Solicitation 525-10962

Motorized Watercraft Beach Concession

CITY OF FORT LAUDERDALE

City of Fort Lauderdale

Bid 525-10962
Motorized Watercraft Beach Concession

Bid Number	**525-10962**
Bid Title	**Motorized Watercraft Beach Concession**
Bid Start Date	**Feb 27, 2012 8:08:01 AM EST**
Bid End Date	**Mar 14, 2012 2:00:00 PM EDT**
Question & Answer End Date	**Mar 8, 2012 5:00:00 PM EST**
Bid Contact	**AnnDebra Diaz** **Procurement Specialist II** **Procurement** **954-828-5949** **adiaz@fortlauderdale.gov**
Pre-Bid Conference	**Mar 6, 2012 10:00:00 AM EST** **Attendance is optional** **Location: Parks and Recreation Department** **Administration Office** **Conference Room** **1350 W. Broward Boulevard** **Fort Lauderdale, FL 33312**

Description

The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified proposers, hereinafter referred to as the Concessionaire, to provide a Motorized Watercraft 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).

RFP # 525-10962
TITLE: Motorized Watercraft Concession

PART I – INTRODUCTION/INFORMATION

01. PURPOSE
The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified proposers, hereinafter referred to as the Concessionaire, to provide a Motorized Watercraft 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).

02. INFORMATION OR CLARIFICATION
For information concerning procedures for responding to this solicitation, contact Procurement Specialist AnnDebra Diaz at (954) 828-5949 or email at adiaz@fortlauderdale.gov. Such contact shall be for clarification purposes only.

For information concerning technical specifications, please utilize the question / answer feature provided by BidSync at www.bidsync.com . Questions of a material nature must be received prior to the cut-off date specified in the RFP Schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. (See addendum section of BidSync Site). Proposers 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 Concessionaire 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 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 will be the sole responsibility of the Contractor to inspect the City's location(s), facilities and systems prior to submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized themselves with the nature and extent of the work, equipment, materials, and labor required.

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

05. ELIGIBILITY
To be eligible for award of a contract in response to this solicitation the Contractor must demonstrate that they have successfully provided services, as specified in the Technical Specifications / Scope of Services section of this solicitation, are normally and routinely engaged in performing such services and are properly and legally licensed to perform such work or have the managerial and financial ability to successfully start such a concession by

the required date. In addition, the Contractor must have no conflict of interest with regard to any other work performed by the Contractor for the City of Fort Lauderdale.

06. RFP DOCUMENTS

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

07. AWARD

The City reserves the right to award to that proposer who will best serve the interests of the City, for that service that will best serve the needs of the City of Fort Lauderdale.

The City also 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.

08. 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

EVENT	DATE/TIME
Release of RFP	Friday, February 24, 2012
Pre-Proposal Meeting Parks and Recreation Department Administration Office Conference Room 1350 W. Broward Boulevard Fort Lauderdale, FL 33312	Tuesday, March 6, 2012, 10:00 AM
Deadline for Questions/Request for Clarifications	Thursday, March 8, 2012
Proposal Due Date/Time (Deadline)	Wednesday, March 14, 2012

PART III - SPECIAL CONDITIONS

01. GENERAL CONDITIONS
RFP General Conditions Form G-107 Rev. 12/11 (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 Contractor shall examine this RFP carefully. Ignorance of the requirements will not relieve the Contractor from liability and obligations under the Contract.

04. CONTRACTORS' COSTS
The City shall not be liable for any costs incurred by Contractor 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 principal Contractor.

06. CONTRACT PERIOD
The initial contract term shall commence upon date of award by the City or April 21, 2012 whichever is later, and shall expire three years from that date.

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

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

08. CONTRACT COORDINATOR
The City may designate a Contract Coordinator whose principal duties shall be:

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

09. CONTRACTOR PERFORMANCE REVIEWS AND RATINGS

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

Excellent	Far exceeds requirements.
Good	Exceeds requirements
Fair	Just meets requirements.
Poor	Does not meet all requirements and contractor is subject to penalty provisions under the 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 Contractor subject to the default or cancellation for cause provisions of the contract.

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

10. 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. Contractor agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Contractor.

Contractor 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 Contractor 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 Contractor thirty (30) days written notice.

11. DELETION OR MODIFICATION OF SERVICES

The City reserves the right to delete any portion of the 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 work has already been accomplished on the portion of the Contract to be deleted, the Contractor shall be paid for the deleted portion on the basis of the estimated percentage of completion of such portion.

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

12. ADDITION, DELETION AND CHANGES OF SERVICES

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

The Contractor agrees to make such changes or deletions, and shall provide the City prices on any such additional items based upon a formula or method, which is the same or similar to that used in establishing the prices in their proposal. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

13. SUBSTITUTION OF PERSONNEL

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

14. 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 City is to be added as an “additional insured” with relation to General Liability Insurance. This MUST be written in the description section of the insurance certificate, even if you have a check-off box on your insurance certificate. Any costs for adding the City as “additional insured” will be at the contractor’s expense.

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

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

Workers’ Compensation and Employers’ Liability Insurance

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

Any firm performing work on behalf of the City of Fort Lauderdale must provide Workers’ Compensation insurance. Exceptions and exemptions 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 contractors and contractual liability.

Limits: Combined single limit bodily injury/property damage $1,000,000 per occurrence and $2,000,000 aggregate.

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. These limits apply to all vehicles used in the operation of the business. Personal vehicles not used in the operation must be in compliance with State Law

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

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

In the event that you are the successful bidder, you will be required to provide a certificate naming the City as an "additional insured" for General Liability.

Certificate holder should be addressed as follows:

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

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

Contractor agrees and understands that in the event of any accident or collision involving any of its motorized watercraft rental equipment; it must complete and submit a written report to the Contract Administrator within 24 hours, which will be forwarded to appropriate City personnel.

15. SUBCONTRACTORS

If the Contractor proposes to use subcontractors in the course of providing the Motorized Watercraft Concession services to the City, this information shall be a part of the RFP response. Such information shall be subject to review, acceptance and approval of the City, prior to any Contract award and shall be in accordance with City Ordinance Section 8-170 through Section 8-178 attached hereto as **Exhibit A**. The City reserves the right to approve or reject the use of a subcontractor and the use of any subcontractors proposed.

Contractor shall ensure that all of Contractor's subcontractors perform in accordance with the terms and conditions of this Contract. Contractor shall be fully responsible for all of Contractor's subcontractors' performance, and liable for any of Contractor's subcontractors' non-performance and all of Contractor's subcontractors' acts and omissions. In addition to other indemnification provisions contained in this Contract, Contractor shall defend at Contractor's expense, counsel being subject to the City's approval or disapproval, and indemnify and hold harmless the City and the City's officers, employees and agents from and against any claim, lawsuit, third party action, 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 the City by any of such subcontractors, and from and against any claim, lawsuit, third party action, settlement, or judgment, including any award of attorney fees and any award of costs, occasioned by or arising out of any act or omission by any of Contractor's subcontractors.

16. INSURANCE – SUBCONTRACTORS

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

17. PROPOSAL SECURITY

A proposal security payable to the City of Fort Lauderdale shall be submitted with the proposal response in the amount of <u>five percent (5%)</u> of the first year's minimal concession fee as proposed. A proposal security can be in the form of a bid bond or cashiers check. Proposal security will be returned to the unsuccessful contractor 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.

