

Meeting Date: 4/12/2016

Agenda Item 2

REQUESTED COMMISSION ACTION:

Consent     Ordinance     Resolution     Consideration/Discussion     Presentation

SHORT TITLE    Approve ranking order for RFP L-13-16 Beach Equipment Concession, and authorize staff to negotiate a contract with the highest ranked firm Boucher Brothers Management, Inc. (Revenue contract.)

**Summary of Purpose and Why:**

RFP L-13-16 was issued to obtain responses from qualified firms to provide public rental of beach equipment and cabanas. City Commission approval of the ranking order presented by the Selection/Evaluation Committee is requested, and authorization is requested for appropriate City staff to negotiate contracts with the highest ranked firm Boucher Brothers Management, Inc. Further authorization is requested to continue with the succeeding ranked firm should an impasse occur in the negotiations with the recommended firm.

- (1) Origin of request for this action:    Staff
- (2) Primary staff contact:    Mark Beaudreau, Recreation Programs Administrator    954 786-4191
- (3) Expiration of contract, if applicable:    n/a
- (4) Fiscal impact and source of funding:    Resulting contract will provide revenue to the City.

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Parks & Recreation	<u>3-24-16</u>	<u>Approve</u>	<u>[Signature]</u>
General Services	<u>3/22/16</u>	<u>APPROVE</u>	<u>[Signature]</u>

[Signature]  
 City Manager    [Signature]

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1 <sup>st</sup> Reading	1 <sup>st</sup> Reading	Results:	Results:
2 <sup>nd</sup> Reading			

MEMORANDUM

Purchasing #16-059  
March 22, 2016

To: Dennis W. Beach, City Manager  
Through: Otis J. Thomas, General Services Director *OT*  
From: Cassandra LeMasurier, Purchasing Supervisor *CL*  
Subject: Background for RFP L-13-16 "Beach Equipment Concession"

Contract Need/Background

The Request for Proposals (RFP) #L-13-16 was issued to select a firm to provide rental of beach equipment and concession at the public beach. Scott Moore, Recreation Manager, provided the project scope of services.

Bidders List

The bidder list for this project was created by using companies suggested by the requesting department, companies that have responded to prior solicitations, companies that have requested their names be placed on the mailing list, and companies from appropriate listings in other sources.

Number of firms submitting proposals .....2

Advertising

The Bid was advertised in the Sun Sentinel, and notices were sent to bid notice agencies throughout the nation. Bid notices are also posted on the City's web page and sent to all registered bidders by email.

Market Research

The General Services Department conducted outreach to one (1) Pompano Beach beach concession company to notify them of this bid opportunity.

Selection/Evaluation Committee

Two (2) responses were received to the solicitation. The Selection/Evaluation Committee met on March 16, 2016 (in a public meeting) to review and evaluate the responses. Copies of the minutes from the meeting, and the voting matrix, are attached.

Recommendation

The recommendation from the Selection/Evaluation Committee to the City Commission is to approve the ranking order, and authorize the City staff to negotiate a contract with the highest ranked firm Boucher Brothers Management, Inc. with the additional authorization to continue negotiations with the succeeding ranked firm should an impasse occur in the negotiations with the recommended firm.

**MINUTES  
SELECTION / EVALUATION COMMITTEE**

**RFP #L-13-16  
BEACH EQUIPMENT CONCESSION  
Purchasing Conference Room  
1190 NE 3<sup>rd</sup> Ave. Building C, Pompano Beach, FL  
1:00 p.m. 3/16/2016**

The committee consisted of:

Kate Belcher, Recreation Supervisor (Voting)  
Lieutenant James Gray, Ocean Rescue (Voting)  
Cynthia Kitts, Recreation Manager (Voting)  
Scott Moore, Recreation Manager (Voting)  
Also in attendance: Cassie LeMasurier, Purchasing Supervisor (Non-Voting)

The meeting was held to evaluate the proposals received in response to the City's solicitation to establish a contract to provide public rental of beach equipment and cabanas. This meeting was posted as a "Public Meeting" both at City Hall and at the Purchasing Division office, and on the City's website. Two firms submitted responses to the City's Request for Proposals.

Scott Moore led the technical discussion. The Purchasing Supervisor reviewed evaluation procedures and distributed Conflict of Interest Statements for completion by all voting members.

Each Committee member had reviewed all of the responses in advance of the meeting.

The Committee discussed each of the proposals in alphabetical order, and scored the responses using voting forms containing the evaluation criteria published in the RFP, with the following results:

(1)	Boucher Brothers Management, Inc. ....	353
(2)	Oceanside Beach Service, Inc. ....	287

A copy of the voting matrix is attached. The Committee decided oral presentations would not be required as the scoring results showed sufficient distinction between the responding firms. An agenda item will be prepared to present the ranking to the City Commission for their approval to negotiate a contract with the highest-ranked firm, Boucher Brothers Management, Inc.

The Committee meeting adjourned at 3:10 p.m.

RFP L-13-16 Beach Equipment Concession Ranking Summary

	<b>Boucher Brothers Management, Inc.</b>	<b>Oceanside Beach Service, Inc.</b>
Kate Belcher	87	74
James Gray	85	43
Cynthia Kitts	96	90
Scott Moore	85	80
Total	353	287
Ranking	1	2

	Total Potential Points	<b>Boucher Brothers Management, Inc.</b>	<b>Oceanside Beach Service, Inc.</b>
<b>Committee Member</b>	Potential Points		
<b><u>Kate Belcher</u></b>			
Prior Experience	0-15	8	13
Qualifications of Personnel	0-10	10	8
Availability of Personnel	0-10	10	10
Proximity of the Nearest Office	0-5	2	5
Financial Responsibility	0-20	20	10
Equipment and Services	0-20	17	18
Payment guarantee to the City	0-20	20	10
	Total =	87	74

	Potential Points		
<b>Committee Member</b>	Potential Points		
<b><u>James Gray</u></b>			
Prior Experience	0-15	13	8
Qualifications of Personnel	0-10	7	5
Availability of Personnel	0-10	9	5
Proximity of the Nearest Office	0-5	3	5
Financial Responsibility	0-20	18	6
Equipment and Services	0-20	17	9
Payment guarantee to the City	0-20	18	5
	Total =	85	43

