Request for Proposals
CITY OF NEW BEDFORD
PARK COMMISSIONERS

INSTALL AND MANAGE A MODULAR INFLATABLE WATER PARK AT EAST BEACH

RFP# 19650055

New Bedford, Massachusetts

April 8, 2019

Jonathan F. Mitchell  
Mayor

Parks Recreation & Beaches  
181 Hillman St., BLDG #3  
New Bedford, MA 02740
CITY OF NEW BEDFORD
MASSACHUSETTS
Advertisement
REQUEST FOR PROPOSALS
INSTALL AND MANAGE A MODULAR INFLATABLE WATER PARK
EAST BEACH

RFP #19650055

The City of New Bedford, acting by and through its Park Commissioners, hereby solicits proposals from qualified companies to enter into a commercial license agreement for the seasonal installation and management of a modular inflatable water park at East Beach, New Bedford, MA.

Proposals will be received by the Purchasing Department, in the office of the Purchasing Agent, Room 208, City Hall 133 William Street, New Bedford, Massachusetts, 02740, during business hours, until the date and time that the proposals are due.

Proposals shall be accepted until:
Monday, April 29, 2019 at 11:00 am

Contract Documents, including the Information for Bidders, Form of Bid, Form of Contract, Specifications, and other Contract Documents, may be downloaded on or after Monday, April 8, 2019 at www.newbedford-ma.gov/purchasing City of New Bedford, Purchasing Department, 133 William Street, Room 208, New Bedford, MA 02740. Electronic copies can be obtained by email to purchasing@newbedford-ma.gov or susan.brucenewbedford-ma.gov.

There is a non-mandatory site visit scheduled for Thursday, April 18, 2019 at 10:00 am at East Beach, New Bedford MA.

An original and three (3) copies of each proposal must be submitted according to the requirements stated in the Request for Proposals. A deposit of five percent (5%) of the Price Proposal in the form of Certified Check, Certificate of Deposit, or Bid Bond, payable to the City of New Bedford, Massachusetts. All proposal prices must remain firm for thirty (30) days and may not be withdrawn until thirty (30) days, after the proposal opening date, excluding Saturdays, Sundays, and legal holidays. The most advantageous proposal, considering price and all evaluation criteria, will be selected.

Proposals must include ALL DOCUMENTS required by the Request for Proposals and strictly follow its instructions. The Awarding Authority reserves the right to waive any informalities, reject any or all proposals, or accept other than the highest priced proposal.

AWARDING AUTHORITY
CITY OF NEW BEDFORD
Susan Bruce, Director of Purchasing
I. GENERAL PROPOSAL DESCRIPTION

The City of New Bedford, acting by and through its Park Commissioners, (the "City") hereby solicits proposals from qualified companies to enter into a commercial lease agreement for the seasonal installation and management of a modular inflatable water park to be located at East Beach.

The City will enter into a one (1) season agreement granting the successful Proposer the contract to provide and manage a modular inflatable water park with a city-retained option to re-new. The agreement is expected to commence on May 31, 2019, and terminate September 6, 2019. The City reserves an option to extend the concession year and/or to renew the agreement for two additional one (1) year seasonal renewals for terms (2018, 2019). For all purposes of the agreement, a seasonal term is defined as the period between May and September, or the extended season if a specific proposal justifies extending the concession season.

II. GENERAL PROPOSAL CONDITIONS

In order to be considered, a proposal must be prepared in accordance with the requirements specified in this Request for Proposals to Install and Manage a Modular Inflatable Waterpark (“RFP”) dated April 8, 2019. Interested parties shall submit a signed completed original and three (3) copies of their proposals. The “Non-Price Proposal” and “Price Proposal” shall be submitted in the same envelope. Proposals must be mailed or hand-delivered to:

City of New Bedford
Purchasing Department
133 William Street
New Bedford, MA 02740
ATTN: Susan Bruce, Director of Purchasing

The envelope containing the proposals must be marked clearly, "INSTALLATION AND MANAGING OF A MODULAR INFLATABLE WATER PARK" and identify the name and address of the proposer.

Proposals must be received at the above address by 11:00 a.m. on Monday, April 29, 2019. Any proposal received after this date and time will not be considered and will be returned to the proposer unopened. Proposals transmitted by fax or e-mail will not be accepted.

The City reserves the right to waive any informality in the proposals, to reject any or all proposals, or to accept any proposal it deems to be in the best interest of the City of New Bedford. What constitutes informality or grounds to accept or reject any proposal shall be in the sole discretion of the City of New Bedford. The City may cancel this RFP or reject in whole or in part any and all proposals, if the City determines that cancellation or rejection serves the best interests of the City.