18. PAYMENT AND PERFORMANCE BOND

The Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Payment and Performance Bond, in the amount equal to fifty percent (50%) of the first years minimum annual concession fee as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of

the existing Payment and Performance Bond. The Performance Bond must be executed by a surety company or recognized standing to do business in the State of Florida and having a resident agent.

The Contractor 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 Contractor to the City in the event of a material breach of this Agreement by the Contractor.

19. APPROVED EQUAL OR ALTERNATE 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 or service, which would be considered by qualified City personnel as an approved equal.

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

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

20. INDEPENDENT CONTRACTOR

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

21. PERMITS, LICENSES

The Contractor 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 Contractor. The Contractor shall also be solely responsible for payment of any taxes levied on the concession operation. The Contractor shall comply with all City, County, State and Federal rules, regulations and laws, including but not limited to, permit and waiver requirements of City Ordinance Section 8-170 through 8-178 as may be amended from time to time. Contractor agrees to obtain and pay for all Department of Environmental Protection (DEP) and/or Fish and Wildlife Commission (FWC) permits required for operations on the beach.

22. CONCESSION FEE PAYMENTS

The Contractor shall pay to the City a guaranteed annual concession fee monthly in advance for initial contract term, based on that amount submitted in 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, distrain, appropriate and/or dispose of the Contractor's assets on City property, at the City's sole discretion, and cancel this Contract.

The first Contract year shall commence upon final execution of the Contract by the City.

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.

23. SALES TAXES

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

Rental Fees - A Tax at the current rate of 6% is due on all rentals to the public. This tax is collected by the vendor and remitted to the Florida Department of Revenue utilizing the vendor's Sales Tax Identification Number.

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

Additional detail may be reviewed at the Florida Department of Revenue's Website http://www.myflorida.com/dor/taxes/. The FAC may be reviewed at http://fac.dos.state.fl.us/.

24. ANNUAL REPORTS

The Contractor shall submit to the City an annual CPA-certified statement of the Contractor'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 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. The Contractor must comply with recommendations for changes, additions, or deletions by the City Manager or designee. The City Manager or designee must be permitted,

during normal business hours, to audit and examine the books of account, reports, and records relating to this contract.

25. RECORDS

Contractor shall maintain current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this Contract. Contractor 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 Motorized Watercraft Concessions. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit by the City Manager or designee upon 72 hours notice. Such records and accounts shall include a breakdown of gross revenue, expenses, and profit and loss statements. Such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross revenue and profit and loss statement pursuant to generally accepted accounting principles.

26. RECEIPTS

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

27. ONE CONTRACTOR/MINIMUM FEES

The City intends to award a single Contract for Motorized Watercraft Concession.

The preferred minimum annual concession fee, to be paid on a monthly basis, for the motorized watercraft concession:

Year 1	$ 31,500.00/12 = $2,625.00 per month
Year 2	$ 33,075.00/12 = $2,756.25 per month
Year 3	$ 34,740.00/12 = $2,895.00 per month

28. DEFAULT

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

1. If the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any other provision of the Contract, or

2. If Contractor abandons or vacates the premises prior to the expiration of the term hereof, or

3. If Contractor fails to make the payments as set forth herein and said payment is not made within 15 days after written notice is given to Contractor.

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

Upon the termination of this Contract, all rights and interest of Contractor in and to the Concession Area 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 III, Paragraph 18, retain all sums paid to it by Contractor 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 Contractor, and remove such property or any part of it and store it at Contractor's expense; and/or,

b. the right to injunction or other similar relief available to it under Florida law against Contractor; 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 Contractor's default.

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

29. SURRENDER OF CONCESSION AREA

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

30. BANKRUPTCY

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

31. INSPECTION OF PREMISES

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

32. NOTICES

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

City: City of Fort Lauderdale
Parks and Recreation Director
1350 West Broward Blvd.
Fort Lauderdale, FL 33312

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

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

Contractor may designate additional persons for notification of default.

33. ATTORNEY FEES

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

34. SIGNS

Except as provided herein, 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 from the City Manager or designee.

35. 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.

36. PUBLIC ENTITY CRIMES
NOTE: Contractor, by submitting a proposal attests she/he/it has not been placed on the convicted vendor list.

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

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

38. LOBBYING ACTIVITIES
ALL CONTRACTORS PLEASE NOTE: Any contractor submitting a response to this solicitation must comply, if applicable, with City of Fort Lauderdale Ordinance No. C-00-27 & Resolution No. 07-101, Lobbying Activities. Copies of Ordinance No. C-00-27 and Resolution No. 07-101 may be obtained from the City Clerk's Office on the 7th Floor of City Hall, 100 N. Andrews Avenue, Fort Lauderdale, Florida. The ordinance may also be viewed on the City's website at:
http://www.fortlauderdale.gov/clerk/LobbyistDocs/lobbyistord1009.pdf .

39. 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.

40. SAMPLE CONTRACT AGREEMENT
A sample of the formal agreement template, which may be required to be executed by the awarded vendor can be found at our website http://fortlauderdale.gov/purchasing/general/contractsample021412.pdf

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

02. OPERATING REGULATIONS

1. All City, County and State laws and regulations relating to the operational use of the City's beachfront areas, shall be adhered to by the Contractor, his/her representatives and employees. This shall relate to laws currently in force and those adopted hereafter.

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

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

4. The Contractor will be responsible for all damage to City property or the City beachfront caused by the Contractor or is employees or agents. Any such damage shall be corrected at the sole cost and expense of the Contractor.

5. The Contractor shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Concession Area and all facilities incident thereto. The Contractor shall make available all facilities within the Concession Area under its control for examination during hours of operation by the City Manager or designee.

6. Any repairs, cleaning or other maintenance as required to maintain a clean and safe working environment, shall be provided on a continuous and immediate schedule. The Concession operation must be maintained as to provide an aesthetically pleasing appearance and not be detrimental to the immediate surroundings.

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

8. The Contractor’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. The concession operation must be maintained as to provide an aesthetically pleasing appearance and not be detrimental to the immediate surrounding. No major repairs to equipment will be allowed on the beach.

9. There shall be no overnight storage of any type on the beach except as approved by the City. Any other equipment and/or storage shall be subject to prior City approval and in accordance with City Ordinance Section 8-170 through Section 8-178. The security for all property, equipment and supplies owned and provided by the Contractor, shall remain the responsibility of the Contractor. Costs relating to the repair or replacement of such items, stolen, lost, or damaged, shall be at the expense of the Contractor.

10. Distribution of brochures, pamphlets, and other similar paper products are prohibited on the beach outside of the designated area of operation. The City will allow brochures and pamphlets for motorized watercraft rental to be placed in recreation center brochure holders.

As part of the administration of the Contract, the City Manager or designee, shall conduct periodic inspections of concession area, 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. Contractor and his/her customers shall utilized those parking facilities available to the general public.

04. USE OF CONCESSION AREA
The Contractor shall not use the concession area for any other purpose than the renting of motorized watercraft items, and he/she shall so conduct his/her business as to render a service to the public in a dignified manner. No pressure, coercion, persuasion, or hawking shall be done by the Contractor or his/her attendant in an attempt to influence the public to use his/her service. Retail sales are prohibited.

05. LOCATION OF SERVICES
It is the intent of these specifications to grant to the Contractor, the right to develop and operate a beachfront concession operation for the rental of motorized watercraft recreational equipment at the City of Fort Lauderdale's beach location east of Alhambra Street.