	Total Potential Points	<b>Boucher Brothers Management, Inc.</b>	<b>Oceanside Beach Service, Inc.</b>
<b>Committee Member</b>	Potential Points		
<b>Cynthia Kitts</b>			
Prior Experience	0-15	14	15
Qualifications of Personnel	0-10	10	8
Availability of Personnel	0-10	9	10
Proximity of the Nearest Office	0-5	3	5
Financial Responsibility	0-20	20	19
Equipment and Services	0-20	20	18
Payment guarantee to the City	0-20	20	15
	Total =	96	90

<b>Committee Member</b>	Potential Points		
<b>Scott Moore</b>			
Prior Experience	0-15	10	15
Qualifications of Personnel	0-10	10	10
Availability of Personnel	0-10	10	8
Proximity of the Nearest Office	0-5	0	5
Financial Responsibility	0-20	20	12
Equipment and Services	0-20	15	15
Payment guarantee to the City	0-20	20	15
	Total =	85	80

	Total Potential Points	<b>Boucher Brothers Management, Inc.</b>	<b>Oceanside Beach Service, Inc.</b>
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<b>Committee Members (Average)</b>	Potential Points		
Prior Experience	0-15	11	13
Qualifications of Personnel	0-10	9	8
Availability of Personnel	0-10	10	8
Proximity of the Nearest Office	0-5	2	5
Financial Responsibility	0-20	20	12
Equipment and Services	0-20	17	15
Payment guarantee to the City	0-20	20	11
	<b>Average Score =</b>	<b>88</b>	<b>72</b>

<b>Committee Members (Total)</b>	Potential Points		
Prior Experience	0-60	45	51
Qualifications of Personnel	0-40	37	31
Availability of Personnel	0-40	38	33
Proximity of the Nearest Office	0-20	8	20
Financial Responsibility	0-80	78	47
Equipment and Services	0-80	69	60
Payment guarantee to the City	0-80	78	45
	<b>Grand Total=</b>	<b>353</b>	<b>287</b>

EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: Boucher Brothers

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>8</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>10</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>10</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>2</u>
5 Financial Responsibility	0-20 points	<u>20</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>17</u> <del>20</del>
7 Payment guarantee to the City	0-20 points	<u>20</u>
<b>TOTAL</b>		<u>87</u>

List the reasons for this evaluation (justify the rating/scoring):

- + • over 910 staff available with experience
- • nearest office is located in Miami
- + • good healthy financials
- + • new equipment to be purchased for pompano site
- + • \$30,000 over requested minimum for payment guarantee

Kate Belcher  
Signature of Evaluator

3.16.16  
Date

Kate Belcher  
Printed Name

**EVALUATION CRITERIA**  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: oceanside beach service

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>13</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>8</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>10</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>5</u>
5 Financial Responsibility	0-20 points	<u>10</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>18</u>
7 Payment guarantee to the City	0-20 points	<u>10</u>
<b>TOTAL</b>		<u>74</u>

List the reasons for this evaluation (justify the rating/scoring):

- + • COPPS prior experience
- + • office located in pompano beach
- • semi-healthy financials
- • minimum payment guarantee

K Belcher  
Signature of Evaluator

3.16.16  
Date

Kate Belcher  
Printed Name

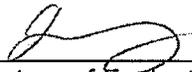
EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: Boucher Brothers

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>13</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>7</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>9</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>3</u>
5 Financial Responsibility	0-20 points	<u>18</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan 14	0-20 points	<u>17</u>
7 Payment guarantee to the City	0-20 points	<u>18</u>
<b>TOTAL</b>		<u>85</u>

List the reasons for this evaluation (justify the rating/scoring):

This company seemed to have adequate experience with similar projects. The size of the company with 910 employees in combination with strong financial responsibility was appealing. Also bringing all new equipment to Pompano Beach would improve our beach appearance.

  
Signature of Evaluator

3-16-16  
Date

James Gray  
Printed Name

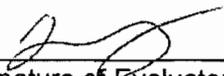
EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: Oceanside

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>8</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>5</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>5</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>5</u>
5 Financial Responsibility	0-20 points	<u>6</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>9</u>
7 Payment guarantee to the City	0-20 points	<u>5</u>
<b>TOTAL</b>		<u>43</u>

List the reasons for this evaluation (justify the rating/scoring):

This vendor offered the minimum payment guarantee. The financial responsibility is questionable. I am unclear as to the overall size of the company. The schedule of rental fees was not complete.

  
Signature of Evaluator

3-16-16  
Date

James Gray  
Printed Name

EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: Boucher Brothers

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>14</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>10</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>9</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>3</u>
5 Financial Responsibility	0-20 points	<u>20</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>20</u>
7 Payment guarantee to the City	0-20 points	<u>20</u>
<b>TOTAL</b>		<u>96</u>

List the reasons for this evaluation (justify the rating/scoring):

~~Overall~~, The proposal was hard to follow - unclear on the amount of current contracts, they list another city instead of City of Pompano in several areas as well. Seems as though the company is strong with their professional personnel with commitment to strong customer service.

C. Missy Kitts  
Signature of Evaluator

3/16/16  
Date

C. Missy Kitts  
Printed Name

EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: Oceanside Beach Services

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>15</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>8</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>10</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>5</u>
5 Financial Responsibility	0-20 points	<u>19</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>18</u>
7 Payment guarantee to the City	0-20 points	<u>15</u>
<b>TOTAL</b>		<u>90</u>

List the reasons for this evaluation (justify the rating/scoring):

although they list staff members, not clear on the total number of staff. The list of services + equipment lacks information such as multi-day rate. Payment guarantee is the minimum asking price

C. Missy Kittz  
Signature of Evaluator

3/16/16  
Date

C. Missy Kittz  
Printed Name

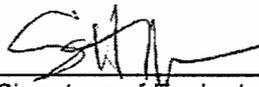
EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: BOUCHAL BROTHERS

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>10</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>10</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>10</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>0</u>
5 Financial Responsibility	0-20 points	<u>20</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>15</u>
7 Payment guarantee to the City	0-20 points	<u>20</u>
<b>TOTAL</b>		<u>85</u>

List the reasons for this evaluation (justify the rating/scoring):

- LACK OF ATTENTION TO DETAIL WITH SOME ASPECTS OF PROPOSAL
- STAFF TRAINING, PRESENTATION & EQUIPMENT = EXCELLENT
- SEEM TO BE A VERY WELL RUN & ESTABLISHED BUSINESS.

