

Solicitation 785-10058  
BEACH EQUIPMENT RENTAL CONCESSION



City of Fort Lauderdale

## Bid 785-10058

### BEACH EQUIPMENT RENTAL CONCESSION

Bid Number 785-10058  
Bid Title BEACH EQUIPMENT RENTAL CONCESSION

Bid Start Date Jun 6, 2008 2:52:28 PM EDT  
Bid End Date Jun 19, 2008 2:00:00 PM EDT  
Question & Answer End Date Jun 12, 2008 5:00:00 PM EDT

Bid Contact Richard Ewell  
Purchasing  
rewell@fortlauderdale.gov

Pre-Bid Conference Jun 12, 2008 11:30:00 AM EDT  
Attendance is optional  
Location: Fort Lauderdale City Hall  
100 N. Andrews Avenue, 2nd Floor  
Fort Lauderdale, FL 33301

#### Description

The City of Fort Lauderdale, Florida is seeking proposals from qualified firms to provide a beach equipment rental concession for the City's Business Enterprises Department, in accordance with the terms, conditions, and specifications contained in this Request for Proposals. It is the intent of the City to award a single contract to the first ranked proposer responding to this RFP.

For a copy of the Request for Proposals, go to [www.rfpdepot.com](http://www.rfpdepot.com).

**BID/PROPOSAL SIGNATURE PAGE**

**How to submit bids/proposals:** It is preferred that bids/proposals be submitted electronically at [www.rfpdepot.com](http://www.rfpdepot.com). If mailing a hard copy, it will be the sole responsibility of the Bidder to ensure that the bid reaches the City of Fort Lauderdale, City Hall, Procurement Department, Suite 619, 100 N. Andrews Avenue, Fort Lauderdale, FL 33301, prior to the bid opening date and time listed. Bids/proposals submitted by fax or email will NOT be accepted.

The below signed 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. 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.

**Please Note:** If responding to this solicitation through RFP Depot, 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.

Submitted by: \_\_\_\_\_  
(signature) (date)

Name (printed) \_\_\_\_\_ Title: \_\_\_\_\_

Company: (Legal Registration) \_\_\_\_\_

**CONTRACTOR, IF FOREIGN CORPORATION, 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/doc/>).**

Address: \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Telephone No. \_\_\_\_\_ FAX No. \_\_\_\_\_

E-MAIL: \_\_\_\_\_

Delivery: Calendar days after receipt of Purchase Order (section 1.02 of General Conditions): \_\_\_\_\_

Payment Terms (section 1.03): \_\_\_\_\_ Total Bid Discount (section 1.04): \_\_\_\_\_

Does your firm qualify for MBE or WBE status (section 1.08): MBE \_\_\_\_\_ WBE \_\_\_\_\_

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

<u>Addendum No.</u>	<u>Date Issued</u>
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**VARIANCES:** State any variations to specifications, terms and conditions in the space provided below or reference in the space provided below all variances contained on other pages of bid, attachments or bid pages. No variations or exceptions by the Proposer will be deemed to be part of the bid submitted unless such variation or exception is listed and contained within the bid documents and referenced in the space provided below. If no statement is contained in the below space, it is hereby implied that your bid/proposal complies with the full scope of this solicitation. **HAVE YOU STATED ANY VARIANCES OR EXCEPTIONS BELOW? BIDDER MUST CLICK THE EXCEPTION LINK IF ANY VARIATION OR EXCEPTION IS TAKEN TO THE SPECIFICATIONS, TERMS AND CONDITIONS.**

Variances:  
\_\_\_\_\_  
\_\_\_\_\_

***Request for Proposal***

**785-10058**

**BEACH EQUIPMENT RENTAL CONCESSION**

**Opens: June 19, 2008  
2:00 p.m.**



*Venice of America*

**City of Fort Lauderdale**

**Issued for Business Enterprises Department  
By the Procurement Services Department**

**Richard Ewell, CPPB  
(954) 828-5138**

***E-mail: REwell@fortlauderdale.gov***

**Visit us on the web at [www.ci.fort-lauderdale.fl.us/purchasing](http://www.ci.fort-lauderdale.fl.us/purchasing)**

**(954) 828-5933**

## PART I - INTRODUCTION/INFORMATION

### 01. PURPOSE

The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified firms, hereinafter referred to as the Concessionaire, to provide a beach equipment rental concession for the City's Business Enterprises 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.

### 02. INFORMATION OR CLARIFICATION

For information concerning procedures for responding to this RFP, technical specifications, etc., utilize the question / answer feature provided by RFP Depot. Such contact shall be for clarification purposes only. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum (See addendum section of RFP Depot Site). 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 proposer has familiarized himself with the nature and extent of the work, and the equipment, materials, and labor required.

### 03. PRE-PROPOSAL CONFERENCE

There will be a pre-proposal conference on the date and time specified in the Schedule Section of the RFP. It will be the sole responsibility of the proposer to inspect the City's locations, facilities and systems prior to submitting a proposal. 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 proposer has familiarized himself/herself with the nature and extent of the work, and the equipment, materials, and labor required.

It is strongly suggested that all proposers attend the pre-proposal conference.

### 04. ELIGIBILITY

To be eligible to respond to this RFP, the proposing firm or principals must demonstrate that they, or the principals assigned to the project, have successfully provided services similar to those specified in the Scope of Services section of this RFP0 to at least one City similar in size and complexity to the City of Fort Lauderdale or have the managerial and financial ability to successfully start such a concession by the required date.

