

Solicitation 715-10794

Beach Equipment Rental Concession



City of Fort Lauderdale

Bid 715-10794

Beach Equipment Rental Concession

Bid Number	715-10794
Bid Title	Beach Equipment Rental Concession
Bid Start Date	Oct 19, 2011 10:57:00 AM EDT
Bid End Date	Nov 28, 2011 2:00:00 PM EST
Question & Answer End Date	Nov 18, 2011 12:00:00 PM EST
Bid Contact	Richard Ewell Procurement Specialist II Procurement Services
Pre-Bid Conference	Nov 2, 2011 10:00:00 AM EDT Attendance is optional Location: Fort Lauderdale Aquatic Center Press Room 501 Seabreeze Blvd. Fort Lauderdale, FL 33316

Changes made on Nov 18, 2011 7:57:02 AM EST

Previous Q & A End Date	Nov 4, 2011 5:00:00 PM EDT	New Q & A End Date	Nov 18, 2011 12:00:00 PM EST
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Changes made on Nov 21, 2011 2:20:34 PM EST

Previous End Date	Nov 22, 2011 2:00:00 PM EST	New End Date	Nov 28, 2011 2:00:00 PM EST
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Changes were made to the following items:

[Beach Equipment Rental Concession](#)

Description

The City of Fort Lauderdale, Florida is seeking proposals from qualified proposers 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.

For a copy of the RFP, go to www.bidsync.com.

Added on Nov 21, 2011:

End date extended to 2:00 November 28, 2011.

Changes made on Nov 21, 2011 2:20:34 PM EST

RFP #715-1079**TITLE: Beach Equipment Rental Concession****PART I – INTRODUCTION/INFORMATION****01. PURPOSE**

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

02. INFORMATION OR CLARIFICATION

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

03. TRANSACTION FEES

The City of Fort Lauderdale uses BidSync (www.bidsync.com) to distribute and receive bids and proposals. There is no charge to vendors/contractors/proposers to register and participate in the solicitation process, nor will any fees be charged to the awarded vendor.

04. PRE-PROPOSAL CONFERENCE

There will be a pre-proposal conference scheduled for this Request for Proposal as stated in PART II – RFP Schedule. It is strongly suggested that all Proposers attend the pre-proposal conference.

It is the sole responsibility of the /Proposer to become familiar with the scope of the City's requirements and systems prior to submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance.

05. ELIGIBILITY

To be eligible to respond to this RFP, the proposer must demonstrate that he/she/it has successfully provided services similar to those specified in the Scope of Services

section of this RFP to at least one governmental entity similar in size and complexity to the City of Fort Lauderdale or has the managerial ability and capitalization to start successfully such an operation by the required date.

06. PRICING

All pricing information should be identified in PART VII - PROPOSAL PAGES – COST PROPOSAL. No additional costs may be accepted, other than the costs stated on the Proposal pages.

07. RFP DOCUMENTS

The Proposers shall examine this RFP carefully. Ignorance of the requirements will not relieve the Franchisee from liability and obligation under the contract.

08. AWARD

Award will be made to the highest ranked responsive and responsible proposer, for that product/service that will best serve the needs of the City of Fort Lauderdale.

The City reserves the right to waive minor variations in the specifications and in the bidding process. The City further reserves the right to accept or reject any and/or all proposals and to award or not award a contract based on this bid solicitation.

09. PRICE VALIDITY

Prices provided in this Request for Proposal (RFP) are valid for 120 days from time of RFP opening. The City shall award contract within this time period or shall request to the recommended awarded vendor an extension to hold pricing, until products/services have been awarded.

PART II - RFP SCHEDULE

Release RFP	10/20/11
Pre-Bid Meeting	11/02/11
Location: Aquatic Center Press Room 501 Seabreeze Blvd. Ft. Lauderdale, FL 33316	
Time: 10:00 am	
Last Date for Receipt of Questions of a Material Nature	11/04/11
Addendum Release (If required)	11/08/11
PROPOSAL DUE (Prior to 2:00 PM EST)	11/22/11

PART III - SPECIAL CONDITIONS

01. **GENERAL CONDITIONS**
RFP General Conditions Form G-107 Rev. 11/10 (GC) are included and made a part of this RFP.
02. **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.
03. **RFP DOCUMENTS**
The Proposer shall examine this RFP carefully. Ignorance of the requirements will not relieve the Franchisee from liability and obligations under the contract.
04. **PROPOSERS' COSTS**
The City shall not be liable for any costs incurred by proposers in responding to this RFP.
05. **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 Franchisee.
06. **CONTRACT PERIOD**
The initial contract term shall commence upon final execution of the contract by the City and shall expire three years from that date or the day after the current contract expires, whichever is later. However, in the event the City's applicable ordinance is amended to provide for a franchise term that may exceed three years, the City reserves the right unilaterally to extend the agreement for a period up to the maximum term provided by such ordinance but no longer than two additional years.