  
Signature of Evaluator

3-16-16  
Date

SCOTT R MOORE  
Printed Name

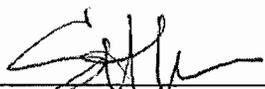
EVALUATION CRITERIA  
RFP L-13-16 – Beach Equipment Concession

VENDOR NAME: OCEANSIDE BEACH

<u>Criteria</u>	<u>Point Range</u>	<u>Score</u>
1 Prior experience with projects of similar size: a. Number of similar projects b. Prior experience with the City of Pompano Beach c. Three references	0-15 points	<u>15</u>
2 Qualification of personnel: a. Number of staff b. Experience of staff in this type of environment	0-10 points	<u>10</u>
3 Availability of personnel: a. Current number of concession contracts	0-10 points	<u>8</u>
4 Proximity of the headquarters or nearest office to the City of Pompano Beach:	0-5 points	<u>5</u>
5 Financial Responsibility	0-20 points	<u>12</u>
6 Equipment and services to be provided: Beach Equipment Rental a. Type (cabanas, chaises, umbrellas, floats, etc.) b. Age of equipment c. Schedule of rental fees for all equipment indicated above d. Additional services to be offered at beach Marketing Plan	0-20 points	<u>15</u>
7 Payment guarantee to the City	0-20 points	<u>15</u>
<b>TOTAL</b>		<u>90</u>

List the reasons for this evaluation (justify the rating/scoring):

- FINANCIALS WORRIED ME WITH TOTAL REVENUE VS TOTAL EXPENSES. - COULD THEY HANDLE PROPOSED FEES?
- PAYMENT GUARANTEE CHANGED LAST MINUTE.
- PROFESSIONAL SERVICE / HANDLED CITY FOR YEARS.

  
Signature of Evaluator

3-16-16  
Date

SCOTT R. MOORE  
Printed Name



Florida's Warmest Welcome

**REQUEST FOR PROPOSALS**

**L-13-16**

**BEACH EQUIPMENT CONCESSION**

**RFP OPENING: FEBRUARY 23, 2016, 2:00 p.m. (local)**

**PURCHASING OFFICE**

**1190 N.E. 3RD AVENUE, BUILDING C (Front)**

**POMPAÑO BEACH, FLORIDA 33060**

**CITY OF POMPANO BEACH, FLORIDA**

**REQUEST FOR PROPOSALS**

**L-13-16**

The City of Pompano Beach, Florida invites qualified firms to submit proposals, qualifications, and experience for consideration to provide Beach Equipment Concession.

**SECTION I**

**A. PROJECT SCOPE**

The City of Pompano Beach desires to enter into a contract with a concessionaire to provide public rental of beach equipment and cabanas. The term of Agreement will be five (5) years, with the option to renew for a maximum of one (1) additional five-year period, subject to mutual agreement.

Beach equipment rental may occur on the area of Pompano Beach described as follows:

South of the Pier – Starting 150 yards north of south line of public beach extending north to 150 yards south of municipal pier and west to 25 yards from lifeguard station line. Equipment will not be located within 15 yards of lifeguard stands.

North of the Pier – Starting 150 yards north of pier extending north to 150 yards of north boundary line of public beach and west to 25 yards west of lifeguard stand line. Equipment will not be located within 15 yards of lifeguard stands.

Any concessionaire equipment is not to exceed of the line of sight of the following:

- East - between 2 adjacent lifeguard towers (*rationale: lifeguard visibility*)
- West – between 2 adjacent cement garbage cans placed mid beach (*rationale – emergency vehicle access*)

Total beach attendance figures at the municipal beach for 2013 were 1,880,603 patrons, and for 2014 were 2,235,832 patrons.

1. Equipment And Services

- a. Beach Equipment

The beach equipment and cabanas shall not be installed or operated beyond the area protected by the Ocean Rescue Division. Beach equipment as referred to in this RFP shall mean chairs, umbrellas, cabanas, wind screens, and related beach equipment.

The Concessionaire shall be permitted to operate as a free enterprise and to establish rates for renting beach equipment and services. A list of the rates must be on file with the City of Pompano Beach and posted by the Concessionaire. A schedule of rate revisions must be provided to the City Manager or designee at least ten (10) days prior to posting to the public.

Any additional buildings required by the Concessionaire for storage shall conform to all applicable City codes and building requirements, and shall remain the property of the City of Pompano Beach upon termination of this Agreement. Size and color of storage shall be decided by the Parks and Recreation Department.

The Concessionaire shall not be authorized to rent any equipment which is not scheduled in the response to the RFP, or covered by the insurance policy furnished the City, unless prior to such rental, the Concessionaire shall have furnished an additional list of equipment to the City Manager or designee and received approval by the City Commission.

The Concessionaire shall provide adequate year-round service to take care of the needs and demands of the public, and shall provide a variety of equipment according to the needs of each season.

The services covered by this RFP and ensuing Agreement shall be offered to the public at all times that a reasonable demand for such services exist during daylight hours. Concessions shall not be operated during the hours of darkness, which for the purposes of this RFP and ensuing Agreement begins one hour after sunset.

2. Beach Equipment Rules and Regulations

1. Beach chairs shall be deployed in a manner and number that will assure public access and will encourage public use of the beach.
2. The Concessionaire must prepare a written evacuation plan for the prompt removal of all facilities and equipment used in the concession operations from the beachfront within one (1) hour of notification by appropriate City authorities and/or within eight (8) hours of issuance of a Hurricane Warning by the Broward County Office of Emergency Management.