### 05. PROPOSAL SECURITY

Each proposal shall be accompanied by RFP security in the form of Cashiers Check or Surety Bond payable to the City of Fort Lauderdale, and shall be in the amount equal to ten percent (10%) of the first year's minimal concession fee as proposed. The City reserves the right to reject any and all security tendered to the City. RFP security will be returned to unsuccessful proposers upon execution of a Contract with the successful proposer.

Failure of the successful proposer to execute a Contract, file any required Performance Bond, and furnish evidence of appropriate insurance coverage, as provided herein, within thirty (30)

days after written notice of award has been given, shall be just cause for the annulment of the award and the forfeiture of the RFP security to the City, which forfeiture shall be considered, not as a penalty, but as liquidation of damages sustained.

06. PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT

The Concessionaire will execute and deliver to the City, within thirty (30) days after notification of award, a Cash Deposit, Performance Bond, or Unconditional Irrevocable Letter of Credit payable to the City, in the face amount equal to fifty percent (50%) of the minimum annual concession fee of each Contract year as surety for faithful performance under the terms and conditions of the Contract. If the bond is on an annual coverage basis, renewal of each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing 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. If a letter of credit is chosen, it must be in a form acceptable to the City, drawn on a bank acceptable to the City, and issued in favor of the City. Bonds may not be cancelled, terminated or revised unless the City has been provided with thirty (30) days written notice of said action by the advanced written notice of such action by the surety. Surety must insert the registered agent to accept service of process in the State of Florida directly in each bond document.

Acknowledgment and agreement is given by both parties that the amount herein above set is not intended to be or shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Concessionaire to the City in the event of a material breach of the Contract by the Concessionaire.

**PART II - RFP SCHEDULE**

Release RFP	06/06/08
Pre Proposal Conference, City Hall, 100 N. Andrews Avenue, 2nd Floor Conference Room, Fort Lauderdale, FL. 11:30 am	06/12/08
Last Date for Receipt of Questions of a Material Nature	06/12/08
Addendum Release (If required)	06/13/08
PROPOSAL DUE (Prior to 2:00 PM)	06/19/08

### **PART III - SPECIAL CONDITIONS**

#### **01. GENERAL CONDITIONS**

RFP General Conditions Form G-107 Rev. 07/07 (GC) are included and made a part of this RFP.

#### **02. VARIANCES**

While the City allows Concessionaires to take variances to the RFP terms, conditions, and specifications, the number and extent of variances taken will be considered in determining proposal responsiveness and in allocating proposal evaluation points. See Section 1.06 of GC.

#### **03. PUBLIC ENTITY CRIMES**

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 bid on a Contract to provide any goods or services to a public entity, may not submit a bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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.

#### **04. 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.

#### **05. RFP DOCUMENTS**

The Concessionaire shall examine this RFP carefully. Ignorance of the requirements will not relieve the Concessionaire from liability and obligations under the Contract.

#### **06. PROPOSERS' COSTS**

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

#### **07. RULES AND PROPOSALS**

The signer of the proposal must declare 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 principal proposer.

## 08. CONFIDENTIAL INFORMATION

Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with all Proposer's response shall be deemed to be public records subject to public inspection upon award, recommendation for award or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Therefore, if the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer must in his or her response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.

## 09. APPROVED EQUAL OR ALTERNATE PRODUCT PROPOSALS

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 proposal pages any 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 qualifies 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.

## 10. CONTRACT PERIOD

The initial Contract term shall commence upon final execution of the Contract by the City and shall expire three (3) years from that date.

In the event services are scheduled to end because of the expiration of this Contract, the Concessionaire shall continue the service upon the request of the Director of Procurement Services. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing Contract under the terms of said Contract.

## 11. NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES

Concessionaire 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 at its sole option.

While this Contract is for services provided to the Business Enterprises Department, the City may require similar work for other City departments. Concessionaire agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Concessionaire.

## 12. DELETION OR MODIFICATION OF SERVICES

The City reserves the right to delete any portion of this Contract 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 the Concessionaire 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 Concessionaire will submit a revised budget to the City for approval prior to proceeding with the work.

## 13. ADDITION, DELETIONS AND CHANGES OF SERVICES

The City may require the addition or deletion of services from the Contract, during the Contract term, as the requirements and needs of the City change. This may entail, but not be limited to, additional items of a similar nature but not specifically listed in the Contract, increases in the quantity of equipment, changes or elimination of equipment, modifications in operating hours, or similar type changes.

The Concessionaire agrees to make such changes or deletions, and shall provide the City prices on any such additional items based upon a formula or method, which is the same or similar to that used in establishing the prices in their proposal. 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 from other vendors, or to cancel the Contract upon giving the Concessionaire thirty (30) days written notice.

## 14. WARRANTIES OF USAGE

Any estimated quantities listed are for information and tabulation purposes only. No warranty or guarantee of quantities needed is given or implied. It is understood that the Concessionaire will furnish the City's needs as they arise.

## 15. SUBSTITUTION OF PERSONNEL

It is the intention of the City that the Concessionaire's personnel proposed for the Contract will be available for the initial Contract term. In the event the Concessionaire 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.