In the event services are scheduled to end because of the expiration of this contract, the Franchisee shall continue the service upon the request of the City as authorized by the awarding authority. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Franchisee shall be compensated for the service and pay the City at the rates in effect when the City invokes this extension clause.
07. **SERVICE TEST PERIOD**
If the Proposer has not previously performed the services to the city, the City reserves the right to require a test period to determine if the Franchisee can perform in accordance with the requirements of the contract, and to the City's satisfaction. Such test period can be from thirty to ninety days, and will be conducted under all

specifications, terms and conditions contained in the contract.

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 Franchisee or to select another Franchisee (if applicable).

08. **CONTRACT COORDINATOR**

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

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

09. **FRANCHISEE PERFORMANCE REVIEWS AND RATINGS**

The City Franchisee Coordinator may develop a Franchisee performance evaluation report. This report shall be used to periodically review and rate the Franchisee'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 franchisee 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 Franchisee 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 Franchisee 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. Franchisee performance reviews and subsequent reports will be used in determining the suitability of contract extension.

10. **FRANCHISE FEE PAYMENTS**

The Franchisee shall pay to the City a guaranteed annual franchise fee monthly in advance (for initial contract term and any extension periods), based on that amount submitted in the response to the proposal section of this RFP and accepted by the City. The initial monthly payment shall be paid within seven (7) working days after notification by the City, of its award of this contract. Payments are due seven (7) working days prior to the commencement of each month thereafter. If the payment is

not received within thirty (30) days of payment due date, the City may take possession of, distraint, appropriate and/or dispose of the Franchisee's assets on City property, at the City's sole discretion, and cancel this contract.

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

- 1) Eight (8%) percent of the Franchisee's annual gross revenue net of sales tax collected, in excess of the minimum guaranteed annual franchise fee, derived from the Franchisee's rental and/or sale of any and all items offered to customers in the operation of the Beach Equipment Rental Concession; Hotel Amenity Agreements; and Additional Amenities in accordance with the terms of this contract.
- 2) Within sixty (60) days after the end of each contract year the Franchisee shall deliver to the City a written annual statement of the gross revenue of the contract year together with such payments. The first contract year shall commence on or about December 1, 2011. All payments shall be submitted to the Parks and Recreation 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.

11. NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES

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

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

The City may require additional items or services of a similar nature, but not specifically listed in the contract. The Franchisee agrees to provide such items or services, and shall provide the City prices on such additional items or services based upon a formula or method, which is the same or similar to that used in establishing the prices in his 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 or services from other vendors, or to cancel the contract upon giving the Franchisee thirty (30) days written notice.

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 Franchisee 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 Franchisee will submit a revised budget to the City for approval prior to proceeding with the work.

13. SUBSTITUTION OF PERSONNEL

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

14. INSURANCE

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

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

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

Workers' Compensation and Employers' Liability Insurance

Limits: Workers' Compensation – Per Florida Statute 440

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.

Commercial General Liability Insurance

Covering premises-operations, products-completed operations, independent Franchisees 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 Franchisee under the indemnity provision of the Contract.
- b. Coverage for Premises/Operations
- c. Products/Completed Operations
- d. Broad Form Contractual Liability
- e. Independent Franchisee.

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 proposer, 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 Services Department
100 N. Andrews Avenue, Room 619
Ft. Lauderdale, FL 33301

15. **SUBCONTRACTORS**

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

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

16. **INSURANCE – SUBCONTRACTORS**

Franchisee shall require all of its subcontractors to provide the aforementioned coverage as well as any other coverage that the Franchisee may consider necessary, and any deficiency in the coverage of policy limits of said subcontractors will be the sole responsibility of the Franchisee.