A proposer may correct, modify, or withdraw a proposal by written notice received by the City prior to the time and date set for the proposal opening. Proposal modifications must be submitted in a sealed envelope clearly labeled "Modification No._." Each modification must be numbered in sequence and must reference the original RFP. No proposal may be withdrawn, subsequent to the opening of the proposal, until thirty (30) days after the date of the proposal opening, excluding Saturdays, Sundays and legal holidays.

After the proposal opening, a proposer may not change any provision of the proposal in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the proposer will be allowed to correct them. If a mistake and the intended proposal are clearly evident on the face of the proposal document, the mistake will be corrected to reflect the intended correct proposal, and the proposer will be notified in writing; the proposer may not withdraw the proposal. A proposer may withdraw a proposal if a mistake is clearly evident on the face of the proposal document, but the intended correct proposal is not similarly evident.
All proposal prices submitted in response to this RFP must remain firm for thirty (30) days following the opening of the price proposals. A proposal deposit that is at least five (5) percent of the price proposal amount must accompany each Proposal. Proposal deposits may be in the form of Certified Check, Certificate of Deposit, or Bid Bond, made payable to the City of New Bedford, Massachusetts.

A proposal must be signed as follows: (1) if the proposer is an individual, by her/him personally; (2) if the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner; and (3) if the proposer is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed.

If the proposal is being submitted by an entity other than an individual, partnership or corporation, the proposal must include written evidence of the proposer’s authority from the entity to submit the proposal in the form of legally binding documentation.

The City of New Bedford is an Equal Opportunity/Affirmative Action employer. Minority/Female/Handicapped/Veteran proposers are encouraged to apply.

III. SELECTION PROCESS

The City will establish a Selection Committee (the “Committee”) consisting of a representative of the Parks Recreation and Beaches Department, a representative of the Park Commissioners, and a designee of the City. The Committee will screen the proposals to ensure that all required submittals are included and that the proposal meets the Minimum Evaluation Criteria set forth below. For proposals that are deemed by the Committee to be complete and to have met the Minimum Evaluation Criteria, the Committee shall assign a rating of highly advantageous, advantageous, not advantageous or unacceptable for each of the Comparative Evaluation Criteria set forth below and state in writing the reasons for each such rating. Any proposal that receives an “unacceptable” rating under any of the individual Comparative Evaluation Criteria may be rejected.

Thereafter, the Committee will assign an overall composite rating of highly advantageous, advantageous, not advantageous or unacceptable to each proposal and state in writing the reasons for each such rating. The Committee may specify in writing any revisions to the Plan of Services submitted under Section V that it thinks should be obtained by negotiation prior to award of the contract.

Top-rated proposers may be asked to deliver an oral presentation before the Committee and answer questions regarding their respective proposals. If the Committee decides to question any proposer, it should ask the same question(s) of all proposers allowed to give and oral presentation.

After the Committee has rated all of the responsive and responsible proposals according to the proposals, the Committee will make recommendation to the Chief Procurement Officer who will then award the contract to the selected proposer. The Chief Procurement Officer may condition the award on successful negotiation of the revisions specified in the Committee’s evaluations. If other than the highest priced proposal is selected, the Chief Procurement Officer shall explain in writing why the added benefits of the selected proposal justify the lower price.

IV. SERVICES REQUIRED; GENERAL TERMS OF AGREEMENT

The successful proposer shall provide the following services to install and manage a modular inflatable waterpark at East Beach.

PUBLIC OBJECTIVES:

The public objectives of this RFP are to offer the opportunity to a vendor through a competitive process to seasonally install and manage an inflatable waterpark which maximizes community values for:

- Recreational access, enjoyment and safety of residents, tourists and other visitor users;
- Maintenance of local environmental quality and the surrounding neighborhood’s quality of life; and
• Appropriate financial returns to the City for use of valuable public resources.

1. Service: Installation and management of a modular inflatable waterpark located at East Beach, New Bedford, MA.

2. Term of Agreement: The term of this agreement will be for the 2019 season commencing on May 24, 2019, and concluding on September 6, 2019, unless the City elects to extend the rental season and/or unless the City exercises its option to renew said agreement for up to two (2) additional seasonal terms. Upon completion of the sixth week of the agreement Concessionaire will meet with the City designee and Chair of Park Commissioners to review operation, concerns, etc.