## 16. INDEPENDENT CONTRACTOR

The Concessionaire is an independent Concessionaire under this Contract. Personnel services provided by the Concessionaire shall be by employees of the Concessionaire and subject to supervision by the Concessionaire, and not as officers, employees, or agents of the City. Personal policies, tax responsibilities, social security, workers' compensation, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Contract shall be those of the Concessionaire.

## 17. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Concessionaire will be excused from the performance of their respective obligations under this Contract 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 Concessionaire will not constitute Force Majeure. The term of the Contract shall be extended by a period equal to that during which either party's performance is suspended under this Section.

## 18. INSURANCE

The Concessionaire shall furnish proof of Workers' Compensation Insurance, General Liability Insurance and Comprehensive Automobile Liability Insurance. 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 and Automobile Insurance. Any costs for adding the City as "additional insured" will be at the Concessionaire's expense.

### **Workers' Compensation and Employers' Liability Insurance**

Limits: Workers' Compensation – Statutory Limits

Employers' Liability - \$1,000,000.00

Any firm performing work on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance. Exceptions and exemptions can only be made 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](http://www.fldfs.com).

## Commercial General Liability Insurance

Covering premises-operations, products-completed operations, independent Concessionaires and Contractual liability.

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

This coverage must include:

- a. Coverage for the liability assumed by the Concessionaire under the indemnity provision of the Contract.
- b. Coverage for hazards commonly referred to as “explosion, collapse and underground”, exclusions – on construction Contracts only.
- c. The vendor’s coverage is primary and the City’s coverage is non-contributory.

## 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)

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

**In the event that you are the successful bidder, you will be required to provide a certificate naming the City as an “additional insured” for both General Liability and Automobile.**

Certificate holder should be addressed as follows:

City of Fort Lauderdale  
 Procurement and Materials Management  
 100 N. Andrews Avenue, Room 619  
 Ft. Lauderdale, FL 33301

It is agreed by and between the Concessionaire and the City of Fort Lauderdale that in the event any person, firm or corporation should sustain damages not covered by the insurance furnished by the Concessionaire as herein provided or in excess of the limits of said insurance, then in that event, the Concessionaire agrees to indemnify and hold harmless the City.

### 19. INDEMNIFICATION/HOLD HARMLESS

The Concessionaire 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 fees, in connection with or arising directly or indirectly out of the work agreed to be performed by the Concessionaire under the terms of the Contract. Without limiting the foregoing, any and all such claims, suits, or other actions, relating to personal injury, death, damage to property, defects in material or workmanship, actual or

alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder.

The Concessionaire assumes all risk in the operation of this concession and shall be solely responsible and answerable in damages for accidents or injuries to persons or property, whether direct or indirect, arising out of the operation of this concession or arising by virtue of carelessness, negligence, or improper conduct of the Concessionaire or any servant, agent, or employee of the Concessionaire.

## 20. LOBBYING ACTIVITIES

ALL BIDDERS/PROPOSERS PLEASE NOTE: Any bidder or proposer submitting a response to this solicitation must comply, if applicable, with City of Fort Lauderdale Ordinance No. C-00-27, Lobbying Activities. Copies of Ordinance No. C-00-27 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/documents/lobbyistDocs/lobbyistord1009.pdf>

## 21. TRANSACTION FEES:

The City of Fort Lauderdale uses RFP Depot ([www.rfpdepot.com](http://www.rfpdepot.com)) to distribute and receive bids and proposals. There is no charge to vendors/contractors to register and participate in the solicitation, nor will any fees be charged to the awarded vendor. Refer to [www.rfpdepot.com](http://www.rfpdepot.com) for further information.

## 22. SERVICE TEST PERIOD

If the Concessionaire has not previously performed the services to the city, the City reserves the right to require a test period to determine if the Concessionaire can perform in accordance with the requirements of the Contract, and to the City's satisfaction. Such test period may be from thirty (30) to ninety (90) days, and will be conducted under all specifications, terms and conditions contained in the Contract.

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 Concessionaire or to select another Concessionaire.

## 23. SUB-CONTRACTING:

If the Concessionaire proposes to use subcontractors in the course of providing these services to the City, this information shall be a part of the RFP 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.

Concessionaire shall ensure that all of Concessionaire's subcontractors perform in accordance with the terms and conditions of this Contract. Concessionaire shall be fully responsible for all of Concessionaire's subcontractors' performance, and liable for any of Concessionaire's subcontractors' non-performance and all of Concessionaire's subcontractors' acts and omissions. In addition to other indemnification provisions contained in this Contract, Concessionaire shall defend at Concessionaire'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, settlement, or judgment, including any award of attorney fees and any award of costs, by or in favor of any of Concessionaire's subcontractors for payment for work performed for the City by any of such subcontractors, and from and against any claim, lawsuit, third party action, 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 Concessionaire's subcontractors.

#### 24. CONTRACT COORDINATOR

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

Liaison with Concessionaire.

Coordinate and approve all work under the Contract.

Resolve any disputes.

Assure consistency and quality of Concessionaire's performance.

Schedule and conduct Concessionaire performance evaluations and document findings.

Review and approve for payment all invoices for work performed or items delivered.

#### 25. CONCESSIONAIRE PERFORMANCE REVIEWS AND RATINGS

The City Contract Coordinator shall develop a Concessionaire performance evaluation report. This report shall be used to periodically review and rate the Concessionaire'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 Concessionaire is subject to penalty provisions under the contact.
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 Concessionaire 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 Concessionaire 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. Concessionaire performance reviews and subsequent reports will be used in determining the suitability of Contract extension.