17. **INSURANCE FOR COLLECTION OF CREDIT CARD PAYMENTS**

The Franchisee shall provide proof that they maintain insurance coverage in an amount of not less than \$1,000,000 specifically for cyber related crimes relating to the transmission of credit card information over their website and/or merchant account payment system that can include but are not limited to criminal activity involving the information technology infrastructure, including illegal access (unauthorized access), illegal interception (by technical means of non-public transmissions or computer data to, from or within a computer system) data interference (unauthorized damaging, deletion, deterioration, alteration or suppression of computer data), systems interference (interfering with the functioning of a computer system by in putting,

transmitting, damaging, deleting, deteriorating, altering or suppressing computer data), misuse of devices, forgery (ID theft), and electronic fraud.

18. PROPOSAL SECURITY

A proposal security payable to the City of Fort Lauderdale shall be submitted with the proposal response in the amount of ten percent (10%) of the total proposed amount. A proposal security can be in the form of a bid bond or cashiers check. Proposal security will be returned to the unsuccessful proposer as soon as practicable after opening of proposals. Proposal security will be returned to the successful bidder after acceptance of the Payment and Performance Bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or other conditions as stated in Special Conditions or elsewhere in the RFP.

Failure of the successful proposer to execute a contract, provide a 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 proposal security to the City, which forfeiture shall be considered, not as a penalty, but as liquidation of damages sustained.

19. PAYMENT AND PERFORMANCE BOND

The Franchisee shall within fifteen (15) working days after notification of award, furnish to the City a payment and performance bond, in the amount of the proposed total price as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing payment and performance bond. The performance bond must be executed by a surety company authorized to issue performance bonds in the State of Florida and having a resident agent.

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

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

20. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Franchisee will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot,

civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

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

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

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

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

21. PUBLIC ENTITY CRIMES

NOTE: Proposer, by submitting a proposal attests they have not been placed on the convicted vendor list.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a Franchisee, 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.

22. DAMAGE TO PUBLIC OR PRIVATE PROPERTY

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

23. CANADIAN COMPANIES

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

24. LOBBYING ACTIVITIES

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

<http://www.fortlauderdale.gov/clerk/LobbyistDocs/lobbyistord1009.pdf> .

25. 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. 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.

26. PERMITS, LICENSES

The Franchisee agrees to obtain and pay for all permits, licenses, and business taxes necessary to conduct the business and agrees to comply with all laws governing the responsibility of the employer with respect to persons employed by the Franchisee. The Franchisee shall also be solely responsible for payment of any taxes levied on the concession operation. In addition, the Franchisee shall comply with all rules, regulations and laws, including permit requirements of Chapter 8 Boats, Docks, Beaches and Waterways; Article III - Public Beaches; Section 8-51 to 8-85, of the City of Fort Lauderdale, Broward County, State of Florida and the U.S. Government, now in force or hereafter to be adopted.

27. SALES TAX

The Franchisee shall pay all applicable taxes.

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

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

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

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

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

28. ANNUAL REPORTS

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

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

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

29. RECORDS

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

maintained as would be required by an independent CPA in order to audit a statement of annual gross revenue and profit and loss statement pursuant to generally accepted accounting principles.

30. RECEIPTS

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

31. ONE FRANCHISEE/MINIMUM FEES

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

Minimum acceptable guaranteed annual franchise fee payable to the City:

<u>Year 1</u>	\$ 250,000
<u>Year 2</u>	272,500
<u>Year 3</u>	295,000

Minimum acceptable guaranteed annual franchise fee payable to the City in the event the contract is extended:

<u>Year 4</u>	317,500
<u>Year 5</u>	340,000

The above is the minimum acceptable guaranteed annual franchise fees for years 1 through 3, and 4 and 5. Proposer may propose higher minimum guaranteed annual franchise fees as part of the response to the proposal section of this RFP.

32. DEFAULT

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

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

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

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

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

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

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

33. TERMINATION FOR CONVENIENCE/PARTIAL TERMINATION

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

34. SURRENDER OF CONCESSION AREA

At the expiration of this contract, or earlier termination in accordance with the terms of this contract, Franchisee shall surrender the Concession Area(s) in same condition as the Concession Area(s) were prior to the commencement of this contract, reasonable wear and tear excepted (including any beach erosion not caused by Franchisee and/or its operation). Franchisee shall remove all its equipment, fixtures, personal

property, etc., upon forty-eight (48) hours written notice from the city manager or the city manager's designee, unless a longer time period is agreed to by the City. Franchisee's obligation to observe or perform this covenant shall survive the expiration or other termination of this contract. Continued occupancy of the Concession Area(s) after termination of the contract shall constitute trespass by the Franchisee, and may be prosecuted as such.