3. Scope of Concession: Concessionaire shall provide the seasonal installation and management of a modular inflatable waterpark. All on-water items offered by the concessionaire must be approved by the Harbor Development Commission and meet proper state and United States Coast Guard standards. Concessionaire must also provide the proper safety equipment for each proposed rental. Concessionaire must also demonstrate consistent inspection of equipment to meet safety standards. The concessionaire may sell small pre-packaged snacks, water or beverages to accommodate patrons participating in the recreational activity as well as small supplementary items such as sun-screen, hats, etc. with Park Board approval. The Concessionaire will also be able to rent chairs and umbrellas with Park Board approval. Concessionaire must provide a list of proposed items to sell and it must be approved by the City designee prior to sale as well as be in compliance with all applicable city ordinances and state laws.

4. Employees: Concessionaire shall train and supervise employees to ensure they are competent and able to deal with the public in a courteous manner. Since East Beach is located in a public park, Concessionaire shall be required to certify in writing that it has obtained criminal history checks on each employee, and, to the best of its knowledge, the organization has no employees and/or volunteers with criminal convictions. In the event that an employee has a criminal conviction, the concessionaire shall notify the Dept. of Parks Recreation & Beaches for a determination. The City reserves the right to prohibit any individual whose actions may be detrimental to East Beach and its facilities and individuals utilizing the facility from working under this contract.

5. Maintenance of Concession Area: Concessionaire shall implement a system to clean up and dispose of trash generated through the operation of the rentals and services. The Concessionaire shall not simply use City owned trash facilities for this purpose. Concessionaire shall provide adequate garbage and refuse containers, which shall conform in appearance to the existing containers. Concessionaire is mandated to generate a recycling program and encouraged to use recycled products. Extra points will be awarded to those proposals. Concessionaire will ensure that storage of equipment on site is neat and meets city approval.

6. Hours and Dates of Operation: Concessionaire may set hours of operation as it sees fit as long as they conform to the local and state ordinances and do not begin before 9:00 a.m. or terminate after 7:30 p.m. daily. At a minimum, the Concessionaire shall be open in May, June and September on Saturdays and Sundays from 11:00 am to 5:00 pm. At a minimum, the Concessionaire shall be open every day during the months of July and August from 11:00 am to 5:00 pm. The Concessionaire may operate the facility beyond these minimum hours with the permission of the Department of Parks Recreation & Beaches during the period between April 15 and October 1 of each contract year, unless the City elects to extend the season.

7. Insurance: Applicant must provide insurance for the duration of the contract with a minimum public liability insurance policy of one million dollars ($1,000,000.00) per person with the City of New Bedford and the Board of Park Commissioners named as co-insured and property damage insurance in an amount not less than $100,000.00 naming the City of New Bedford and the Board of Park Commissioners as additional insureds.

8. Utilities, Taxes, and Other Charges: Concessionaire shall contract for and pay for utilities, water or other charges incurred or assessed against the operation of the concession. Concessionaire shall pay promptly all taxes, excise or license fees of whichever nature, applicable to this operation and take out and keep current all licenses, municipal, state, or federal required of the business, and further shall not permit any of said taxes, excise fees, or license fees to become delinquent. The Concessionaire is not responsible for property taxes.
9. Alterations, Repairs, & Improvements: Concessionaire shall not make any alterations, repairs, or improvements to the building or licensed area without obtaining the prior written consent of the City. Requests to make alterations, repairs, or improvements must be made in writing. Any such permitted alterations, repairs or improvements shall be made at the expense of the concessionaire and shall become the property of the City of New Bedford.

10. Compliance with Laws: Concessionaire, its designated professional on-site Concessions Manager, and employees shall observe and comply with all laws, statutes, ordinances, rules, and regulations of the United States government, the Commonwealth of Massachusetts, the City of New Bedford, or any department or agency of the above. In particular, Concessionaire, its designated professional on-site Concessions Manager, and employees shall comply with the New Bedford City of Health licensing and/or permitting requirements and the Rules and Regulations of the New Bedford Board of Park Commissioners.

11. Signage: Concessionaires will not post any signs without obtaining the prior written consent of the City designee and Park Board of Commissioners.