#### 26. PERMITS, LICENSES

The Concessionaire 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 Concessionaire. The Concessionaire shall also be solely responsible for payment of any taxes levied on the concession operation. In addition, the Concessionaire 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.

## 27. CONCESSION FEE PAYMENTS

The Concessionaire shall pay to the City a fixed annual concession fee quarterly in advance, based on that amount submitted in the proposal section of this RFP and accepted by the City. The initial quarterly 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 quarter thereafter. If the payment is not received within thirty (30) days of payment due date, the City may take possession of the Concessionaire's assets on City property, and cancel this Contract.

In addition to the fixed annual concession fee, annually, the Concessionaire shall pay a percentage, as proposed and accepted by the City, of its annual gross revenue from the Concessionaire's operation of the sales of any and all items offered to customers in the operation of the Beach Equipment Rental Concession, less applicable sales tax, in excess of the annual concession fee paid. Within sixty (60) days after the end of each Contract year, the Concessionaire shall deliver to the City a written annual statement of the gross revenue of the Contract year accompanied by such payment. The first Contract year shall commence upon final execution of the Contract by the City.

All payments shall be submitted to the Business Enterprises' Department designee.

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.

## 28. SALES TAX

Florida State Sales Tax (Tax) is due on all transactions pursuant to Florida Statutes and the Rules in Chapter 12 of the Florida Administrative Code, (FAC) promulgated by the Florida Department of Revenue. At this time, the Tax is due on:

Rental Fees - A Tax at the current rate of 6% 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 Concession Payments to the City - A Tax at the current rate of 6% is due on all concession payments to the City. This tax is computed on the gross payment for right of occupancy due the City and is payable in conjunction with the concession fee payment. This tax must be separately stated on the vendor's payment to the City.

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>.

## 29. ANNUAL REPORTS

The Concessionaire shall submit an annual CPA certified statement of gross revenue to the City, 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 Business Enterprise's Department designee.

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 Concessionaire. The City Manager or designee, must be permitted, during normal business hours, to audit and examine the books of account, reports, and records relating to this Contract.

### 30. RECORDS

Concessionaire shall maintain current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this Contract. Concessionaire 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 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 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.

### 31. RECEIPTS

Concessionaire shall use pre-numbered receipts in duplicate form. Receipts shall reference the name of the Concessionaire 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 Concessionaire's records.

### 32. ONE CONCESSIONAIRE/MINIMUM FEES

The City intends to award a single Contract for four Concession Areas as defined in Part IV, Paragraph 5.

Minimum acceptable annual concession fee:

<b><u>Year 1</u></b>	\$ 250,000.00
<b><u>Year 2</u></b>	\$ 250,000.00
<b><u>Year 3</u></b>	\$ 250,000.00

The above is the minimum acceptable fee.

For every increment of \$22,500 over the three (3) year aggregate of \$750,000 guaranteed minimum, one point will be awarded to the proposer up to a maximum of 30 points.

### 33. DEFAULT

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

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

If Concessionaire fails to perform in accordance with any of the other terms and conditions of this Contract, and such default is not cured within 14 days after written notice is given to Concessionaire, 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 Concessionaire 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 Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Area(s) to City.

Upon the termination of this Contract, all rights and interest of Concessionaire 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 Concessionaire 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 Concessionaire, and remove such property or any part of it and store it at Concessionaire's expense; and/or,
- b. the right to injunction or other similar relief available to it under Florida law against Concessionaire; 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 Concessionaire's default.

If it is later determined by the City that the Concessionaire 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 Concessionaire, City after setting up a new performance or delivery schedule, may allow the Concessionaire to continue work, or treat the termination as a termination for convenience.

### 34. TERMINATION FOR CONVENIENCE/PARTIAL TERMINATION

In the event of termination or partial termination by City of the Contract pursuant to this Subsection, Concessionaire 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.

### 35. SURRENDER OF CONCESSION AREA

At the expiration of this Contract, or earlier termination in accordance with the terms of this Contract, Concessionaire 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 directly caused by Concessionaire and/or its operation). Concessionaire shall remove all its equipment, fixtures, personal property, etc., upon forty-eight (48) hours written notice from the City Manager or designee, unless a longer time period is agreed to by the City. Concessionaire'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 Concessionaire, and may be prosecuted as such.

### 36. BANKRUPTCY

If Concessionaire shall be adjudicated bankrupt or insolvent, or makes an assignment for benefit of creditors, or if the leasehold interest is sold under a legal order or judgment, or shall file a voluntary petition in bankruptcy or insolvency, or 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 breach of Contract.

### 37. INSPECTION OF PREMISES

For the purposes of inspection, City reserves the right to enter any part of the Concession Area at any time during the period the business is to be open under the terms of this Contract.

### 38. NOTICES

All notices and concession fee payments shall be sent to the parties at the following addresses:

City: City of Fort Lauderdale  
City Manager  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

City and Concessionaire may change such 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.

Concessionaire may designate additional persons for notification of default.

39. ATTORNEY FEES

Concessionaire 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 attorneys fees and court costs from the losing party.

40. 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. Type, size, location and placement of notice shall be determined by the City.