The legal description for the proposed concession area is the following:

A PORTION SECTION 7, TOWNSHIP 50 SOUTH, RANGE 43 EAST DESCRIBED AS FOLLOWS:

BOUNDED ON THE NORTH BY A LINE PARALLEL WITH AND 75 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE EASTERLY PROJECTION OF THE CENTERLINE OF ALHAMBRA STREET; ON THE WEST BY A LINE 35 FEET EAST OF THE EASTERLY RIGHT-OF-WAY LINE OF FORT LAUDERDALE BEACH BOULEVARD (S.R. A-1-A); BOUNDED ON THE SOUTH BY A LINE PARALLEL WITH AND 25 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE EASTERLY PROJECTION OF THE CENTERLINE OF ALHAMBRA STREET AND ON THE EAST BY THE MEAN HIGH WATER LINE OF WATERS OF THE ATLANTIC OCEAN; ALL AS SHOWN ON THE PLAT OF "LAUDER DEL MAR", ACCORDING TO THE PLAT THEREOF, RECORDED I N PLAT BOOK 7, PAGE 30, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

The general description of the concession area is a fifty (50) foot wide area of the beach east of the beach access stairway at Alhambra Street.

06. RENTAL EQUIPMENT
Motorized watercraft equipment as referred to herein as rental equipment, shall include mechanically powered watercraft, including but not limited to, wave runners and banana boats as approved by the City and in accordance with City Ordinance Section 8-170 through 8-178.

No propeller driven watercraft will be allowed except the chase vessel.

All motorized watercraft shall be equipped with “kill –switches” in proper working order.

All rental equipment shall be color coded or otherwise plainly marked so as to permit identification from a distance of 150 yards. Proposed markings shall be approved in writing by the City Manager or designee prior to the commencement date of this Contract. Contractor shall not change or alter the markings without prior written consent of the City Manager or designee. Proposed markings shall be provided in the proposal section of this RFP: Part VII – Proposal Pages – Cost Proposal.

No major repairs to equipment shall be allowed on the beach.

A detailed list of the number and type or rental equipment that will be available and utilized in the operation of the motorized watercraft concession operation must be provided in the proposal section of this RFP: Part VII – Proposal Pages – Cost Proposal.

All rental equipment shall be maintained at the Contractor’s sole cost and expense and shall meet the registration and licensing requirements of the State of Florida and any other governing agency.

Contractor agrees that all motorized watercraft equipment shall be at minimum of commercial grade and quality. All motorized watercraft equipment shall be no more than two (2) model years old. City reserves the right to request proof of title or other proof of purchase related to such equipment in order for the City to properly monitor this requirement.

All rental equipment shall be inspected on a daily basis and prior to commencement of the rental operation. Any equipment determined not to be in sound mechanical or working condition, shall not be utilized until noted defects are corrected. To assure that all motorized watercraft equipment is maintained in accordance with the highest industry standards, the City reserves the right to request periodic service and/or maintenance reports, to be provided and, if required, certified or otherwise guaranteed by Contractor, at its sole cost and expense.

The Contractor must provide and maintain at his/her own cost and expense, all equipment required for operation of the concession. In the event of loss, stolen or damaged equipment or facilities, any and all required repairs and/or replacement of equipment, shall be at the cost and expense of the Contractor.

The Contractor shall provide, install and maintain all regulatory buoys and beach lines as required to define operating areas. Buoys shall be at least 18 inches in diameter and of a high visibility color and shall conform to the uniform state waterway marking system. The buoys and lines shall be set up daily at the start of operating hours and shall be removed at the end of each business day.

The Contractor 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 Contractor shall have furnished an additional list of equipment to the Parks and Recreation designee or Contract Administrator and receive approval from the City in writing.

07. WELCOME STATION

The Motorized Watercraft Concession shall have a "Welcome Station" defined as an area consisting of a beach chair, umbrella and table. The Welcome Station must be staffed by a competent person at all times while the concession is in operation. The minimum specifications for Welcome Station equipment are listed below.

The design, type, material and color of equipment to be used in the Welcome Station shall be approved in writing by the City's Parks and Recreation Department prior to the commencement date of this Contract. Contractor shall not change, alter, or modify City approved design, type, material or color of any Welcome Station equipment without the prior written consent of the City Manager or designee.

The design, type, material, and color of umbrellas shall be as follows:

- Size: Standard 7 ½' X 8' rib beach umbrella
- Fabric: Sunbrella Marine Grade fabric or equivalent
- Color: Sunbrella Pacific Blue
- Insignia: Beach Concession logo design, attached hereto as **Exhibit B.**

Contractor may propose an alternative to the umbrellas for the Welcome Station/Reception equipment area. The alternative proposal must be approved by the City Manager or designee. The City of Fort Lauderdale Beach Concession logo design must be printed and visible on the alternative suggestion. Contractor shall submit their proposal for their Welcome Station/Reception area as part of this RFP: Part VIII – Proposal Pages – Technical Proposal – II.A.

Chair: Contractor shall propose the design, type, material, and color of chair for use at the concession site for approval by the City Manager of designee. Contractor may place up to three (3) beach chairs in the Welcome Station area. Contractor shall submit their proposal for chairs (photo and specifications) needed to accommodate their customers as part of this RFP: Part VIII – Proposal Pages – Technical Proposal – II.A.

Table: Contractor shall propose the design, type, material, and color of table for use at the concession site for approval by the City Manager of designee. Contractor may place up to two (2) tables in the Welcome Station area. Contractor shall submit their proposal for tables (photo and specifications) needed to accommodate their customers as part of this RFP: Part VIII – Proposal Pages – Technical Proposal – II.A.

Welcome Station 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.

08. LOCATION OF EQUIPMENT – SITE PLAN

A detailed site plan for placement of Motorized Watercraft rental equipment must be provided in the proposal section of this RFP, Part VIII – Proposal Pages – Technical Proposal – II.A. Motorized Watercraft rental equipment shall be placed substantially in accordance with the site plan submitted by Contractor and approved by the City. Contractor shall not deviate from the approved site plan without the prior written consent of the City Manager or designee.

Site plan shall be in accordance with the following guidelines:

Rental equipment must be placed in the area as described in Part IV-Technical Specifications/Scope of Services, Paragraph 05. Location of Services.

Welcome Station equipment and rental equipment may be placed a minimum of thirty-five (35) feet from the eastern boundary of the Atlantic Blvd/Fort Lauderdale Beach Blvd/A1A, and not more than thirty (30) feet west of the high water mark.

No Welcome Station or rental equipment shall be placed in such a manner that blocks or impedes a beach access point.

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

09. OPERATION SCHEDULE

Motorized Watercraft equipment shall be placed within the Concession Area, substantially in accordance with an approved site plan. Set-up of motorized watercraft rental 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 shall be open and continuously staffed 7 days a week, on a 52-week per year schedule between the hours of 10:00 a.m. and 5:00 p.m. Any change in the hours of operation shall be at the City's sole option and discretion, and any request by Concessionaire for an increase or decrease in same shall be subject to the prior written approval of the City Manager or designee.

Exceptions shall be considered when inclement weather conditions do not warrant the operation of this concession service or with an advance request for such change and approval by an authorized City representative.

10. USE OF BEACH

The beach is for the use and enjoyment of the public, for recreation and other public purposes and the public's right to such use shall not be infringed upon by any activity of the Contractor. Upon execution of this Contract, Contractor 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 Contractor 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 Area as defined above, Contractor understands, agrees and acknowledges that the aforestated Concession Area 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 Contractor's equipment. In the event that a member of the public is within a particular Concession Area, as set forth herein, Contractor agrees to allow for his/her continued peaceful enjoyment of said area.