35. **BANKRUPTCY**

If Franchisee shall be adjudicated bankrupt or insolvent, or makes an assignment for benefit of creditors, or if the contractual rights are sold under a legal order or judgment, or Franchisee shall file a voluntary petition in bankruptcy or insolvency or a petition in bankruptcy or insolvency is filed against the Franchisee, or Franchisee shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, then the City may immediately, or at any time thereafter, and without further demand or notice, terminate this contract without being prejudiced as to any remedies which may be available to it for Franchisee's breach of contract.

36. **INSPECTION OF PREMISES**

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

37. **NOTICES**

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

City of Fort Lauderdale
Aquatic Complex Manager
501 Seabreeze Blvd.
Fort Lauderdale, FL 33316

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

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

Franchisee may designate additional persons for notification of default.

38. **ATTORNEY FEES**

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

39. **SIGNS**

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

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

40. **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/her/its proposal pages any proposed variance to the specifications. If proposing an approved equal or alternate product, it will be the proposer's responsibility to provide adequate information in his proposal to enable the City to ensure that the proposal meets the required criteria. If adequate information is not submitted with the proposal, it may be rejected.

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

41. **SERVICE AGREEMENT**

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

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 beach rental equipment, as specified in this RFP, for the Fort Lauderdale public beaches.

02. OPERATING REGULATIONS

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

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

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

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

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

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

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

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

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 Franchisee, shall remain the responsibility of the Franchisee. Costs relating to the repair or replacement of such items, stolen, lost, or damaged, shall be at the expense of the Franchisee.

As part of the administration of the contract, the city manager or designee 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. Franchisee and his/her/its customers shall utilize those parking facilities available to the general public.

04. USE OF CONCESSION AREAS

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

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 Concession Areas. The Concession areas are described as follows:

Concession Area A: An area with the southern boundary beginning 10 feet North of the beginning point of the public beach boundary extended to the waters of the Atlantic Ocean, and the northern boundary line being 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 5th Street extended to the waters of the Atlantic Ocean, and the northern boundary line being the south right-of-way line at Las Olas Boulevard extended to the waters of the Atlantic Ocean.

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

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

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

06. EQUIPMENT

Beach equipment as referred to herein shall mean beach chairs, pads, umbrellas, windbreaker/clamshells, Welcome Station beach chair and Welcome Station umbrella. The Franchisee shall not be authorized to rent any equipment, which is not scheduled in his/her proposal and covered by his/her insurance policy furnished to the City, unless prior to such rental, the Franchisee shall have furnished an additional list of equipment to the Contract Administrator and received approval from the City in writing.

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

Equipment minimum specifications:

Beach Chair:

The design, type, material, and color of all Beach Chairs shall be as follows:

- 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

Beach Chair Pad:

- The design, type, material, and color of all Beach Chairs Pads shall be as follows: Fabric: Sunbrella Marine Grade fabric or equivalent
- Thickness: Minimum 3" thickness
- Color: Sunbrella Pacific Blue including piping

Umbrella:

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

Windbreaker/Clamshell:

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/clamshells should be free standing and self-supporting
- Color: Sunbrella Pacific Blue

Welcome Station Beach Chair:

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

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

Welcome Station Umbrella: The design, type, material, and color of all Welcome Station Umbrellas shall be as follows:

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

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

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

07. LOCATION OF EQUIPMENT

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

Site plan shall be in accordance with the following guidelines:

Beach equipment and additional amenities shall be placed in each Concession Area (A, B, C, D, E) in designated Placement Areas, defined as areas within 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 feet.

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.

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

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

Franchisee personnel shall be available to serve as the equipment attendant and representative at the Welcome Stations in each Concession Area. Personnel plan for how the franchise will be staffed

must be provided in the response to the proposal section of this RFP.

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

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

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

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

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

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

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

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 10:00 a.m., but no earlier than one hour after sunrise.

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

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

09. USE OF BEACH

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

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

10. ADVERTISING

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

11. RENTAL RATES

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

The rates and charges for rental of such equipment must be provided in the response

to the proposal section of this RFP. Such rates must be reviewed and approved by the City prior to the commencement of any contract. Such stated rates and charges shall be consistent throughout the term of this contract.