41. 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/purchasing/notices\\_of\\_intent.htm](http://www.fortlauderdale.gov/purchasing/notices_of_intent.htm). Tabulations of receipt of those parties responding to a formal solicitation may be found at <http://www.fortlauderdale.gov/purchasing/bidresults.htm>, or any interested party may call the Procurement Office at 954-828-5933.

## PART IV - TECHNICAL SPECIFICATIONS/SCOPE OF SERVICES

### 01. GENERAL INFORMATION/INTENT

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

### 02. OPERATING REGULATIONS

1. All City, County and State laws and regulations relating to the operational use of the City's beachfront areas, shall be adhered to by the Concessionaire, his/her representatives and employees. This shall relate to laws currently in force and those adopted hereafter.
2. The Concessionaire will conduct his/her operation and provide contracted services, in such a manner as to maintain reasonable quiet and minimize disturbance to the general public.
3. The security for all property, equipment and supplies owned and provided by the Concessionaire, shall remain the responsibility of the Concessionaire. Costs relating to the repair or replacement of such items, stolen, lost or damaged shall be at the sole cost and expense of the Concessionaire.
4. The Concessionaire will be responsible for all damage to City property or the City beachfront caused by the Concessionaire or its employees or agents. Any such damage shall be corrected at the sole cost and expense of the Concessionaire.
5. The Concessionaire shall have a neat and orderly operation 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 Concessionaire shall make available all facilities within the Concession Area(s) under its control for examination during hours of operation by the City Manager or designee.
6. 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. The Concession operation must be maintained as to provide an aesthetically pleasing appearance and not be detrimental to the immediate surroundings.
7. The Concessionaire shall staff, operate, manage, and provide all goods, services, and facilities offered in a first class manner and comparable to other high quality concessions providing similar facilities and services.
8. The Concessionaire'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.
9. 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 Concessionaire, shall remain the responsibility of the Concessionaire. Costs relating to the repair or replacement of such items, stolen, lost, or damaged, shall be at the expense of the

Concessionaire.

As part of the administration of the Contract, the City Manager or designee, shall conduct periodic inspections of concession facilities, equipment, services, and programs to determine compliance with the terms of this Contract.

### 03. PARKING REQUIREMENTS

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

### 04. USE OF CONCESSION AREAS

The Concessionaire shall not use the Concession Area for any other purpose than the renting of beach equipment, and he shall so conduct his/her business as to render a service to the public in a dignified manner. No pressure, coercion, persuasion, or hawking shall be done by the Concessionaire or his/her attendant in an attempt to influence the public to use his/her service.

### 05. 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 Concessionaire Areas. The Concessionaire 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 Bahia Mar pedestrian walkway extended to the waters of the Atlantic Ocean.

Concession Area B: An area with the southern boundary being the north right-of-way line of SE 5<sup>th</sup> 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 Vistamar 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 NE 9<sup>th</sup> Street extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line of NE 18<sup>th</sup> Street extended to the waters of the Atlantic Ocean, excluding an area of the beach beginning 200 feet to the North of the Birch State Park pedestrian tunnel entrance and 200 feet to the South of the Birch State Park pedestrian tunnel entrance.

## 06. EQUIPMENT

Beach equipment as referred to herein shall mean beach chairs, pads, umbrellas, windbreaker/clamshells, high beach chair and market umbrella. The Concessionaire 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 Concessionaire shall have furnished an additional list of equipment to the Contract Administrator and receive approval from the City in writing.

The design, type, material and color as defined below shall be approved in writing by the City's Business Enterprises Department prior to the commencement date of this Contract. Concessionaire 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 designee.

Equipment minimum specifications:

The design, type, material, and color of all padded beach chairs shall be as follows:

Chair:

- Brand/Manufacturing Company: Tropitone or equivalent
- Style: Tropi-Kai Chaise Lounge or equivalent
- Aluminum construction
- Size: 27"W x 78" L
- Seat height :12 ½" H
- Weight :21 pounds
- Frame Finish Color: Parchment with smooth finish
- Vinyl Strap Color: Parchment
- Strap Width: 2 inches
- Stacking Quantity: 18

Pad:

- Fabric: Sunbrella Marine Grade fabric or equivalent
- Thickness: Minimum 3" thickness
- Color: Sunbrella Pacific Blue including piping

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

The design, type, material, and color of all Windbreaker/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/clamshell should be free standing and self-supporting
- Color: Sunbrella Pacific Blue

The design, type, material, and color of all high beach chairs shall be as follows:

- AnyWhere Chair, Inc., or equivalent
- Fabric for chair: Sunbrella Marine Grade fabric or equivalent
- Color: Sunbrella Pacific Blue
- Frame: Solid oak wood frames with brass hardware
- Color of wood: Walnut Brown
- Double-dowel assembly
- One position foldable high beach chair
- Size: 41"H x 24"W
- Seat: 27" from the ground
- Weight: 16 pounds

The design, type, material, and color of all two-tier market umbrellas shall be as follows:

- AnyWhere Chair, Inc., or equivalent
- Fabric: Sunbrella Marine Grade fabric or equivalent
- Color: Sunbrella Pacific Blue
- Insignia: Beach Concession logo design and specifications as determined at the sole discretion of the City
- Frame: 9 foot coverage area
- Frame, ribs, and pole: Asian hardwood or equivalent
- Color of Pole: Walnut Brown
- Type: two tier outdoor market umbrella

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: 26"
  - height: 27"

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 insure the sound mechanical and working condition and appearance.