11. ADVERTISING AND NOTICES

The Contractor shall not display any signs or advertising matter, unless approved by the Parks and Recreation Director or his designee, with the exception of a list of services, prices, rental fees and notices, including but not limited to, notice that personal floatation devices must be worn by patrons.

All such signs and notices must be in a format and design approved by the City prior to the commencement of this contract.

The City reserves the right to approve all marketing materials.

The Contractor is responsible for all costs for their marketing and promotional materials, including, but not limited to, typesetting, printing and distribution.

12. 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 Part VIII – Proposal Pages – Technical Proposal - III. Should a deposit and/or security payment also be required for the rental of equipment, this must also be stated in Part VIII – Proposal Pages – Technical Proposal – III. 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 Contract Administrator. The City shall review and accept, refuse or modify such rate change requests. The City shall have the last and final decision relating to any such change requests.

13. EQUIPMENT STORAGE

A detailed plan for storage and removal of motorized watercraft rental equipment, Welcome Station equipment and storage boxes must be provided in Part VIII – Proposal Pages – Technical Proposal – II.C. Storage shall be in accordance with City Ordinance Section 8-170 through 8-178. Contractor agrees to obtain and pay for all Department of Environmental Protection (DEP) and/or Fish and Wildlife Commission (FWC) permits required for operations on the beach. The storage plan must include a detailed site plan depicting the overnight storage and security of jet skis or other proposed equipment, placement of storage boxes and content of storage boxes. No storage of watercraft owned or operated by other individuals shall be permitted. No overnight storage of fuel shall be permitted.

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

14. HURRICANE EVACUATION PLAN

Contractor agrees that all its storage boxes, motorized watercraft rental equipment and any and all other equipment or other items used in the concession operations will be removed from the beachfront immediately within two (2) hours of notification by appropriate City authorities. A detailed hurricane preparedness/evacuation plan shall be provided in the Part VIII – Proposal Pages – Technical Proposal – II.D.

15. SEA TURTLES

Contractor 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 Contractor to abide by any order issued by the State of Florida and/or cooperate with Broward County to ensure that nesting surveys may be conducted in accordance with the conditions set forth by the State.
b. In the event an unmarked marine turtle nest is exposed, or a dead, injured, or a sick marine turtle is discovered, call the Sea Turtle Hotline (954) 328-0580 or immediately notify the appropriate City authority such that appropriate conservation measures may be taken.
c. If Contractor or his/her staff sees someone harassing a sea turtle or poaching a nest, Contractor 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.

16. APPEARANCE OF PREMISES

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

Trash must be bagged and placed in or near established receptacles on the beach. The removal and disposal of this trash and rubbish shall be the responsibility of, and at the expense of the City. If a public receptacle is not readily accessible to the concession area and/or Welcome Station, the Contractor shall provide a trash receptacle no larger than thirteen (13) gallons for use in the “Welcome Station”. The Contractor is responsible for the

removal of the receptacle and contents daily.

17. EMPLOYEE QUALIFICATIONS AND APPEARANCE

Hospitality Training & Service:

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

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

“Hawking” to attract attention and/or summoning or accosting any person is prohibited. The playing of music, or allowing other activity that disturbs the public is prohibited.

Uniforms:

All Contractor personnel shall wear a City approved identification name-tag or have name embroidered on approved uniform shirt to be provided at the Contractor’s sole cost and expense.

All beach concession personnel will be in a uniform approved by the City. Contractor shall submit their proposed uniform (shirt, short, bathing suit, hat) for approval by the City as part of this RFP: Part VIII – Proposal Pages – Technical Proposal – II.I. All concession personnel shall wear the approved uniform.

All concession staff must be properly certified (completed boater’s education course approved by the NASBLA / state approved boater safety course). Certifications of personnel must be provided in Part VIII – Proposal Pages – Technical Proposal – II.H.

Work Plan:

The Contractor shall also provide a work plan indicating complete and adequate coverage by personnel during all operating hours, include name and experience of employees who will be operating rental equipment and/or giving instructions to customers regarding the operation of any rental equipment. This work plan including the name and experience of employees shall be provided in the proposal part of this RFP: Part VIII – Proposal Pages – Technical Proposal – II.G.

18. BEACH REGULATIONS

The Contractor shall abide by all City rules and regulations established and/or posted at the beach and intended for use by the general public, including but not limited to, Beach Boating Restrictions City Ordinance Section 8-170 through 8-178 City of Fort Lauderdale Code of Ordinances.

19. SPECIAL EVENTS

The City will hold sponsored and cosponsored events and activities on the beach from time to time. In such cases, the City may request that the Contractor cease and desist operations during the term of, and in the area of the special event and/or production, and the Contractor

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

20. OPERATING PROCEDURES

Contractor is obligated to comply with the following conditions and acknowledges and agrees that breach of any such condition, or any obligation imposed under this Agreement, may result in immediate cancellation of this Agreement by City and, in such event, CITY may retain as its liquidated damages the security deposit:

(1) No alcoholic beverage of any nature whatsoever may be distributed, consumed, or possessed at the beach.

(2) Contractor agrees to comply with all federal, state, and local laws, rules, and regulations, including the Code of Ordinances of the City of Fort Lauderdale and the City of Fort Lauderdale Parks and Recreation Rules and Regulations, as may be amended.

(3) Distribution of brochures, pamphlets, and other similar paper products are prohibited on the beach outside of the designated area of operation. The City will allow brochures and pamphlets for motorized watercraft rental to be placed in recreation center brochure holders.

(4) No broadcasting activities and no loud speakers are permitted, and no music, whether live or recorded by any means, may be played, unless such broadcasting, music or both is performed in conjunction with an activity or event approved in advance by the Parks & Recreation Director or by City Event Agreement.

Restricted Area: The Contractor shall instruct and identify for customers of rental equipment, that area designated as Swimming Area Only. This area, defined in current City Code Section 8-171 "Restricted Area" currently restricts such operations in an area 300 feet east of the current shore water line. The Contractor will also restrict operation within 100 feet of the nearest swimmer, regardless of the proximity of this person to the shoreline. This defined Safety or Protected Zone, may be modified and revised during the course of this Contract as determined by changes in the referenced City Codes or as determined necessary by City personnel.

Safety Marker: Safety markers shall be posted on the sandy beach to delineate the motorized watercraft concession recreational area as per City Ordinance Section 8-170 through 8-178. The design, type, material, color and location of the safety markers shall be approved in writing by the City Manager or designee prior to the commencement date of this Contract. Color of safety markers shall be any color not currently used by Ocean Rescue. Safety markers must have the City approved Concession logo printed on them. The logo design and specifications are determined at the sole discretion of the City. Contractor shall not change, alter or modify City approved design, type, material or color of safety marker without prior

written consent of the City Manager or designee. Proposed safety marker shall be made part of Part VIII – Proposal Pages – Technical Proposal –II.J.

Safety markers shall be at the sole cost and expense of the Contractor.

Chase Vessel: The motorized watercraft concession operation must have a chase vessel and properly certified concession staff, readily available to operate same. Such vessel shall be available to control and insure the proper operation of rental vessels in designated and authorized areas. The chase vessel must be capable of catching and performing a proper rescue of all rental watercraft. This vessel shall be available to assist as needed to tow rental vessels as needed. Such vessel shall be driven either by jet or propeller. Should a propeller driven vessel be utilized, the Contractor must provide a guard or similar device to prevent contact with the propeller. Only the Contractor or his employees shall operate the chase vessel. It shall not be made available to renters.