3. Beach Chairs will be permitted to remain on the sand overnight, as long as they are in good condition, neatly stacked (a maximum of 10 chairs per stack for plastic and 4 chairs per stack for wood) and arranged side by side.
4. Concession facilities used for dispensing services and/or storage will be allowed to remain on beach, as long as they are well maintained and kept west of the lifeguard stands.
5. Violators will have their concessions closed and the City shall have the right to confiscate any and all facilities and equipment left on beach overnight.
6. The Concessionaire will be responsible for any damage caused to any City owned property and/or beachfront during the time of its usage of said area.
7. The Concessionaire and their employees shall wear a City approved identification badge and must present themselves in a professional and courteous manner, at all times during hours of operation.
8. Concession facilities, furnishings and equipment shall be neat, clean and well maintained at all times. The concession operation must be aesthetically pleasing and non-detrimental to the surrounding environment.
9. Proposers should include as part of their submission photographs of all actual beach equipment to be used.
10. All Umbrellas, chairs and Cabanas will be blue and white.
11. Advertising will not be permitted without the express written consent of Parks and Recreation.
12. The concessionaire will be required to submit monthly statements of gross receipts in a format approved by Parks and Recreation.
13. The concessionaire will comply with all City, State and Federal laws relating to access for people with disabilities.
14. Beach Concession Services shall be limited to the rental of beach chairs and lounges, beach umbrellas and cabanas. No motorcrafts of any kind including jet skis, wave runners or motorboats. No sailboats, kayaks, scuba equipment or kite boarding allowed on public beach area. Concessionaire may have boogie boards, paddle board, snorkel equipment and lotions available to the public.

3. Equipment for Beach Service

Equipment proposed must meet the following minimum specifications.

1. Strap Lounge
  - a. Style: Chaise Lounge
  - b. Construction: Aluminum
  - c. Size: 79.5 x 24
  - d. Weight: 19 lbs.
  - e. Frame color: off white
  - f. Strap width: 2"
  - g. Stacking quantity: 10
  - h. Strap Colors: blue and white
2. Double Wooden Lounge
  - a. Construction: Pressure treated pine with galvanized hardware
  - b. Size: 13"H x 56"W x 72"L
3. Cabana
  - a. Fabric: Sunbrella
  - b. Size: 52"H x 47"l x 57"W
  - c. Construction: Aluminum Ribs and stainless steel bolts
  - d. Color: Blue
4. Umbrella
  - a. Fabric: Sunbrella
  - b. Size: 7.5'H x 8'W
  - c. Color: Blue
5. Cushion for Lounge
  - a. Fabric: Texaline
  - b. Thickness: 3"
  - c. Color: Blue
  - d. Size: 69.5" x 22.5"

4. Rules for Use of Motor Vehicles and Small Off-Road Vehicles on Beach

1. "Small off-road vehicle" shall mean golf carts and all terrain vehicles (ATV's) and any trailer attachment. Anyone driving a "small off-road" vehicle must present an approved safety course certificate before driving vehicle on beach.
2. Concessionaire's motor vehicle, small off-road vehicle and any trailer attached shall only be allowed on beachfront for purposes of supplying the concession operation and to initially deploy equipment at the beginning of the day, remove equipment at the close of operations each day and must be

removed from the beachfront immediately thereafter. Anyone operating a motor vehicle or small off-road vehicle on behalf of Concessionaire must have a current Florida Drivers License. Supplying and removing will only be permitted during Concessionaire's regular hours of operation, and shall be completed safely. No Motor vehicle, or small off-road vehicle or any trailer attached will be permitted on the beach after sunset or prior to sunrise. Access to the beach will only be permitted via the predetermined and assigned beach access points.

3. Motor vehicles or small off-road vehicles including any attached trailers operated on the beachfront shall not exceed 5mph.
4. All motor vehicles and small off-road vehicles must have signage, on each side with the name of the concession operator.
5. Concession operation shall be limited to use of one (1) "Small off road Vehicle" and one (1) attached trailer to supply and service the concession operation.
6. Prior to entering Beach Area lights of vehicle must come on.
7. Passenger and Drivers front windows must be down
8. All small off-road vehicles must stay in hard packed sand west of area provided by Ocean Rescue.

5. Concessionaire's Responsibility

Concessionaire shall provide all equipment in good and serviceable condition at the commencement of the Agreement in sufficient quantity to service the public in respect to the best interest and convenience of the patrons of the Municipal Pier, concession areas, and Beach, as described herein. The Concessionaire shall maintain the equipment in a good state of repair at all times, and shall repair and replace broken or weather-beaten equipment. City shall have right to inspect such equipment periodically to determine its condition, but shall be under no obligation to do so. Advertising signs shall not be displayed except for identification signs approved by the City Manager or designee for size, wording, and number, and in accordance with the applicable City of Pompano Beach Ordinances. The Concessionaire shall insure that the rates for pier admissions, beach concessions, vending, etc. are posted.

The Concessionaire shall not place or install equipment in any location other than herein specified.

At all times, cabanas shall be placed so that there shall be minimum clearance of ten feet between each cabana on all sides. The Concessionaire's placement of

equipment must never interfere with Ocean Rescue Division's observation of the public for said public's welfare and safety. Areas for placement of umbrellas and regulations of water-borne equipment shall be under the regulation of the Beach Safety Division.

The Concessionaire must, at the time of an official hurricane warning, arrange to remove all equipment from the beach area being served.

The public in general, shall, at all times, have the free use of space allocated to the public in front of the Concessionaire's location.

All vendor attendants shall be neatly attired in approved uniforms properly identifying the Concessionaire and the attendant. No person convicted of any offense involving moral turpitude or a felony shall be employed by the Concessionaire.

The City of Pompano Beach reserves the right to approve or reject, for any reason, Concessionaire's staff assigned to this project at any time. Criminal background checks will be required and will be paid for by the Concessionaire.

The Concessionaire shall so conduct their business as to render a service to the public in a dignified manner and with no pressure, coercion, persuasion or hawking done by the Concessionaire or their attendant(s) in an attempt to influence the public to use this service.

The Concessionaire shall furnish the necessary janitorial services to maintain all areas in a proper state of cleanliness, i.e.: litter and debris as a result of this operation.

The Concessionaire shall not install their equipment in an area outside of their own concession area, nor shall the Concessionaire interfere with the operation of other concessionaires. Disputes arising between Concessionaires concerning their rights under their Agreements shall be reported to the City Manager or designee for review and necessary action.

In the event of complaints made by the public as to the manner of operation of the concession area, such matter at the discretion of the City Commission, may be heard by the City Commission after due notice to the Concessionaire.