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

## 07. LOCATION OF EQUIPMENT

A detailed site plan for placement of Beach Equipment must be provided in the proposal section of this RFP. Beach Equipment within each Concession Area shall be placed substantially in accordance with the site plan(s) submitted by Concessionaire and approved by the City. Concessionaire shall not deviate from the approved site plan(s) without the prior written consent of the City Manager or designee.

Site plan shall be in accordance with the following guidelines:

Beach equipment shall be placed in each Concession Area (A, B, C, D, E) in designated Placement Areas, defined as areas within Concession Area where equipment may be set up.

Placement Areas shall be set up in accordance with the following:

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.

Equipment shall be placed in straight rows, of equal length, from North to South for a maximum distance of approximately 240.

Beach umbrellas shall be placed a minimum distance of 16 feet apart with no more than 15 umbrellas in any row.

One chair may be placed on either side of each beach umbrella.

Windbreaker/clamshell shall be placed so that there is a minimum clearance of 12 feet between each windbreaker/clamshell on all sides.

The initial daily set up in each placement area shall include at least one row of a minimum of 5 umbrellas with a minimum of 10 padded chairs, one on each side of the umbrella. Site plan must demonstrate where chairs with and without pads will be placed.

Windbreaker clam shells shall be placed so that there is a minimum clearance of 12 feet between each windbreakers/clamshell on all sides. All windbreakers/clamshells shall include two chairs.

A minimum of 125 chairs with pads shall be set up daily.

A minimum of one (1) staff/concession personnel member shall be stationed at each Concession Area whom may serve as the equipment attendant and representative at the Welcome Station in each Concession Area.

Each Placement Area shall be separated by a Buffer Area, defined as an area where no beach equipment may be placed, of 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 high beach chair and market 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. High beach chair shall be positioned facing West toward Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A. Each "Welcome Station" must be staffed by a competent person 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 Concessionaire'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, Concessionaire 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, Concessionaire 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 Concessionaire, and/or Concessionaire'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 Beach Patrol activities. Notwithstanding, the Beach Patrol's right to require relocation of chairs and/or beach equipment as provided herein, Concessionaire will cooperate with Beach Patrol in compliance with the preceding sentence.

#### 08. 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 10:00AM, 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 Concessionaire'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 p.m. Any change in the hours of operation shall be at the City's sole option and discretion, and any request by Concessionaire for an increase or decrease in same shall be subject to the prior written approval of the City Manager or 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 an authorized City representative.

#### 09. USE OF A BEACH

The beach is for the use and enjoyment of the public, for recreation and other public purposes and the public's right to such use shall not be infringed upon by any activity of the

Concessionaire. Upon execution of this Contract, Concessionaire 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 Concessionaire 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, Concessionaire understands, agrees and acknowledges that the aforestated 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 Concessionaire's equipment. In the event that a member of the public is within a particular Concession Area, as set forth herein, Concessionaire agrees to allow for his/her continued peaceful enjoyment of said area.

#### 10. ADVERTISING

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

#### 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 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 Contract Administrator. The City shall review and accept, refuse or modify such rate change requests. The City shall have the last and final decision relating to any such change requests.

#### 12. EQUIPMENT STORAGE

A detailed plan for storage and removal of beach equipment must be provided in 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. Plan must include details for off-site storage of pads. Pads may not be stored on the beach.

The Concessionaire agrees to abide by all City, County, and State laws with regard to use of beachfront areas as amended or adopted hereafter. Concessionaire 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.

### 13. HURRICANE EVACUATION PLAN

Concessionaire 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 Concessionaire (either through a deed, lease or other form satisfactory to the City Manger and/or his designee) of a proposed hurricane storage facility, must be provided in the proposal section of this RFP.

### 14. SEA TURTLES

Concessionaire 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 Concessionaire 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, 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 Concessionaire or his/her staff sees someone harassing a sea turtle or poaching a nest, Concessionaire shall immediately call the Florida Fish and Wildlife Conservation 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.

### 15. APPEARANCE OF PREMISES

The Concessionaire 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. Concessionaire shall rake the area and remove all debris as needed to maintain a neat and clean operation. Concessionaire shall cooperate with City staff, and set-up and break down of rental equipment shall not interfere with City beach maintenance operations.

If a public receptacle is not readily accessible to the Concession Area, placement area, and/or welcome station, the concessionaire shall provide a trash receptacle of no larger than 13 gallons. The Concessionaire is responsible for the removal of receptacle and contents daily. The City shall have the final approval on the design, type and location of such receptacle.

### 16. EMPLOYEE QUALIFICATIONS AND APPEARANCE

During all hours of operation, Concessionaire shall maintain adequate on-duty personnel to comply with all terms and conditions of this Contract. A minimum of one (1) staff/concession

personnel member shall be stationed at each Concession Area whom may serve as the equipment attendant and representative at the Welcome Station.

The Concessionaire shall ensure that all personnel assigned to provide services on the beach successfully complete Sunsational Service training provided by Hospitality Excellence, Inc., or equivalent customer service training program, approved by the City Manager or designee, prior to being assigned to beach duties.

The Concessionaire shall employ workers to service this operation who are literate, neat, clean, well groomed and courteous. An experienced manager shall be present to oversee the daily operation of this concession and with the full authority to direct the operation and immediately take all corrective action required to correct erroneous procedures and insure complete and continuous compliance with requirements and specifications of Contract at all times while the Concession is in operation.