The chase vessel must be readily available and safely located on shore, unless monitoring or recalling a patron.

All chase vessel operators shall wear high visibility yellow colored personal flotation device when operating the chase vessel. When the chase vessel is on shore, said high visibility yellow colored personal floatation device shall be placed on top of the chase vessel in order to identify same. All concession staff must be properly certified (complete boater's education course approved by the NASBLA or pass the State of Florida "How to Boat Smart " course), and have certification readily available for inspection when on duty. Staff must be readily available at all times that concession is operating.

Rental Requirements: As to provide full service and maximize the potential for rental of equipment, the Contractor shall pre-screen all renters to determine their ability to operate rental equipment. The Contractor shall be capable of providing complete instructions on the proper, correct and safe usage of such equipment. These instructions shall include verbal directions and a demonstration of the equipment's proper usage. Verbal and written instructions are to be included in Part VIII – Proposal Pages – Technical Proposal – II.K.

Contractor shall not knowingly permit anyone under the age of 18, nor anyone under the influence of alcohol or other mood-altering drug, to rent or operate any motorized watercraft equipment.

Contractor shall not knowingly permit a person 21 years of age or younger to operate a marine vessel of 10 horse power or more, unless such person has in his/her possession, a photo identification and proof of completion of a boater education course approved by the State of Florida, and/or the National Association of State Boating Law Administrators.

Personal Flotation Device: All rental motorized watercraft shall adhere to applicable registration and license requirements of the State of Florida, as may be amended from time to time.

The Contractor shall have available and provide an approved personal floatation device to all renters of motorized watercraft equipment. Such device shall be of the type and class approved for such use by the Coast Guard. It shall be the sole responsibility of the Contractor to insure the renter is capable of properly adjusting and using such a device. Information on the proper use of this equipment must be provided to the user should there be any doubt

relating to the renter's ability to properly use this equipment.

The Contractor shall insure that each approved personal floatation device is being worn properly, prior to the operator leaving the beach area. Removal of such equipment during the rental period while equipment is actually in use shall be construed as a violation of the rental agreement. Corrective measures shall be immediately taken or the rental craft shall be returned to the Concession site. The mandatory use of this equipment must be conspicuously stated on a notice located in the immediate area of the “Welcome Station”, in a design and type approved by the City, and in accordance with Part IV – Technical Specifications, Paragraph 11. Verbal and written instructions for the proper use of the flotation devices shall be made part of this RFP in the Part VIII – Proposal Pages – Technical Proposal – II. L.
Any change or addition to the Contractors operation will require prior review and approval of all applicable City Departments.

The City reserves the right to issue additional beach rules and regulations as deemed necessary by the City. Contractor agrees to abide by any new or revised rules and regulations that the City deems necessary.

21. SAFETY PROCEDURES:
The Contractor shall conduct his/her operation in accordance with all laws, rules, and regulations relating to the safe operation of the concession.

A detailed plan for the policy and procedures in place to insure the safety of motorized watercraft operators/renters shall be included in Part VIII – Proposal Pages – Technical Proposal – II.L-M. The plan shall include, but not be limited to, the following:

- Pre-rental or pre-ride instruction (verbal and written) on the safe operation of the motorized watercraft. This instruction must include, at a minimum, operational characteristics of the vessel, safe operation and right-of-way, operator responsibilities, and local waterway characteristics. The person delivering this information must have completed a NASBLA/state approved boater safety course.
- Providing on-the-water demonstration and a check ride to evaluate the proficiency of renters. Verbal and written procedures.
- Verbal and written instructions for propulsion, steering and stopping characteristics of jet pump vessels, the location and content of warning labels, how to re-board a watercraft, the applicability of the Navigation Rules to the watercraft operation, problems being seen by other boaters, reckless operation, and the noise, nuisance, and environmental concerns regarding the operations of the rental motorized watercraft.
- Verbal and written instructions for training sessions for personnel involved in rescue operations.
- Verbal and written instructions for training sessions for personnel involved in safety briefings for patrons.
- A list of applicable certifications held by proposed personnel for conducting such training shall be made part of the RFP in Part VIII – Proposal Pages – Technical Proposal – II.H.

PART V – PROPOSAL EVALUATION CRITERIA

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

		Weight Factor
1.	Understanding of the overall needs of the City as presented in the proposed plan, including but not limited to proposed equipment, Concession area site plan and maintenance of area, marketing plan, etc.	15%
2.	Experience, qualifications and references of the proposing firm and Personnel assigned.	15%
3.	Proposed plan for management, staffing and operation of concession under this Contract. Experience and qualifications of management and personnel staffing this operation.	20%
4.	Quality of daily/overnight storage plan and hurricane preparedness plan.	10%
5.	Safety Plan/ Rescue Procedures including, but not limited to, pre-ride rental instructions, personal floatation device instructions and rescue protocols.	10%
6.	Annual guaranteed minimum concession fees proposed.	30%
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 Contractor 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's. All proposals must be received by the City of Fort Lauderdale, in the Procurement Services Division, 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 <u>IDENTIFIED ORIGINAL</u> HARD COPY, PLUS (2) ADDITIONAL HARD COPIES OF THEIR PROPOSAL PAGES INCLUDING ANY ATTACHMENTS.

THE ABOVE REQUIREMENTS TOTAL (3) HARD COPIES OF YOUR PROPOSAL. CONTRACTORS SHOULD SUBMIT YOUR PROPOSAL ALSO ON A CD. CONTRACTOR SHOULD PROVIDE (10) CD COPIES OF YOUR PROPOSAL. CD COPIES MUST MATCH THE ORIGINAL HARDCOPY. IN CASE OF ANY DISCREPENCY BETWEEN THE ORIGINAL HARD COPIES AND THE CD, THE ORIGINAL HARD COPY PREVAILS. 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 Contractor 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

Proposer Name _____

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

Year One:

$_____/month x 12 months = $_____/annually
(preferred minimum $2,625.00 per month/ $31,500.00 annually)

Year Two:

$_____/month x 12 months = $_____/annually
(preferred minimum $2,756.25 per month/$33,075.00 annually)

Year Three:

$_____/month x 12 months = $_____/annually
(preferred minimum $2,895.00 per month/$34,740.00 annually)

II. List below all equipment that will be utilized for the concession and their current value. List all rental equipment (code with an R), the chase/tow vessels(s) (code with a C), and accessory equipment such as trucks trailers etc (code with an A). Please provide one set of color photographs of equipment for this concession, attached to this proposal section. Proposed markings of equipment must be included in the photographs (see Part IV – Technical Specifications/Scope of Services, Section 06 – Rental Equipment.)

Description	Qty.	Total Value
_____	_____	$ _____
_____	_____	$ _____
_____	_____	$ _____
_____	_____	$ _____
_____	_____	$ _____

(use additional sheets if necessary)

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.