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

12. EQUIPMENT STORAGE

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

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

- Taylor Made Products or equivalent
- Type: Taylor made Fiberglass dock type box or equivalent
- Color: White
- Size: Maximum outer dimensions:
 - width: 72 "
 - depth: 26"
 - height: 27"

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

13. HURRICANE EVACUATION PLAN

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

14. SEA TURTLES

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

- a. It is the responsibility of the Franchisee to abide by any order issued by the State of Florida and/or cooperate with Broward County to ensure that nesting surveys may be conducted in accordance with the conditions set forth by the State.
- b. In the event an unmarked marine turtle nest is exposed, or a dead, injured, or a sick marine turtle is discovered, Franchisee shall call the Sea Turtle Hotline (954) 328-0580 or immediately notify the appropriate City authority such that appropriate conservation measures may be taken.
- c. If Franchisee or his/her staff sees someone harassing a sea turtle or poaching a nest, Franchisee shall immediately call the Florida Fish and Wildlife Conservation 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 Franchisee shall be responsible to have a neat, clean and orderly operation at all times and is responsible for maintaining that condition during operating hours within an area of 100 feet of the concession site. Franchisee shall rake the area and remove all debris as needed to maintain a neat and clean operation. Franchisee shall cooperate with City staff, and set-up and break down of rental equipment shall not interfere with City beach maintenance operations.

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

16. EMPLOYEE QUALIFICATIONS AND APPEARANCE

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

The Franchisee shall 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 the city manager's designee, prior to being assigned to beach duties.

The Franchisee shall employ workers to service this operation who are literate, neat, clean, well groomed and courteous. In addition to the equipment attendant/Welcome Station representatives, Franchisee shall provide an experienced manager who shall be present at all times the concession is in operation. The manager shall oversee the daily operation of this franchise and shall have authority to direct the operation and immediately take all corrective action required to correct erroneous procedures and ensure complete and continuous compliance with requirements and specifications of the contract.

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

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

- Shorts: Navy in color – "Dickies" type Flat Front - cotton material
- Shirts: White with Navy trim – "Naval shirt with epaulets" – cotton material or blend. Shirt will have Fort Lauderdale's Beach Logo embroidered on it.
Note: Polo shirts are not considered an appropriate alternative for the uniform shirt.
- Caps: Baseball hats - Navy in color – embroidered with Fort Lauderdale's Beach Logo

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

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

17. **ADDITIONAL AMENITIES and FRANCHISEE HOTEL AMENITY AGREEMENTS**
ADDITIONAL AMENITIES:

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

Additional Amenities and related pricing and plans are subject to prior approval by the City.

Proposers desiring to sell water and/or sunscreen lotion must submit a plan as part of the response to this RFP. The plan must include, but is not limited to, type of product, size of product and cost (price list) to customer. If permitted by City, water sales will be limited to plastic bottles. Plan must include provisions for waste disposal and recycling of bottles. City trash/recycle containers may NOT be used by Franchisee for disposal of trash and/or recycling of bottles. Water bottles may not be stored overnight on the beach.

A proposed Additional Amenities plan must be provided in the proposal section of this RFP. Placement of daybeds, coolers, and other beach equipment must be included as part of the proposed site plan and in accordance with Part IV Paragraph 7.

HOTEL AMENITY AGREEMENTS

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

18. BEACH REGULATIONS

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

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

PART V – PROPOSAL EVALUATION CRITERIA

The award of the contract will be based on the following certain objective considerations:

- | | |
|--|------------|
| 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. | 15% |
| 2. Experience, qualifications, and references of the proposing firm. | 15% |
| 3. Proposed plan for management, staffing and operation of concession under this contract. (Quality of plan, number of staff available to provide service.) | 15% |
| 4. Quality of storage plan, concession area site plan, hurricane preparedness plan with regard to aesthetics, impact on beach and public safety. | 10% |
| 5. Total revenue above minimum guaranteed annual franchise fees based on number of years for which City awards this contract. | 35% |
| 6. Additional Amenities and Hotel Amenity Agreement Plan proposed. Availability, diversity and quality of service offered to the public and hotel guests. | 10% |

TOTAL PERCENT AVAILABLE: 100%

An evaluation committee of qualified City Staff or other persons selected by the City will conduct evaluations of proposals. It may be a two-step process. In step one; the committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted. The committee shall review each proposal and rank each proposer's evaluation criteria as stated in this RFP (i.e. criteria 1, 2, 3, 4), and determine a minimum of three (3), if more than three (3) proposals are responsive, to be finalists for further consideration. In the event there are less than three (3) responsive proposals, the committee will give further consideration to all responsive proposals received. In step two, the committee may then conduct discussions (oral presentations), for clarification purposes only, with the finalists and re-score and re-rank the finalists' proposals. The evaluation committee may then make a recommendation, resulting from this process, to the City Manager for award of a contract.