“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.

All Concessionaire employees shall wear a City approved identification nametag to be provided at the Concessionaire’s sole cost and expense. Additional information will be forthcoming from the City with regard to the nametag type and style.

The City anticipates that all beach concession personnel will be in a standardized uniform. The uniform will be in accordance with specifications as determined by the City. Additional information will be forthcoming from the City with regard to the uniform type and style.

In the first year of this Contract, a uniform allowance of \$5000.00 shall be deducted from the Concessionaire’s annual concession fee for purchase and maintenance of uniforms.

## 17. ADDITIONAL AMENITIES

The Concessionaire agrees to provide additional amenities and additional revenue to the City as provided in the proposal section of this RFP and as approved by the City. Additional amenities may include, but are not limited to, beach equipment upgrades, day beds, and agreements with hotels for amenity charge plans.

Additional amenities shall not include food, beverages, sun blocks, suntan products, clothing, other retail items, or any activity that would limit public use of the beach.

All proposed additional amenities are subject to approval by the City.

A proposed additional amenities plan including minimum additional guaranteed revenue to the City may be provided in the proposal section of this RFP. Placement of daybeds or other beach equipment must be included as part of the proposed site plan as per Part IV Paragraph 07.

Proposed revenue to the City for additional amenities shall be revenues apart from and exclusive of the minimum annual concession fee.

## 18. BEACH REGULATIONS

The Concessionaire shall abide by all City rules and regulations established and/or posted at the beach and intended for use by the general public.

## 19. 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 request that the Concessionaire cease and desist operations during the term of, and in the area of the special event and/or production, and the Concessionaire shall cease and desist during said term. If the Concessionaire is not required to close, or chooses to remain open without interference to the special event and/or production, Concessionaire agrees to cooperate with the City. During such events, the Concessionaire may be allowed to continue operations or be assigned a temporary location elsewhere within close proximity of the original assigned site. During the event, the Concessionaire has the option of operating his/her equipment from the temporary site or stopping operations until the event is over. The City reserves the right to allow other rental of concessions to operate upon the original assigned site or in close proximity to that site during special events as may be approved by the City.

## PART V - CONSIDERATION FOR AWARD/AWARD PROCEDURES

The award of the Contract will be based on certain objective and subjective considerations listed below:

1. Understanding of the overall needs of the City as presented in the proposed plan, including, but not limited to, equipment, management and staffing, implementation schedule operational plan, proposed equipment, storage plan, marketing plan, hurricane plan, etc.  
Maximum Points Available: 10 points
2. Experience, qualifications, and references of the proposing firm. Maximum Points Available: 15 points
3. Proposing Firm company financial Information. Maximum Points Available: 10 points
4. Proposed plan for management, staffing and operation of concession under this Contract.  
Maximum Points Available: 10 points
5. Quality of storage plan, concession area site plan, hurricane preparedness plan.  
Maximum Points Available: 15 points
6. Total three (3) year revenue above guaranteed minimum concession fees proposed.  
Maximum Points Available: 30 points
7. Additional Amenities Plan proposed: Maximum Points Available: 10 points

The evaluation of proposals will be conducted by a committee of qualified City staff, or other persons selected by the City. The committee will evaluate all responsive proposals based upon the information and references contained within the proposals as submitted and score and rank all responsive proposals. A meeting of the evaluation committee will be convened at which time a brief presentation will be heard from each proposer. After each presentation, the committee will discuss and possibly ask questions of the proposer, for clarification purposes only, and then finalize score and rank the proposals. The first ranked proposer resulting from this process will be recommended to the Fort Lauderdale City Manager for award.

Information and references submitted will be considered in the award.

The City may require visits to customer installations or demonstrations of product by Proposers as part of the evaluation process.

The City may require additional information and Proposers agree to furnish such information. The City reserves the right to award the Contract to that Proposer 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 to the specifications and in the bidding process.

## **PART VI - REQUIREMENTS OF THE PROPOSAL**

All proposals must be submitted as specified on the proposal pages that follow. Any attachments must be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If publications are supplied by a proposer to respond to a requirement, the response should include reference to the document number and page number. This will provide a quick reference for the evaluators. Proposals not providing this reference will be considered to have no reference material included in the additional documents.

All proposals must be submitted in a sealed package with the RFP number, due and open date, and RFP title clearly marked on the outside. If more than one package is submitted they should be marked 1 of 2, etc.

All proposals must be received in the Purchasing Division, Room 619, 6th floor, City Hall, 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301 prior to 2:00 pm on the date specified in the SCHEDULE Section of this RFP.

The proposal shall be signed by a representative who is authorized to contractually bind the Concessionaire.