I. Understanding of the City's needs for the concession and your overall approach to those needs.

II. Your proposed operational plan, including:

A. Concession Area site plan - set up of equipment and welcome station/reception area and storage box. Color photos and specifications of welcome station/reception area and storage box equipment to be used.
B. Daily Beach maintenance plan for concession area
C. Storage plan including on-site and off-site storage and any vehicle usage
D. Hurricane preparedness /evacuation plan for all equipment
E. Written policy and procedure for internal controls to record sales for Concession area(s) income.
F. Concession marketing plans
G. Management and staffing plan: Provide a work plan indicating complete and adequate coverage by personnel/management during all operating hours, include name of manager on duty and names of employees assigned for operating rental equipment and/or giving instructions to patrons regarding the operation of any rental equipment. Indicate manager or personnel who will be the contact liaison with the City. List name, title/position and duties of all personnel assigned to this concession, include a resume or summary of experience and qualifications for personnel assigned to this concession.
H. Currently held certifications and licenses (NASBLA/state approved boating course by proposer and staff to operate motorized watercraft) and currently held memberships in Professional Associations related to Motorized Watercraft activities including but not limited to: Safety Training certifications, AED, CPR, First Aid or other appropriate certifications.
I. Proposed uniform and name-tag for staff, include color photographs and specifications.
J. Proposed safety markers including beach concession logo and color, include color photographs and specifications.
K. Written and verbal pre-rental/pre-ride instructions for operation of watercraft
L. Written and verbal safety briefing for customer instructions on personal floatation device use.
M. Written and verbal rescue protocol for personnel effecting rescues – rescue training protocols and training schedule for personnel assigned to concession.
N. Written policy and procedure for internal controls to record rentals for Concession Area Income. Describe your company's accounting systems, planned frequency of reporting procedures, and management control check and balance systems. Provide a SAMPLE for the types of financial operating reports your company will use for this concession.
O. Any other information that will assist the City in evaluating your proposal.

III. 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.

Description of equipment	Rental Rate Year I	Rental Rate Year 2	Rental Rate Year 3
Example:			
Waverunner per hour	$XX.00	$XX.00	$XX.00
Waverunner per ½ day	$XX.00	XX.00	XX.00
Waverunner per day	XX.00	XX.00	XX.00
_____	$_____	$_____	$_____
_____	$_____	$_____	$_____
_____	$_____	$_____	$_____
_____	$_____	$_____	$_____
_____	$_____	$_____	$_____
_____	$_____	$_____	$_____

(Use additional sheets if necessary)

Security Deposit required for rental of equipment $_____

PART IX - PROPOSAL PAGES - QUESTIONNAIRE

1. How many calendar days from award of Contract would you need prior to initiating operations?

   _____ days

2. Prior Experience:

   Number of years experience the proposer has had in providing similar services:

   _____ years

3. Have you included your Proposal Security with your proposal? _____ Yes

5. List all contracts currently held for providing similar services. Provide agency name, address, telephone number, contact person and date contract expires. If services provided differs from the one presented in your proposal, please delineate such differences.

6. List clients for whom you have provided similar services in the last three years. Provide agency name, address, telephone number, contact person, and date service was provided. If services provided differs from the one presented in your proposal, please delineate such differences.

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

PROPOSER PLEASE INSURE THAT YOU HAVE SIGNED THE SIGNATURE PAGE OF THESE PROPOSAL PAGES. OMISSION OF A SIGNATURE ON THAT PAGE COULD RESULT IN REJECTION OF YOUR PROPOSAL

COMPLETE AND RETURN THE REQUIRED NUMBER OF **PROPOSAL PAGES AND ATTACHMENTS.**

EXHIBIT A

DIVISION 3. BEACH BOATING RESTRICTED AREA

Sec. 8-170. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this division, except where the context clearly indicates a different meaning:

Business operator means a lessee, licensee, franchisee or other person expressly authorized by a commercial owner to engage in the business of operating a watercraft concession on property subject to a waiver pursuant to section 8-174.

Chase watercraft means a watercraft available solely for the purpose of effecting a sea rescue in an emergency or for the purpose of ensuring that rental watercraft are operated in compliance with federal or state law or with city or county ordinances.

Commercial owner means the owner or lessee (under a lease of at least fifty (50) years) of property located east of the right-of-way of State Road A-1-A and upon which stands a hotel or motel abutting the sandy beach; provided, however, that commercial owner shall not include owners or lessees of properties described above if (a) the abutting sandy beach is dedicated to the public or (b) the public beach as defined in section 8-52 and section 8-71 lies eastward of such owner's or lessee's platted property.

Corridor or *marked corridor* means a defined area within the restricted area leading from the shoreline to the eastern boundary of the restricted area, established in conjunction with the approval of a waiver for watercraft concessions pursuant to section 8-174, in which certain forms of watercraft may be operated.

Customer means a person renting watercraft to be operated in a corridor, or using watercraft operated in a corridor whether or not consideration has been paid for such use. The term does not mean a commercial owner, a business operator or an employee of either.

Manually powered watercraft means watercraft which use human physical effort as their primary source of motive power, such as kayaks or rowboats.

Mechanically powered watercraft means watercraft which use an internal combustion engine or an electric motor as their primary source of motive propulsion.

Residential owner means the owner of property located east of the right-of-way of State Road A-1-A abutting the sandy beach upon which stands a single-family dwelling, townhouse, condominium or co-operative residential structure or upon which property a club for recreational purposes is operated.

Restricted area means the area defined in section 8-171

Sail powered watercraft means watercraft whose primary source of propulsion is the wind, such as sailboats and sailboards.

Soft-sided watercraft means personal floating rafts, inner tubes and other soft or inflatable objects used for passive water recreation.

Waiver means permission from the city for a commercial owner of appropriately zoned property to operate or contract one (1) or more watercraft concessions within corridors through the restricted area.

Watercraft concession mean a business operating mechanically powered, manually powered or sail powered watercraft or other watercraft used for active recreation. Mechanically powered watercraft used in a corridor must have a guarded propeller or use jet propulsion.

Watercraft operator means a person who is in actual physical control of or steering any form of watercraft rented from a watercraft concession other than soft-sided watercraft.

Wave powered watercraft means devices designed to be propelled by wave action, such as surfboards.

(Ord. No. C-93-26, § 1, 5-18-93; Ord. No. C-96-24, § 1, 5-21-96)

Sec. 8-171. Restricted area.

Except as hereinafter provided, it shall be unlawful for any person to steer, propel, anchor, moor, operate or cause to be operated, any watercraft within the waters of the following described area:

An area bounded by the mean high water mark of the Atlantic Ocean on the west, the corporate limits on the north, a line one hundred (100) yards east of the mean high water mark of the Atlantic Ocean on the east and on the south an extension of the south boundary line of Parcel "X" of Point of Americas Plat, according to the plat thereof, recorded in Plat Book 69, Page 45 of the Public Records of Broward County, Florida.

No part of the Florida Intracoastal Waterway shall be included in the above described area.

(Ord. No. C-93-26, § 1, 5-18-93; Ord. No. C-94-55, § 1, 11-15-94)

Sec. 8-172. Government watercraft not included.

Watercraft operated by or under the direction of the federal, state, county or city governments, while engaged in law enforcement or other necessary governmental functions, shall be exempt from the restrictions set forth in section 8-171.

(Ord. No. C-93-26, § 1, 5-18-93)

Sec. 8-173. Exceptions.

Exceptions to the provisions of section 8-171 shall be limited to the following:

(1) Special events of short-term duration such as regattas, tournaments and events of a similar nature. Such special events shall be subject to all other requirements of this Code.

(2) Watercraft concessions may operate through the restricted area only in a corridor, as authorized by a waiver granted under section 8-174.