The City may require visits to customer installations or demonstrations of product by Contractor's, as part of the evaluation process.

The City of Fort Lauderdale reserves the right, before awarding the contract, to require a Proposer to submit any evidence of its qualifications as the City may deem necessary, and to consider any evidence available of financial, technical and other qualifications and capabilities, including performance experience with past and present users.

The City of Fort Lauderdale reserves the right to request additional clarifying information and request an oral presentation from any and all Proposers prior to determination of award.

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.

The City uses a mathematical formula for determining allocation of evaluation criteria including cost points, to each responsive, responsible proposer. Each evaluation criteria stated in the RFP has an identified weighted factor. Each evaluation committee member will rank each criteria, from each proposer, giving their first ranked proposer as number 1, and second proposer as number 2 and so on. The City shall average the ranking for each criteria, for all evaluation committee members, and then multiply that average ranking by the weighted criteria identified in the RFP. The lowest average final ranking score will determine the recommendation by the evaluation committee to the City Manager.

PART VI - REQUIREMENTS OF THE PROPOSAL

All proposals must be submitted as specified on the proposal pages, which 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. Proposals not providing this reference will be considered to have no reference material included in the additional documents. The City prefers all responses to this RFP to be less than 50 pages and that the Proposer utilize recyclable materials as much as possible. Expensive or fancy binders are not preferred.

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.

THIS IS A PAPER RFP WITH CD. All proposals must be received by the City of Fort Lauderdale, in the Procurement Services Department, Room 619, City Hall, 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301 prior to 2:00 pm on the date specified in PART II – RFP SCHEDULE. Submittal of response by fax or e-mail will NOT be acceptable.

PROPOSERS MUST SUBMIT AN IDENTIFIED ORIGINAL COPY PLUS (7) COPIES OF THE PROPOSAL PAGES INCLUDING ANY ATTACHMENTS

THE ABOVE REQUIREMENT TOTALS 8 COPIES OF YOUR PROPOSAL. PROPOSER SHOULD SUBMIT YOUR PROPOSAL ALSO ON A CD. FAILURE TO PROVIDE PROPOSALS AS STATED ABOVE, MAY BE GROUNDS TO FIND CONTRACTOR NON-RESPONSIVE.

The proposer understands that the information contained in these Proposal Pages is to be relied upon by the City in awarding the proposed Agreement, 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.

A representative who is authorized to contractually bind the Proposer shall sign the Bid/Proposal Signature page. Omission of a signature on that page may result in rejection of your proposal.

PART VII - PROPOSAL PAGES – COST PROPOSAL

Year One:

Guaranteed annual franchise fee:

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

Year Two:

Guaranteed Annual franchise fee:

\$_____ (minimum acceptable \$272,500)

Year Three:

Guaranteed Annual franchise fee:

\$_____ (minimum acceptable \$295,000)

Minimum acceptable guaranteed annual franchise fee payable to the City for year four and year five in the event the contract is extended.

Year Four:

Guaranteed Annual franchise fee:

\$_____ (minimum acceptable \$ 317,500)

Year Five:

Guaranteed Annual franchise fee:

\$_____ (minimum acceptable \$ 340,000)

Total five (5) year annual franchise fee:

\$_____ (minimum acceptable \$1,474,500)

PART VIII - PROPOSAL PAGES - 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.

- Tab 1: Bid/Proposal Signature page
- Tab 2: Cost Proposal Page
- Tab 3: Non-Collusion Statement
- Tab 4: Letter of Interest; The letter of interest may contain any other information not in the proposal but should not exceed two (2) pages, stating your understanding of the City's needs for the concession and your overall approach to those needs, how many calendar days from award of contract would you need prior to initiating operations and the number of years experience the proposer has had in providing similar services?
- Tab 5: Your proposed operational plan, including:
- i. Concession Area site plan
 - ii. Storage plan including on-site and off-site storage and any vehicle usage
 - iii. Hurricane preparedness /evacuation plan
 - iv. Management and staffing plan including daily personnel assignments and duties
 - v. Written policy and procedure for internal controls to record sales for Concession Area(s) income
 - vi. Beach maintenance plan of Concession Area, including proposed waste disposal container and proposed recycle container for water bottle(s) including placement of each container at each concession area site plan
 - vii. Concession marketing plans
 - viii. Method proposed to anchor umbrellas, market umbrellas, and windbreaker/clamshells
 - ix. Photos and specifications of Proposed Uniforms
 - x. Additional Amenities (proposed additional amenities must be included as part of above paragraph i. Concession Area site plan)
 - xi. Hotel Amenity Agreement plan
 - xii. Any other information you feel will assist the City in evaluating your proposal
- Tab 6: List those persons who will have a management or senior position who will interact 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.