**PROPOSERS MUST SUBMIT AN IDENTIFIED ORIGINAL COPY  
PLUS EIGHT (8) COPIES OF THE PROPOSAL PAGES  
INCLUDING ANY ATTACHMENTS**

THE ABOVE REQUIREMENT TOTALS NINE (9) COPIES OF YOUR PROPOSAL

**PROPOSAL PAGES ARE AS FOLLOWS:**

Proposal Pages - Signature Page

Part I Proposal Pages - Cost Information

Part II Proposal Pages - Technical Information

Part III Proposal Pages - Questionnaire

Attachments to your Proposal

**PROPOSAL PAGES - PART I: COST INFORMATION**

**Year One:**

Annual concession fee:

\$\_\_\_\_\_ (minimum acceptable \$ 250,000)

**Year Two:**

Annual concession fee:

\$\_\_\_\_\_ (minimum acceptable \$ 250,000)

**Year Three:**

Annual concession fee :

\$\_\_\_\_\_ (minimum acceptable \$ 250,000)

**Total three (3) year annual concession fee:**

\$\_\_\_\_\_

## **PROPOSAL PAGES PART II TECHNICAL PROPOSAL**

The following issues should be fully responded to in your proposal in concise narrative form. Additional sheets should be used, but they should reference each issue and be presented in the same order.

- I. Understanding of the City's needs for the concession and your overall approach to those needs.
  
- II. Your 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
  - E. Written policy and procedure for internal controls to record sales for Concession Area(s) income
  - F. Beach maintenance plan of Concession Area(s)
  - G. Concession marketing plans
  - H. Method proposed to anchor umbrellas, market umbrellas, and windbreaker/clamshells
  - I. Additional amenities plan
  - J. Any other information you feel will assist the City in evaluating your proposal
  
- III. Provide in your proposal the 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.
  
- IV. List your 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.

**PROPOSAL PAGES PART III QUESTIONNAIRE**

1. How many calendar days from award of Contract would you need prior to initiating operations?
2. Number of years experience the proposer has had in providing similar services?
3. List those persons who will have a management or senior position working with the City if you are awarded the Contract. List name, title or position and duties. A resume or summary of experience and qualifications must accompany your proposal.
4. List all contracts currently held for providing similar services. Provide agency name, address, telephone number, contact person and date contract expires. If services provided differs from the one presented in your proposal, please delineate such differences.
5. List clients for whom you have provided similar services in the last three years. Provide agency name, address, telephone number, contact person, and date service was provided. If services provided differs from the one presented in your proposal, please delineate such differences.
6. List those City of Fort Lauderdale agencies with which the proposer has had contracts or Contracts during the past three (3) years.
7. Lawsuits (any) pending or completed involving the corporation, partnership or individuals with more than ten percent (10%) interest.
  - a. List all pending lawsuits which are concerned directly with the staff or part of your organization proposed for the Contract.
  - b. List all judgments from lawsuits in the last 5 years which are concerned directly with the staff or part of your organization proposed for the Contract.
8. Attach a Balance Sheet and Statement of Profit and Loss of the proposing firm from the preceding calendar or fiscal year, certified by either an appropriate Corporate Officer, or an independent Certified Public Accountant. If proposing firm is a privately held corporation, providing such records, for City review, at a time and place convenient to the City, will satisfy this requirement. If the proposing firm is a newly formed corporate entity, the City may require a personal guarantee of performance by principals or stockholders.

The proposer understands that the information contained in these Proposal Pages is to be relied upon by the City in awarding the proposed Contract, and such information is warranted by the proposer to be true. The proposer agrees to furnish such additional information, prior to acceptance of any proposal, relating to the qualifications of the proposer, as may be required by the City.

**PROPOSER: PLEASE INSURE THAT YOU HAVE SIGNED THE SIGNATURE PAGE OF THESE PROPOSAL PAGES. OMISSION OF A SIGNATURE ON THAT PAGE WILL RESULT IN REJECTION OF YOUR PROPOSAL. COMPLETE AND RETURN THE REQUIRED NUMBER OF PROPOSAL PAGES AND ATTACHMENTS.**

**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 Department. 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.

**PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:**

- 1.01 BIDDER ADDRESS:** The City uses automated vendor address lists that have been generated for each specific Commodity Class item through our bid issuing service, RFP Depot. Notices of Invitations to Bid (ITB'S) are sent by e-mail or fax 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 RFP Depot 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 RFP Depot. 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 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 30 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.
- 1.04 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.
- 1.05 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 ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.06 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.

- 1.07 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.
- 1.08 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.

**1.09 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 will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

**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.  
 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, Bidder's 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 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 Federal Excise taxes is 59-74-0111K, and State Sales tax exemption number is 16-03-196479-54C.
- 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 Department immediately. Such notification must be received by the Procurement

Services Department 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, postal money order, cashiers check, or irrevocable letter of credit. 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 or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS:** Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with an ITB response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption. 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 agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records.
- 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.

**PART IV BONDS AND INSURANCE**

- 4.01 PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT:** If a performance bond or irrevocable letter of credit is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond or an Unconditional Irrevocable Letter of Credit 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. If a Letter of Credit is chosen, it must be in a form acceptable to the City, drawn on a local (Broward, Dade or Palm Beach Counties) bank acceptable to the City and issued in favor of the City of Fort Lauderdale, Florida. If a Bidder wishes to use a non-local bank, he must have prior City approval of the requirements to draw against the Letter of Credit.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond or Irrevocable Letter of Credit 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 Department 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 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:
- Bidder's 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 Material Safety Data Sheet (MSDS).
- 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 will, 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 attorneys 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 form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of three (3) years beyond the last day of the contract term.
- 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 themselves 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 state 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 Manager or selected designee.
- 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.

**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**

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**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.**

## Question and Answers for Bid #785-10058 - BEACH EQUIPMENT RENTAL CONCESSION

### **Overall Bid Questions**

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