(3) Any type of watercraft operated by a residential owner, including such residential owner's guests and invitees, in the restricted area seaward of such residential owner's property, where the operation of such watercraft is strictly accessory or incidental to the residential or recreational use of upland property. No commercial operation of watercraft shall be permitted under this subsection. Ingress to and egress from such residential owner's property and the eastward boundary of the restricted area shall be by the safest most direct route, with mechanically powered watercraft proceeding at slow down minimum wake speed, as defined in section 8-166(b)(1), and sail powered watercraft proceeding at the minimum speed necessary to maintain safe steerage. Any watercraft allowed to operate under this exception may also anchor offshore of such property.

(4) The intrusion into the restricted area by any watercraft incapable of proper navigation due to safety threatening weather conditions or mechanical breakdown.

(5) Soft-sided and wave powered watercraft, except that such watercraft shall not operate in marked corridors.

(6) Only the following forms of watercraft may be launched from, operated on adjacent waters of, and returned to the public beaches defined in section 8-52 and 8-71:

a. Sail and manually powered watercraft under twenty-five (25) feet in length, not equipped with a mechanical source of power, only in areas designated by the city manager.

b. Wave powered watercraft, only in areas designated by the city manager.

c. Any type of watercraft authorized under a concession agreement with the city as provided in section 8-55.1, provided that the city shall be limited to only one (1) concession agreement under section 8-55.1 for motorized watercraft.

d. Soft-sided watercraft, except in designated watercraft launch areas.

e. In the restricted area adjacent to the public beach described in section 8-52, the city manager may authorize the operation of watercraft in a designated corridor solely for the purpose of allowing the patrons of a food service establishment which is accessory to a hotel or motel located east of the easternmost public road right-of-way to anchor watercraft offshore of such establishment. Such establishment, by agreement with the city, shall be solely responsible for the maintenance of the corridor and shall indemnify the city for all activities therein. The city may require the inclusion of other terms and conditions which the city manager finds are necessary to protect the public. The city manager may suspend or revoke such agreement at any time if he finds that there is a threat to the health, safety and welfare of the public. The provisions of this subsection (6)e. are repealed eighteen (18) months from the effective date hereof, unless readopted by the city commission.

(Ord. No. C-93-26, § 1, 5-18-93; Ord. No. C-96-24, § 1, 5-21-96; Ord. No. C-97-12, § 1, 5-6-97)

Sec. 8-174. Waiver for watercraft concession.

A waiver from the provisions of section 8-171 may be granted to a commercial owner and the city (as to the public beach areas defined in section 8-52 and section 8-71) for the operation of one of more watercraft concessions, subject to the following conditions:

(1) One (1) or more corridors extending from the shoreline to the eastward extremity of the restricted area, which corridor or corridors shall be marked with buoys or similar devices conforming to the uniform state waterway marking system, shall be established for the passage of watercraft rented by customers, watercraft used by the business operator to transport customers to watercraft recreation activities beyond the restricted area, and chase watercraft through the restricted area. Mechanically powered watercraft operated in a corridor must have a guarded propeller or use jet propulsion. The buoys or other similar devices shall be installed, maintained and replaced as required, by the commercial owner or business operator for as long as the corridor is in effect.

(2) The specific location and width of the marked corridors shall be subject to the approval of the city in accordance with the following provisions:

a. The upland property of the commercial owner must have at least twenty-five (25) yards of beachfront.

b. The corridor shall be designed so as to provide an appropriate level of safety for the type of watercraft that will transit therein.

(3) The commercial owner or business operator shall provide watercraft operators renting watercraft a written form notifying the watercraft operators of the special operating conditions set forth in this section and of the applicable penalties for violating any of the conditions. Before permitting rental watercraft to be operated within the corridor, the commercial owner or business operator shall have the watercraft operator sign the form, acknowledging that the operator has read the form and will comply with the special operating conditions.

(4) The commercial owner or business operator shall maintain a safety watch whenever any rental watercraft, other than a soft-sided watercraft, is in operation. The beachfront of each corridor shall be marked with one (1) sign on each side of the corridor of a size and color sufficient to warn all swimmers to stay out of the corridor; all such signs shall conform to Chapter 47 of this Code.

(5) All mechanically powered watercraft operators (other than the chase watercraft operator) shall proceed in the marked corridor at slow down minimum wake speed, as defined in section 8-166(b)(1), and sail powered watercraft operators shall proceed at the minimum speed necessary to maintain safe steerage. All watercraft operators shall yield the right-of-way to any swimmer. The commercial owner or business operator shall warn the watercraft operators when operating in the marked corridor to proceed at the appropriate speed and to yield the right-of-way to any swimmer and shall ensure that all rental watercraft meet all applicable federal and state safety equipment requirements. The commercial owner or business operator shall provide a personal flotation device to each individual who will occupy a rental watercraft, other than a soft-sided watercraft, and shall stress the importance of wearing same while the watercraft is being operated.

(6) At least one (1) chase watercraft shall be readily available in close proximity to the marked corridor for use by the commercial owner or business operator whenever any rental watercraft, other than a soft-sided watercraft, is in operation. Such watercraft shall be clearly identifiable as such with markings to be approved by the city.

(7) The rental watercraft of the commercial owner or business operator shall be color coded or otherwise plainly marked so as to permit the identification of the ownership of the rental watercraft from a distance of one hundred fifty (150) yards, and so as to distinguish the chase watercraft from the rental watercraft of the commercial owner or business operator.

(8) A commercial owner may not assign, sell, encumber or otherwise transfer a waiver. Any change of ownership of the commercial owner's property shall require the new owner to submit a new application subject to all of the conditions and requirements of this division.

(9) A business operator may not assign or otherwise transfer his rights under a waiver until the new business operator has submitted to the city manager a signed statement that the new business operator agrees to be bound by all of the conditions and requirements of this division.

(10) While in use, rental watercraft may be stored on the sandy beach above the high water mark. Overnight storage shall be allowed only if suitable measures are taken to secure the rental watercraft and associated equipment at a non-permanent storage area above the high water mark. Such storage area shall be subject to approval by the city.

(11) Fuel handling by the commercial owner or business operator on the sandy beach shall conform to the following measures, in addition to any other applicable laws or regulations:

a. All fuel containers shall be placed in city fire department approved containment vessels located above the high water mark to protect the beach environment from fuel spillage. A maximum of twenty-five (25) gallons of fuel may be stored at any one time per concession.

b. There shall be contingency plans for a fuel spill and equipment to contain and clean same shall be immediately available. The details of such plan shall be submitted to the city prior to the commencement of fuel handling on the sandy beach.

c. No fuel may be stored overnight.

(12) Major repairs of watercraft on the sandy beach are prohibited.

(13) The establishment of watercraft concessions for the city on the public beaches shall be in the manner set forth for recreation concessions in section 8-55.1, provided that the city shall be limited to one (1) concession agreement under section 8-55.1 for motorized watercraft.

(14) Any personal watercraft, as defined in Chapter 327, Florida Statutes, which are used by a watercraft concession operated under this section, shall be supplied with the best available technology for noise muffling.

(Ord. No. C-93-26, § 1, 5-18-93; Ord. No. C-96-24, § 1, 5-21-96; Ord. No. C-97-12, § 2, 5-6-97)

Sec. 8-175. Waiver application.

An application for a wavier with an application fee to be set by the city manager, which such application fee shall be set in accordance with the actual cost to the city of administering this waiver application process, but not to exceed five hundred dollars ($500.00), shall be filed with the city manager and include the following information:

(1) The name, address, telephone number and signature of the commercial owner.

(2) The address of the premises from which the watercraft rental concession will be conducted.

(3) The name, address, telephone number and signature of the business operator.