The Parks and Recreation Program Administrator, or such other person properly designated by the City Manager, shall be responsible for the enforcement of this Agreement and in the event any violation is reported to that office or is brought to the attention of that office, the Director or designee shall investigate the same and report the findings to the City Manager. The City Manager shall then take such action and make such recommendations as are necessary. The action of the City Manager pursuant to this paragraph shall be final and binding on Concessionaire.

The Concessionaire shall adhere to a maintenance schedule set up by the City Manager's designee and shall provide personnel to remove cabanas and rental equipment according to that schedule to facilitate the cleaning of the Municipal Beach. The Concessionaire will be consulted on the maintenance scheduling.

The Concessionaire is responsible for the acquisition of all City and County business tax receipts, fees and permits as applicable.

6. Non-Discrimination

The Concessionaire shall not unlawfully discriminate against any person in its operations and activities in fulfilling its obligations under this Agreement. This shall include compliance with the Americans with Disabilities Act. In addition, Concessionaire's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery. Compliance and performance by the Concessionaire of the non-discrimination provisions of this Agreement is an express condition hereof and any failure by the Concessionaire to so comply and perform shall be a default as provided in this Agreement and the City may exercise any right as provided herein and as otherwise provided by law.

7. Water Damage

It is expressly agreed and understood by and between the parties to this Agreement that the City shall not be liable for any damage or injury by water, which may be sustained by the Concessionaire or for any other damage or injury resulting from the carelessness, negligence or improper conduct on the part of the Concessionaire, its agents or employees, or by reason of the breakage, leakage, or obstruction of the water.

8. No Assignment or Subletting

Neither the premises described herein nor any portion thereof shall be sublet nor shall this Agreement or any interest therein be assigned, hypothecated, or mortgaged by Concessionaire without the prior written consent of the City. Consent shall not be unreasonably withheld.

9. Reports And Records

The Concessionaire shall furnish promptly to the City Treasurer, a quarterly report of income by type that shall be true, accurate, and complete. At the time of each rental, the Concessionaire shall furnish to the customer a true, complete, and accurate pre-numbered receipt, and retain a duplicate copy. The Concessionaire shall open a bank account and deposit on a daily basis each day's receipt intact.

All records of the Concessionaire shall be made available for check and audit by the City of Pompano Beach Internal Auditor at all reasonable times, during the period of this Agreement, and for three (3) years from the date of final payment under this Agreement.

These records shall include, but not be limited to, Florida State sales tax returns, federal payroll tax returns, and all supporting payroll records, bank statements, canceled checks and any other records requested by the Internal Auditor of the City. The Concessionaire shall furnish to the City an annual financial report prepared by an independent certified public accountant within sixty (60) calendar days of the end of each annual Agreement period.

10. Termination for Cause

Violation of any of the covenants, duties, or terms of this Agreement shall be cause for termination of this Agreement. The Concessionaire shall also comply in all particulars with all rules, regulations or ordinance and particularly in activities conducted upon the public beach by the City of Pompano Beach which shall in no way at any time be improper, immoral or illegal and gambling of any type, kind or nature, direct or indirect is specifically prohibited.

In the event of a violation of any of the terms of the Agreement, the Concessionaire shall be given fifteen (15) days notice of the violation and the City Commission at its discretion shall have the right to cause a hearing to be had on said violation, and at such hearing may cancel said Agreement or compel Concessionaire to comply with the terms of this Agreement. No Agreement fees shall be refunded but same shall be forfeited to the City as liquidated damages.

The acceptance of payments by the City, whether in a single instance or repeatedly, after it falls due or after knowledge of any breach hereof by the Concessionaire, where the giving or making of any notice or demand, whether according to any statutory provision or not, or any active or series of acts except an express waiver in writing shall not be construed as waiver of the City's right or of any other right hereby given the City or as an election not to proceed under the provisions of this Agreement.

The failure of the City to enforce any covenant, duty, term, or condition of the Agreement shall not be deemed to void or affect the right of the City to enforce the same covenant, duty, term, or condition on a subsequent default or breach.

11. Termination for Convenience of City

Upon thirty (30) calendar days written notice delivered by certified mail, return receipt requested, to the Concessionaire, the City may without cause and without prejudice to any other right or remedy, terminate the agreement for the City's convenience whenever the City determines that such termination is in the best

interest of the City. Where the agreement is terminated for the convenience of the City the notice of termination to the Concessionaire must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of the termination. Upon receipt of such notice, the Concessionaire shall promptly discontinue all work at the time and to the extent indicated on the notice of termination. The City will refund to the Concessionaire a prorated portion of the quarterly payment, calculated based on the date of termination.

12. Monthly Payments

Proposer is to state the amounts on the Proposal Signature Page that they will pay to the City in exchange for operation of the beach equipment concession. The selected proposer will pay to the City of Pompano Beach, monthly payments (based on fiscal year) in advance of each month, as indicated in their proposal, in full accordance with all terms and conditions as set forth in this proposal, which will become part of said Agreement.

The minimum monthly payment payable to the City for the first five-year Agreement term, shall be the minimum annual guarantee divided by twelve (12) as proposed herein plus applicable Florida State Sales Tax, or 15% of annual gross sales, whichever is the greater of the two. If 15% of annual gross sales exceeds the proposed minimum annual guarantee the proposer will remit the additional amount to the City in one payment within ninety (90) days of the end of that calendar year. The minimum monthly payment payable to the City for any renewal period shall be subject to negotiation.

Beginning upon commencement of the Agreement, and then fifteen (15) days prior to the beginning of each month thereafter, the Concessionaire shall pay the monthly payment, plus sales tax.

In the event the Concessionaire fails to make any payments to the City more than seven (7) days after the same is due, the Concessionaire shall pay to the City for such privilege an additional charge of One Hundred Dollars (\$100.00) per day for each day's delay in payment retroactive to the first day the payment was due.

13. Proposal Surety

Each proposal must be submitted on the prescribed form and accompanied by a certified check or proposal bond executed on the prescribed form, payable to the City of Pompano Beach, Florida, in an amount not less than 5 percent (5%) of the amount bid. (The total amount is the Proposed Grand Total for the Five Year Concession Period as stated on the Proposal Signature Page.)

If the successful proposer fails to enter into a concession Agreement with the City due to the fault of the proposer, the proposal surety will be forfeited to the City.