- Tab 7: List all contracts currently held for providing similar services. Provide agency name, address, telephone number, contact person and date contract expires. If services provided differ from those presented in your proposal, please delineate such differences. List any contracts that the proposer has had with the City of Fort Lauderdale or any of the City of Fort Lauderdale's agencies during the past three (3) years.
- Tab 8: Business Licenses. Evidence that your firm and/or persons performing the work are licensed to do business in the State of Florida.
- Tab 9: Evidence of Insurance. Certificate of Insurance showing coverage, forms, limits. Actual insurance certificates will be required from recommended contractor, prior to award.
- Tab 10: 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.
- Tab 11: 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. If permitted by City, provide type of product, size of product and cost (price list) to customer for water bottle(s) and suntan lotion.
- Tab 12: List of three clients/references 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. Be prepared to provide, upon request, evidence of work product, ability to meet schedules, cooperation, and responsiveness. Attach additional sheets if necessary.
- Tab 13: Any additional attachments to your proposal.



RFP #715-10794

Attachment B

**AGREEMENT FOR
(TITLE)**

THIS AGREEMENT, made this _____ day of _____ 2011, by and between the City of Fort Lauderdale, a Florida municipality, (“City”), whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301-1016, and _____, a _____ corporation, (“Contractor” or “Company”), whose address and phone number are _____, for the term specified herein,

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

WITNESSETH:

I. DOCUMENTS

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

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

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

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

II. SCOPE

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

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

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

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

III. TERM OF AGREEMENT

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

IV. COMPENSATION

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

V. METHOD OF BILLING AND PAYMENT

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

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

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

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

VI. GENERAL CONDITIONS

A. Indemnification

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

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

B. Intellectual Property

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

C. Termination for Cause

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

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

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D. Termination for Convenience

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

E. Cancellation for Unappropriated Funds

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

F. Insurance

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

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

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

Workers' Compensation and Employers' Liability Insurance

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

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

Commercial General Liability Insurance

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

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

This coverage must include, but not limited to:

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

Automobile Liability Insurance

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

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

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

Consultants

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

Certificate holder should be addressed as follows:

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

G. Environmental, Health and Safety

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

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

H. Standard of Care

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

I. Rights in Documents and Work

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

J. Audit Right and Retention of Records

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

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

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

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

K. Public Entity Crime Act

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

L. Independent Contractor

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

M. Inspection and Non-Waiver

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

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

N. Assignment and Performance

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

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

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

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

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

O. Conflicts

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

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

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

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

P. Schedule and Delays

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

Q. Materiality and Waiver of Breach

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

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

R. Compliance With Laws

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

S. Severance

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

T. Limitation of Liability

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

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

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

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

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

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

V. Amendments

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

W. Prior Agreements

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

X. Payable Interest

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

Y. Representation of Authority

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

Z. Prevailing Wage Requirement

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[WHEN DETERMINED TO BE APPLICABLE IN THE SOLICITATION DOCUMENTS]

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

AA. Uncontrollable Circumstances ("Force Majeure")

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

- A. The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

BB. Scrutinized Companies

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

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

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

RFP #715-10794
Attachment B

CITY OF FORT LAUDERDALE

By: _____
City Manager

ATTEST

By: _____
Print Name: _____
Title: _____

CONTRACTOR

By: _____
Print Name: _____
Title: _____

(CORPORATE SEAL)

STATE OF _____:
COUNTY OF _____:

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

(SEAL)

Notary Public, State of _____
(Signature of Notary Public)

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

Personally Known ____OR Produced Identification ____
Type of Identification Produced _____