(4) A complete description of all activities proposed to be conducted under the waiver, including a description of the various types, sizes and approximate numbers of watercraft to be operated and a statement of provisions to be made for the safety of the public during operation under the waiver.

(5) A drawing showing the specific location of the activities to be conducted under the waiver and indicating the specific location and width of the marked corridor or corridors, the position of the buoys and beach front signage.

(6) Proof of public liability and property damage insurance coverage in the minimum amount of one million dollars ($1,000,000.00) combined single limit. All policies shall be maintained in full force and effect at all times a watercraft rental concession is in operation and shall be endorsed to provide the city with thirty (30) days advance written notice of cancellation.

(7) Any additional information which is reasonably necessary to enable the city commission to determine whether the activities proposed to be conducted under the waiver may constitute a reasonably likely threat of endangering public safety.

(Ord. No. C-93-26, § 1, 5-18-93)

Sec. 8-176. Action by the marine advisory board and city commission.

The marine advisory board shall initially review the waiver application and submit its recommendation to the city commission. The city commission, at a public hearing, may grant or deny an application. Among other factors, the city commission may consider whether:

(1) The waiver application is incomplete in a material respect.

(2) The waiver application has been fraudulently completed.

(3) The activity proposed under the waiver application could not be conducted without a reasonably likely threat of endangering public safety.

(Ord. No. C-93-26, § 1; 5-18-93)

Sec. 8-177. Suspension; revocation.

(a) Any waiver granted under the provisions of this division may be suspended or revoked by the city manager following notice to the commercial owner or business operator for any of the following reasons:

(1) Upon discovery that the waiver application was fraudulently completed.

(2) When the city manger finds that any activity conducted under the waiver presents a clear and present danger to members of the public. Clear and present danger as used herein means such activity creates a reasonably likely threat of endangering public safety. It shall be permissible inference that an activity creates a reasonably likely threat of endangering public safety if customers of a commercial owner or business operator have been issued nine (9) citations within the fiscal year of the city for operating the watercraft for which the commercial owner has been granted a waiver in violation of this division or other city or county ordinance or in violation of any federal or state law. For the purposes of this subsection, only those citations resulting in a finding of guilt by a court of law, or for which a plea of guilty or nolo contendere is entered, regardless of whether a violator is formally adjudicated guilty, applies.

(3) Upon discovery that the commercial owner or business operator has failed to fulfill any one of the obligations imposed on the commercial owner or business operator by this division, other than those pertaining to watercraft.

(4) When the operation of any watercraft permitted to be operated through the corridor results in a death or any injury to any swimmer or operator within the restricted area or marked corridor, if the negligence of the commercial owner or business operator contributed to such injury or death.

(5) When the commercial owner, business operator or their employees have been issued six (6) citations within the fiscal year of the city for violating any of the provisions of this division or other city or county ordinance or any federal or state law pertaining to watercraft. For the purposes of this subsection, only those citations resulting in a finding of guilt by a court of law, or for which a plea of guilty or nolo contendere is entered, regardless of whether a violator is formally adjudicated guilty, shall apply.

(b) Prior to a suspension or revocation becoming effective, the commercial owner or business operator shall be entitled to be heard by the city commission upon the filing of a request for such hearing, if the request is filed with the city clerk within five (5) business days after receipt of notice of suspension or revocation. The city commission may uphold, modify or repeal the suspension or revocation.

(Ord. No. C-93-26, § 1, 5-18-93; Ord. No. C-96-24, § 1, 5-21-96)

Sec. 8-178. Effective date.

This division shall become effective only upon approval by the Florida Department of Natural Resources of the boating restricted area and the completion of installation of regulatory markers by the city to delineate such area. The city shall publicize the effective date by means reasonably calculated to inform interested persons. Owners with contractual arrangements with a business operator to conduct watercraft rentals, in existence prior to such effective date, shall have sixty (60) days from such effective date to submit an application for a waiver as provided herein.

(Ord. No. C-93-26, § 1, 5-18-93)

EXAMPLE APPLICATION FORM

EXHIBIT A

CITY OF FORT LAUDERDALE
MARINE FACILITIES
APPLICATION FOR WATERWAY PERMITS, WAIVERS AND LICENSES

Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, licenses, permits and approvals involving municipal docking facilities or private uses in the waterways as regulated by Section 8 of the City Code of Ordinances or Section 47-19.3 of the City's Urban Land Development Regulations, shall be preceded by the execution and filing of the following application form available at the Office of the Supervisor of Marine Facilities. The completed application must be presented with the applicable processing fee paid before the agreement is prepared or the application processed for formal consideration (see City of Fort Lauderdale Code Section 2-157). If legal publication is necessary, the applicant agrees to pay the cost of such publication in addition to the application fee.

APPLICATION FORM
(Must be in Typewritten Form Only)

1. LEGAL NAME OF APPLICANT - (If corporation, name and titles of officers as well as exact name of corporation. If individuals doing business under a fictitious name, correct names of individuals, not fictitious names, must be used. If individuals owning the property as a private residence, the name of each individual as listed on the recorded warranty deed):

   NAME:

   TELEPHONE NO: _____ _____ FAX NO. _____
   (home) (business)

2. APPLICANT"S ADDRESS (if different than the site address):

3. TYPE OF AGREEMENT AND DESCRIPTION OF REQUEST:

4. SITE ADDRESS: ZONING:

   LEGAL DESCRIPTION:

5. EXHIBITS (In addition to proof of ownership, list all exhibits provided in support of the applications).

_____ _____
Applicant's Signature Date

==========

The sum of $_____ was paid by the above-named applicant on the _____ of _____, 200 ____ Received by:_____
City of Fort Lauderdale

==========For Official City Use Only==========

Marine Advisory Board Action
Formal Action taken on _____

Commission Action
Formal Action taken on _____

Recommendation_____
Action_____

Exhibit B

FORT LAUDERDALE
BEACH

CITY OF FORT LAUDERDALE
GENERAL CONDITIONS

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

1.01 **PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last**.**

1.02 **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**.**

1.03 **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**.**

1.04 **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.

1.05 **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.

1.06 **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.

1.12 DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS

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

Part II DEFINITIONS/ORDER OF PRECEDENCE:

2.01 BIDDING DEFINITIONS The City will use the following definitions in it's 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 Division immediately. Such notification must be received by the Procurement Services Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.

3.08 **MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle the bidder to any relief from the conditions imposed in the contract.

3.09 **SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.

3.10 **LIFE CYCLE COSTING**: If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.

3.11 **BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.

3.12 **USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest**.**

3.13 **QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Director reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform**.**

3.14 **BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond or 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 DIVISION (DIRECTOR), BY DELIVERING A LETTER OF PROTEST TO THE DIRECTOR WITHIN FIVE (5) DAYS AFTER A NOTICE OF INTENT TO AWARD IS POSTED ON THE CITY'S WEB SITE AT THE FOLLOWING LINK: http://www.fortlauderdale.gov/purchasing/notices_of_intent.htm**

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

PART IV BONDS AND INSURANCE

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

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

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

The Contractor shall provide to the Procurement Services Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractors 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: Proposals must be submitted by hard copy only. 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: 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:

Addendum No. Date Issued

P-CARDS: Will your firm accept the City's Credit Card as payment for goods/services?

YES _____ **NO**_____

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:
_____

_____
revised 6-16-11

Question and Answers for Bid #525-10962 - Motorized Watercraft Beach Concession

OVERALL BID QUESTIONS

There are no questions associated with this bid.