LBP) applies to competitive bids/contracts (goods/services/construction/design) and does not apply to revenue-producing contracts.

#2

No formal performance evaluation was conducted, as such this is not available via a public records request. The contract states that the City Franchisee Coordinator may develop a performance evaluation. No performance evaluation was developed and no issues were documented or noted during the current contract period.

#3

FY 2012 \$ 408,253

FY 2013 \$ 452,808

FY 2014 \$ 501,349

FY 2015 \$ 521,164

FY 2016 \$ 548,911

FY 2017 (Current YTD) \$ 185,022 **(Answered: Feb 22, 2017 8:17:59 AM EST)**

- Please be advised that the notation "FY" indicates the City's Fiscal Year, which begins October 1st of each year. Figures are not per Contract year, nor are they to be interpreted as starting on January 1st of each year.

(Answered: Feb 24, 2017 4:40:00 PM EST)

Question 4

Is there someone from the city that can show us the exact site plan , where we can set up and not set up?

(Submitted: Feb 23, 2017 4:14:39 PM EST)

Answer

- The beach concession areas are outlined in the RFP. The bidder will need to provide us with their own site plan base on the approved locations established in the bid specifications.

I will post the locations maps online.

Please refer to 3.5 "Location of Services for the Concession Area.

Attachment - location maps (Answered: Feb 23, 2017 4:16:57 PM EST)