The proposal surety of the successful proposer will be returned upon receipt of an acceptable Irrevocable Letter of Credit as described below.

14. Letter Of Credit

The successful proposer shall provide a continuous security in the form of an Irrevocable Letter of Credit in a form acceptable to the City. This letter of credit will provide a source of funds to help cover any damages to the City upon failure of the successful proposer to perform any or all of its obligations under the terms of this RFP and ensuing Agreement. The successful proposer shall provide the initial Irrevocable Letter of Credit to the City fifteen (15) days in advance of the effective date of this Agreement and a new Irrevocable Letter of Credit shall be provided thirty (30) days prior to the expiration of the current period to provide security for the succeeding period. Each Irrevocable Letter of Credit shall be in an amount equal to the concession fee for that period.

The failure to provide a new Irrevocable Letter of Credit in a form acceptable to the City, in the times indicated above, shall be a breach of this contract and entitle the City to demand payment under the outstanding document. Demand by the City under the Letter of Credit does not act as a waiver of any other rights or remedies that the City may have.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

## SECTION II

### **A. SUBMISSION OF PROPOSALS**

1. Eligibility

The firm must clearly indicate their experience in the field as a beach equipment concessionaire. In addition, staffing should be sufficient to this concession along with other concession areas the proposer may have.

2. Information to be Included in the Proposal

To assure consistency, proposals must conform to the following format:

a. Title Page

Show the RFP title, the name of proposer's firm, Federal Employer Identification Number for the firm, address, telephone number, name of contact person, and the date.

b. Table of Contents

Include a clear identification of the material by section and by page number.

c. Letter of Transmittal (limit to 2 pages)

- (1) Briefly state the Proposer's understanding of the service to be offered and make a positive commitment to perform the service.
- (2) Give the name(s) of the person(s) who will be authorized to make representations for the Proposer, their title(s), address, and telephone numbers.

d. City Provided Forms to be Returned

- (1) Completed "Proposal Signature Page," including proposer minimum guaranteed annual payments information.
- (2) Return all RFP pages, initialed where indicated.

e. Project Scope Section

The scope section must be in written form and include the following:

- (1) Identification and explanation of the services to be provided for the beach equipment concession.
- (2) Identification of types and age of equipment to be offered for rent.
- (3) Approach the firm will use to market the beach concession service.

f. Annual Guarantee

Proposer must provide the annual guaranteed payment amount to the City for each period for the initial three-year period of the Agreement and all subsequent renewals.

The City has established the minimum annual rates for each year of the contract below. Proposers must include a minimum annual rent rate for each year where indicated on the "Proposal Signature Page".

<u>Contract Year</u>	<u>City's Minimum Annual Rate</u>
Year One	\$50,000*
Year Two	\$65,000*
Year Three	\$75,000*
Year Four	\$90,000*
Year Five	\$100,000*

\*Fixed annual amount, or 15% of gross sales, whichever is the greater of the two.

If applicable, provide details of any additional proposed revenue sharing and estimates of projected sales.

g. Profile of the Proposer

- (1) State whether the firm is local, regional or national.
- (2) Give the location of the office from which the concession will be administered and where additional equipment can be drawn from.
- (3) Describe the number of similar concession projects currently under contract to the firm.

h. References

Provide at least three references for which the firm has performed a concession project to include:

Name, address, and telephone number of firm.

Contact person at the referenced firm.

i. Summary of Proposers Qualifications

- (1) Identify the managers, supervisors, and/or individuals that will work on the concession.
- (2) Describe firm's experience in similar concession Agreements within the State of Florida.

j. Financial Information

Provide a copy of the most recent audited financial statements for the proposing firm. If audited financial statements are not available, provide a copy of the most recent compiled financial statements, and a copy of the most recent tax form.

You may include additional information that will assist the City in the evaluation of the financial stability of your firm.

k. Proposal surety for 5 percent (5%) of the total amount proposed.

l. Submit one (1) original unbound and four (4) bound copies of the proposal. All copies should be on 8 1/2" x 11" plain white paper, typed. Proposers must submit one (1) original copy of the Proposal on electronic media in printable Adobe or Microsoft Word format (or other format approved by the City). Duplicate copies must contain all information included in the original submittal. Failure to adhere to the submittal quantity criteria may result in the Proposal being considered non-responsive.

**B. QUESTIONS AND COMMUNICATION**

All questions regarding the RFP are to be submitted in writing to the Purchasing Office, 1190 N.E. 3rd Avenue, Building C (Front), Pompano Beach, Florida 33060, fax (954) 786-4168, or email [purchasing@copbfl.com](mailto:purchasing@copbfl.com). All questions must include the inquiring firm's name, address, telephone number and RFP name and number. Questions must be received at least seven (7) calendar days before the scheduled solicitation opening. Oral and other interpretations or clarifications will be without legal effect. Any addendum necessary to answer questions will be posted to the City's website, and it is the Proposer's responsibility to obtain all addenda before submitting a response to the solicitation.

**C. ADDENDA**

The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this solicitation the City will attempt to notify all known prospective Proposers, however, it shall be the responsibility of each Proposer, prior to submitting their response, to contact the City Purchasing Office at (954) 786 4098 to determine if addenda were issued and to make such addenda a part of their proposal.

**D. ACCEPTANCE PERIOD**

Proposals in response to this RFP must be valid for a period no less than 120 days from the closing date.

**E. RFP CONDITIONS AND PROVISIONS**

A duly authorized official of the proposing company must sign the proposal. The completed and signed proposal (together with all required attachments) must be returned to City on or before the time and date stated herein. All proposers, by submission of a proposal, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. Any alteration, erasure, or interlineations by the proposer in this RFP shall constitute cause for rejection. Exceptions or deviations to this proposal may not be added after the submittal date.

All proposers are required to complete all information requested in this RFP. Failure to do so may result in the disqualification of proposal.

The City reserves the right to postpone or cancel or this RFP, or reject all proposals, if in its judgment it deems it to be in the best interest of the City to do so.

The City reserves the right to waive any technical or formal errors or omissions and to reject all proposal(s), or to award contract for the items hereon, in part or whole, if it is determined to be in the best interests of the City to do so.

