



Contract No.: 785-10058

BEACH EQUIPMENT RENTAL FRANCHISE AGREEMENT

This agreement, made and entered into this the 23 day of OCTOBER, 2008, is by and between the CITY OF FORT LAUDERDALE, a Florida municipality, City Hall, 100 North Andrews Avenue, Fort Lauderdale, FL 33301, hereinafter called the "City" and Contractor:

Name: Boucher Brothers Beach Management Fort Lauderdale, LLC

Address: 420 Lincoln Road, Suite 265 City: Miami Beach State: FL Zip: 33139

A Corporation A Partnership An Individual Other: a limited liability company

authorized to do business in the State of Florida, hereinafter called the "Company" or "Contractor" or "Franchisee." Witnesseth that: Whereas, the City did issue a Request for Proposal (RFP) for beach equipment rental services for a period of **three years**;

Formal authorization of this contract was adopted by the City Commission on: July 15, 2008 (walk-on)

Now, therefore, for and in consideration of the mutual promises and covenants herein contained, the parties covenant and agree as follows:

1. The Company agrees to provide to the City beach equipment rental services during the period beginning 09/01/08 and ending 08/31/11 for the requirements listed above and according to the following specifications, terms, covenants and conditions:

a. This contract form G-110, the Request for Proposal containing General Conditions, Special Conditions, Specifications, addenda, if any, and other attachments forming a part of RFP Number 785-10058 and the Contractor's proposal in response, form a part of this contract and by reference are incorporated herein.

b. In construing the rights and obligations between the parties, the order of priority in cases of conflict between the documents shall be as follows:

- 1) This contract Form G-110, Rev. 12/00
- 2) The City's RFP and all addenda thereto
- 3) Contractor's bid/proposal in response to the City's RFP

c. **Warranty:** The Company by executing this contract embodying the terms herein warrants that the product and/or service that is supplied to the City shall remain fully in accord with the specifications and be of the highest quality. In the event any product and/or service as supplied to the City is found to be defective or does not conform to specifications the City reserves the right to cancel that order upon written notice to the Contractor and to adjust billing accordingly.

d. **Cancellation:** The City may cancel this contract upon notice in writing should the Contractor fail to reasonably perform the service of furnishing the products and/or services as specified herein upon 30 days written notice. This applies to all items of goods or services.

e. **Taxes Exempt:** State Sales (85-8012514506C-7) and Federal Excise (59-600319) Taxes are normally exempt, however, certain transactions are taxable. Consult your tax practitioner for guidance where necessary.

2. **Contract Special Conditions:** The following special conditions are made a part of and modify the standard provisions contained in this contract Form G-110.

Anything to the contrary contained in the Contractor's response to the RFP notwithstanding, the rental rate per chair shall be \$10.00, and the rental rate per umbrella shall be \$15.00, unless a rate change is approved by the City in accordance with Part IV, Section 11 of the RFP.

The Franchisee shall pay the City in accordance with the RFP and in accordance with Memorandum No. 08-151 from George Gretsas, City Manager, in connection with the July 15, 2008, city commission meeting walk-on agenda item:

- 1) \$250,000 per year guaranteed annual minimum; and
- 2) 8% of gross revenue in excess of the \$250,000 guaranteed annual minimum net of sales taxes for all beach equipment rentals, excluding revenue received for resort/amenity charges as provided in the next paragraph; and
- 3) 25% of resort/amenity charges, to wit: 25% of gross revenues net of sales tax received for any hotel amenity charge program, wherein a hotel contracts with Franchisee with the objective of providing simplified, discounted access for its guests to the various beachfront amenities offered by Franchisee, including beachfront chairs, umbrellas, windbreakers/clamshells, and other amenities.

All variances set forth on Page 77 of the Contractor's response to the RFP are deleted.

In addition to other indemnification provisions contained in this Agreement, the Franchisee shall indemnify and hold harmless the City for any damage or injury to person or property which might occur during or as a result of the operation of the franchise.

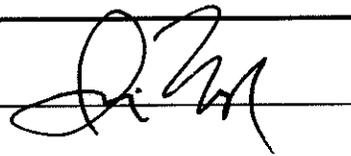
3. Contract Summary:

- a. Attachments: **Boucher Brothers Beach Management Fort Lauderdale, LLC's response to the RFP and a copy of the RFP document.**
- b. Payment Terms: Per RFP
- c. Delivery: Per RFP
- d. Insurance: Yes No
- e. Performance Bond/Letter of Credit: Yes No
- f. Procurement Specialist's Initials: RE

4. Contractor's Phone Numbers: Office: **305-535-8177**

5. Contractor's Fax Number: **305-538-3288**

City of Fort Lauderdale

By: Jim Naugle, Mayor 

Date: Oct. 20, 2008

Attest: Jonda K. Joseph
Jonda K. Joseph, City Clerk

Approved as to form: Paul Sarnal
Senior Assistant City Attorney

BY: George Gretsas
GEORGE GRETSAS
CITY MANAGER

Contractor/Vendor

James Roll-Borchen
Name of Company/Officer (please type or print)

By: [Signature]
Authorized Officer's Signature

Title: CEO

Date: 9/11/08

Attest: Marilyn Gonzalez
Signature of Secretary

MARILYN GONZALEZ
Secretary (please type or print)