**CITY OF FORT LAUDERDALE
GENERAL CONDITIONS**

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Procurement Services 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. In this general conditions document, Invitation to Bid (ITB) and Request for Proposal (RFP) are interchangeable.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 BIDDER ADDRESS:** The City maintains automated vendor address lists that have been generated for each specific Commodity Class item through our bid issuing service, BidSync. Notices of Invitations to Bid (ITB'S) are sent by e-mail to the selection of bidders who have fully registered with BidSync or faxed (if applicable) to every vendor on those lists, who may then view the bid documents online. Bidders who have been informed of a bid's availability in any other manner are responsible for registering with BidSync in order to view the bid documents. There is no fee for doing so. If you wish bid notifications be provided to another e-mail address or fax, please contact BidSync. If you wish purchase orders sent to a different address, please so indicate in your bid response. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 PACKING SLIPS:** It will be the responsibility of the awarded Contractor, to attach all packing slips to the OUTSIDE of each shipment. Packing slips must provide a detailed description of what is to be received and reference the City of Fort Lauderdale purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.
- 1.04 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 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.
- 1.05 TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.06 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that the bid and the prices quoted in the bid will be firm for acceptance by the City for a period of ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.07 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.
- By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.
- 1.08 NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.
- 1.09 MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its procurement activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

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

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

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

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

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

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

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

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

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

1.10 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

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

1.11 SCRUTINIZED COMPANIES

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

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

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 EIN is 59-6000319, and State Sales tax exemption number is 85-8013875578C-1.
- 3.05 WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.06 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in the bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in the bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.07 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet or exceed these items, and feels that the technical specifications are overly restrictive, the bidder must notify the Procurement Services 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 or cashiers check. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS/TRADE SECRETS/COPYRIGHT:** The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes.

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

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

- 3.16 PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.
- 3.17 RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.
- If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.
- 3.18 LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.
- 3.19 BID PROTEST PROCEDURE: ANY PROPOSER OR BIDDER WHO IS NOT RECOMMENDED FOR AWARD OF A CONTRACT AND WHO ALLEGES A FAILURE BY THE CITY TO FOLLOW THE CITY'S PROCUREMENT ORDINANCE OR ANY APPLICABLE LAW MAY PROTEST TO THE DIRECTOR OF PROCUREMENT SERVICES DEPARTMENT (DIRECTOR), BY DELIVERING A LETTER OF PROTEST TO THE DIRECTOR WITHIN FIVE (5) DAYS AFTER A NOTICE OF INTENT TO AWARD IS POSTED ON THE CITY'S WEB SITE AT THE FOLLOWING LINK: http://www.fortlauderdale.gov/purchasing/notices_of_intent.htm**

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

PART IV BONDS AND INSURANCE

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

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

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

The Contractor shall provide to the Procurement Services 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 for General Liability Insurance, and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting the bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

- 5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:
- Bidders name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
 - All City Departments being advised to refrain from doing business with the Bidder.
 - All other remedies in law or equity.
- 5.02 ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.

- 5.03 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed 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 may, if the bidder has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.07 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.08 INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including 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 Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Miami-Dade or Palm Beach Counties, all books of account, reports and records relating to this contract should be retained for the duration of the contract and for three years after the final payment under this Agreement, or until all pending audits, investigations or litigation matters relating to the contract are closed, whichever is later.
- 5.13 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at their own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this contract.
- 5.14 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:
1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.

2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve 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 stated period of time.

If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.

- 5.17 ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.
- 5.19 ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Commission or the City Manager or City Manager's designee, depending on original award approval.
- 5.20 LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.

NON-COLLUSION STATEMENT:

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

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

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

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

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

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

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

NAME

RELATIONSHIPS

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

BID/PROPOSAL SIGNATURE PAGE

How to submit bids/proposals: It is preferred that bids/proposals be submitted electronically at www.bidsync.com, unless otherwise stated in the bid packet. 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 BidSync, the electronic version of the bid response will prevail, unless a paper version is clearly marked **by the bidder** in some manner to indicate that it will supplant the electronic version. All fields below **must** be completed. If the field does not apply to you, please note N/A in that field.

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/>).

Address: _____

City _____ State: _____ Zip _____

Telephone No. _____ FAX No. _____ Email: _____

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

Payment Terms (section 1.04): _____ Total Bid Discount (section 1.05): _____

Does your firm qualify for MBE or WBE status (section 1.09): 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>
---------------------	--------------------

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.** If this section does not apply to your bid, simply mark N/A in the section below.

Variances:

Question and Answers for Bid #715-10794 - Beach Equipment Rental Concession

OVERALL BID QUESTIONS

Question 1

Will the City give additional cost points based on a proposal of a percentage of gross sales above the guaranteed franchise fee? (Submitted: Nov 18, 2011 7:58:18 AM EST)

Answer

- No, since this will not be a guaranteed amount. Cost points will be based on the total revenue above the minimum guaranteed annual franchise fee only. (Answered: Nov 18, 2011 7:59:17 AM EST)