The successful proposer shall be in complete compliance with all of the specifications, terms, and conditions of this RFP as outlined above.

The City shall not be liable for any costs incurred by the proposer in the preparation of proposals or for any work performed in connection therein.

The City reserves the right to reject any or all proposals. All proposals and supporting materials submitted in response to this RFP will become the property of the City.

**F. SMALL BUSINESS ENTERPRISE PROGRAM**

The Pompano Beach City Commission has established a voluntary Small Business Enterprise (SBE) Program to encourage and foster the participation of Small Business Enterprises in the central procurement activities of the City. The City of Pompano Beach

is strongly committed to ensuring the participation of Small Business Enterprises (SBE's) as contractors and subcontractors for the procurement of goods and services. The definition of a SBE, for the purpose of the City's voluntary program, is taken from the State of Florida Statute 288.703(1).

As of the date of publication of this solicitation, a small business means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in Florida that has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

The City encourages all firms to undertake good faith efforts to identify appropriate Small Business Enterprise partners. Sources of information on certified Small Business Enterprises include the Broward County Small Business Development Division, the State of Florida Office of Supplier Diversity, South Florida Water Management District, and other agencies throughout the State. The City includes links to these organizations from the City's website [www.pompanobeachfl.gov](http://www.pompanobeachfl.gov). Please indicate in your response if your firm is a certified Small Business Enterprise.

**Please note that, while no voluntary goals have been established for this solicitation, the City encourages small business participation in *all* of its procurements.**

#### **G. LOCAL BUSINESS PROGRAM**

On March 23, 2010, the City Commission approved a Resolution establishing a Local Business Program, a policy to increase the participation of City of Pompano Beach businesses in the City's procurement process.

You can view the list of City businesses that have a current Business Tax Receipt on the City's website, and locate local firms that are available to perform the work required by the bid specifications. The business information, sorted by business use classification, is posted on the webpage for the Business Tax Receipt Division:

[http://pompanobeachfl.gov/index.php/pages/dev\\_scv\\_btr/btr](http://pompanobeachfl.gov/index.php/pages/dev_scv_btr/btr)

**Please note that, while no voluntary goals have been established for this solicitation, the City encourages Local Business participation in *all* of its procurements.**

#### **H. SELECTION/EVALUATION PROCESS**

A Selection/Evaluation Committee will be appointed and will be responsible for selecting the most qualified firm. The Selection/Evaluation Committee will then present their findings to the City Commission and upon their approval, negotiate contract with the most qualified firm.



The City Commission has the authority to (including, but not limited to); approve the recommendation; reject the recommendation and direct staff to re-advertise the solicitation; or, review the responses themselves and/or request oral presentations and determine a ranking order that may be the same or different from what was originally presented to the City Commission.

## I. **INSURANCE**

The insurance described herein reflects the insurance requirements deemed necessary for this project by the City. It is not necessary to have this level of insurance in effect at the time of submittal, but certificates indicating that the insurance is currently carried or a letter from the Carrier indicating upgrade ability will speed the review process to determine the most qualified Proposer.

The successful Proposer(s) shall not commence operations, construction, and/or installation of improvements until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City of Pompano Beach Risk Manager.

The following insurance coverage shall be required.

1. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.
2. Liability Insurance
  - a) Naming the City of Pompano Beach as an additional insured, on General Liability Insurance only, in connection with work being done under this contract.
  - b) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.
3. Real & Personal Property Insurance

The Contractor is responsible for any loss or damage to tools, equipment, and supplies at the job site and is responsible for any loss or damage to buildings being constructed until that building is completed and a certificate of occupancy is issued.

**LIMITS OF LIABILITY**

Type of Insurance		each occurrence	aggregate
<b>GENERAL LIABILITY</b>		<b>MINIMUM \$1,000,000 OCCURRENCE/AGGREGATE</b>	
XX	comprehensive form		
XX	premises - operations	bodily injury	
—	explosion & collapse		
	hazard	property damage	
—	underground hazard		
XX	products/completed		
	operations hazard	bodily injury and	
XX	contractual insurance	property damage	
XX	broad form property	combined	
	damage		
XX	independent contractors		
XX	personal injury	personal injury	
<b>AUTOMOBILE LIABILITY</b>		<b>MINIMUM \$1,000,000 OCCURRENCE/AGGREGATE</b>	
		bodily injury	
		(each person)	
		bodily injury	
XX	comprehensive form	(each accident)	
XX	owned	property damage	
XX	hired	bodily injury and	
XX	non-owned	property damage	
		combined	
<b>REAL &amp; PERSONAL PROPERTY</b>			
XX	comprehensive form		Organization must show proof they have this coverage.
<b>EXCESS LIABILITY</b>			
XX	umbrella form	bodily injury and	
	other than umbrella	property damage	
		combined	
		\$2,000,000.	\$2,000,000.

The certification or proof of insurance must contain a provision for notification to the City ten (10) days in advance of any material change in coverage or cancellation.

The successful Proposer shall furnish to the City the certification or proof of insurance required by the provisions set forth above, within ten (10) days after notification of award of contract.

**J. INDEMNIFICATION**

Concessionaire assumes all risk in the operation of the Pier and beach equipment concession, and shall be solely responsible and answerable in damages for all accidents or injuries to persons or property and hereby covenants and agrees to indemnify the save harmless City and its officers, agents, and employees form any and all claims, suits, losses, damage or injury to person or property of whatsoever kind and nature including the payment of all attorneys' fees, whether direct or indirect, arising out of the actions taken pursuant to this Agreement, the operation of said Pier and beach equipment concession, or the carelessness, negligence or improper conduct of Concessionaire or any agent, servant, employee, contractor, patron, customer and supplier, which responsibility shall not be limited to the insurance coverage herein provided.

**K. INDEPENDENT CONTRACTOR**

It is understood between the parties that the relationship of City and Concessionaire is that of an independent contractor. Applicant shall have no authority to employ any person as an employee or agent on behalf of the City for any purpose. Neither the Concessionaire nor any person engaging in any work relating to Concessionaire's rights and obligations set forth herein at the request of or with the consent (whether actual or implied) of Concessionaire shall be deemed an employee or agent of the City, nor shall any such person represent himself to others as an employee or agent of the City. Should any person indicate to the Concessionaire or any employee or agent of the Concessionaire by written or oral communication to the Concessionaire that the person believes the Concessionaire or an employee or agent of the Concessionaire to be an employee or agent of the City, the Concessionaire shall use its best efforts to correct or cause its employee or agent to correct that belief.

**L. STANDARD PROVISIONS**

1. Governing Law

Interested vendors will agree that Agreements shall be governed by the laws of the State of Florida, and the venue for any legal action will be Broward County, Florida.

2. Conflict Of Interest

For purposes of determining any possible conflict of interest, each Proposer must disclose if any City employee is also an owner, corporate officer, or an employee of his business. If any City employee is also an owner, corporate officer, or an employee, the Proposer must file a statement with the Broward County Supervisor of Elections pursuant to Florida Statutes 112.313.

3. Drug Free Workplace

The selected Proposer with whom an Agreement will be negotiated will be required to verify they will operate a “Drug Free Workplace” as outlined in Florida Statute, Section 287.087.

4. Public Entity Crimes

A person or affiliate who has been placed on the convicted vendor list following a conviction for 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 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 Florida Statute, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

5. Patent Fees, Royalties, And Licenses

If the selected Proposer requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the selected Proposer and his surety shall indemnify and hold harmless the City from any and all claims for infringement by reason of the use of any such patented design, device, trademark, copyright, material or process in connection with the work agreed to be performed and shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

6. Permits

The selected Proposer shall be responsible for obtaining all permits, licenses, certifications, taxes, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform with the requirements of said legislation.

7. Familiarity With Laws

The selected Proposer is assumed to be familiar with all Federal, State and local laws, ordinances, rules and regulations that may affect the lease and development of project. Ignorance on the part of the Proposer will in no way relieve him /her from responsibility.

8. Withdrawal Of Proposals

A Proposer may withdraw his proposal without prejudice to himself no later than the advertised deadline for submission of proposals, by communicating his

purpose in writing to the General Services Department, 1190 N.E. 3<sup>rd</sup> Avenue, Building C, Pompano Beach, Florida 33060.

9. Composition Of Project Team

Proposer will be required to commit that the personnel and/or principals named in the proposal shall remain assigned to the "project" throughout the period of the contract unless provided for otherwise in a negotiated contract. No diversion or substitution of personnel or principals will be allowed without submission of a written request with the qualifications and experience of the proposed replacement. The approval of the City will be required for any such diversion or substitution.

10. Invoicing/Payment

All invoices should be sent to City of Pompano Beach, Accounts Payable, P.O. Drawer 1300, Pompano Beach, Florida, 33061. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of a proper invoice.

11. Public Records

1. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:
  - a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
  - b. Provide the public with access to such public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed that provided in chapter 119, Fla. Stat., or as otherwise provided by law;
  - c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
  - d. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the agency.

2. The failure of Contractor to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement and the City shall enforce the Default in accordance with the provisions set forth herein.

**PROPOSAL SIGNATURE PAGE**

To: The City of Pompano Beach, Florida

The below signed hereby agrees to furnish the proposed services under the terms stated subject to all instructions, terms and conditions, specifications, addenda, legal advertisement and conditions contained in the RFP L-13-16. I have read RFP L-13-16 and 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 proposal.

Proposal submitted by:

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

Company Name (Legal Registered) \_\_\_\_\_

Federal Tax Identification Number \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Addendum acknowledgment – Proposer acknowledges that the following addenda have been received and are included in this proposal:

Addendum No./Date Issued \_\_\_\_\_

<b><u>Contract Year</u></b>	<b><u>Minimum Annual Rate</u></b>	<b><u>Proposer's Guaranteed Annual Rate</u></b>
Year One	\$50,000*	\$ _____
Year Two	\$65,000*	\$ _____
Year Three	\$75,000*	\$ _____
Year Four	\$90,000*	\$ _____
Year Five	\$100,000*	\$ _____

**PROPOSED GRAND TOTAL FOR FIVE YEAR CONCESSION PERIOD: \$ \_\_\_\_\_**

\*Fixed annual amount, or 15% of gross sales, whichever is the greater of the two.

**PROPOSAL BOND**

STATE OF FLORIDA        )

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)

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_,

\_\_\_\_\_ as principal, and

\_\_\_\_\_ hereinafter called Surety, are held and firmly bound unto The City of Pompano Beach, Pompano Beach, Florida, a political subdivision of the State of Florida, and represented by its City Commission hereinafter called OWNER, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ ) lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigned, jointly and severally, by these presents.

WHEREAS, the Principal contemplates submitting or has submitted a Proposal to the OWNER for the furnishing of all labor, materials, equipment, machinery, tools, apparatus, means of transportation for, and the performance of the work covered in the Proposal and the detailed Drawings and Specifications, entitled:

(RFP Name) \_\_\_\_\_

WHEREAS, it was a condition precedent to the submission of said proposal that a cashier's check or proposal bond in the amount of 5 percent of the five year grand total proposal amount be submitted with said proposal as a guarantee that the Proposer would, if awarded the Contract, enter into a written Contract with the OWNER for the performance of said Contract, within 10 consecutive calendar days after written notice having been given of the award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that is the Principal within 10 consecutive calendar days after written notice of such award being given to Principal, enters into the contract to such award and gives a Performance and Payment Bond, each in an amount equal to 100 percent of the five year grand total proposal amount, satisfactory to the OWNER, then this obligation shall be void; in the event of the failure of Principal to enter into such contract and bond, the sum herein stated shall be due and payable to the OWNER and the Surety herein agrees to pay the sum immediately upon demand of the OWNER in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, the said \_\_\_\_\_,  
as Principal herein, has caused these presents to be signed in the name by its \_\_\_\_\_  
\_\_\_\_\_ and attested by its \_\_\_\_\_ under its corporate seal,  
and the said \_\_\_\_\_  
\_\_\_\_\_ as Surety herein, has caused these presents to be signed in its  
name by its \_\_\_\_\_  
under its corporate seal, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_ (year)

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_

\_\_\_\_\_  
As to Principal

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Principal -

By: \_\_\_\_\_

Surety

By: \_\_\_\_\_

Attorney-in-Fact  
(Power-of-Attorney to be attached)

By: \_\_\_\_\_  
Resident Agent