12. General Operations and Management Requirements: The Parks Recreation & Beaches Department reserves the right to add or delete provisions as necessary at its sole discretion prior to the signing of the Agreement.

a. Concessionaire shall maintain the site in good condition at all times.

b. Concessionaire shall service the public and provide any proposed enhanced programming in accordance with the provisions set forth in its proposal and the signed Agreement.

c. Vending machines shall not be permitted without the written approval of the Parks Recreation and Beaches Department.

d. Parks Recreation and Beaches Department and designee of the City shall approve all on-site advertising.

e. The Concessionaire shall comply with all federal, state, and local laws applicable to the facility and its activities on the property and under the Agreement; and shall cause its employees, agents and contractors to do the same.

f. All employees shall wear identifiable name tags. The Concessionaire shall provide a sufficient number of employees to provide efficient service to the public. The Concessionaire shall hire qualified/competent employees.

g. Each day, the Concessionaire shall dispose of trash by removing it from the premises to an authorized disposal area, other than Parks Recreation and Beaches Department receptacles. Said removal and disposal shall be at the Concessionaire’s expense. The City of New Bedford has mandatory recycling. At season-end, the concession area must be clean and in an orderly condition acceptable to the Parks Recreation and Beaches Department. Additionally, all tables, benches, and chairs must be washed with water daily.

h. Parks Recreation and Beaches Department (or designee) reserves the right to object to the character of service and/or any particular scope of the deliverance and any objectionable condition and may require said service be discontinued or remedied. Concessionaire must remedy request within forty-eight hours of written notification, to the satisfaction of the Parks Recreation and Beaches Department (or designee).

i. The Concessionaire shall pay for all utilities (e.g. electric, water, and gas), telephone charges, and sewerage charges. If Parks Recreation and Beaches Department has provided separate meters for the
utilities, the Concessionaire is responsible for arrangements and cost associated with utility service and shall pay the provider directly in a timely manner.

j. The Concessionaire must comply with and strictly enforce health, environmental and sanitary standards and conditions as regulated by the local bylaw and state regulations, including environmental regulations and any administrative order applicable to neighboring salt water sources.

k. The Concessionaire must identify any leased equipment to be used on the premises. The Concessionaire shall also notify the Parks Recreation and Beaches Department in writing of any leased equipment brought onto the premises after the execution of the Agreement. Any equipment, leased or otherwise, that is affixed in a permanent manner (e.g. plumbing, sinks, hard-wired appliances, built-in refrigeration equipment, or exhaust, fume, and fire suppression systems) shall be deemed a fixture and becomes the property of the Parks Recreation and Beaches Department. Prior to installation, Concessionaire shall request in writing permission of the Parks Recreation and Beaches Department. Upon the termination of the Agreement term, Concessionaire bears the responsibility for fulfilling any remaining obligations under the Agreement, and the Concessionaire covenants that title to the fixtures passes directly to the Parks Recreation and Beaches Department prior to Concessionaire vacating the premises.

l. The Concessionaire shall not store any equipment at the location at East Beach after the end of the contract season in September.

m. Any damage to the building or surrounding areas caused by the installation or removal of equipment or improvements shall be repaired to a condition satisfactory to the Parks Recreation and Beaches Department at the Concessionaire’s sole expense.

n. Any damage to the surrounding areas related to the concession must be repaired to a condition satisfactory to the Parks Recreation and Beaches Department at the Concessionaire’s sole expense.

o. The Parks Recreation and Beaches Department requests that Concessionaire provide an end of service report indicating participation, revenue and expenses at the monthly meeting of the Park Board of Commissioners in November of each year.

p. The Parks Recreation and Beaches Department requires a final inspection of the facilities to be completed with a designee from the Parks Recreation and Beaches Department and the Concessionaire prior to the Concessionaire’s end of service.

14. Concessionaire Is Licensee: The Concessionaire shall not hold itself out or claim to be an officer or employee of the City of New Bedford and shall not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the City of New Bedford (including, but not limited to, workers compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit).

Nothing herein contained shall create or be construed or implied as an agency relationship or partnership between the Concessionaire as an agent of the City of New Bedford.

Concessionaire acknowledges that the Agreement does not confer any rights in real property to the Concessionaire. The Concessionaire may enter and use the premises solely for those purposes contained in the Agreement. Concessionaire shall agree that its status in the occupation of the concession premises is that of a licensee of the City of New Bedford.

15. Assignment and Subletting: The Concessionaire agrees that it shall not assign, sublease, transfer or otherwise dispose of its management responsibilities or of any right, interest or use of the Concession or premises covered by the Agreement without prior written approval of the Parks Recreation and Beaches Department. Any such disposition without the consent of the Parks Recreation and Beaches Department shall
constitute a material breach of the Agreement, which shall be cause for immediate termination of the Agreement by the City.

The City shall not be obligated to recognize any right of any person or entity to any interest in the Agreement or to any rights in equipment, structures, or property of Concessionaire at the premises.

Concessionaire may not enter into any agreement with any entity or person except employees of the Concessionaire to exercise substantial management responsibilities for operation of the Concession without the prior written consent of the Parks Recreation and Beaches Department (or designee).

In the event of any unapproved or prohibited transfer or encumbrance by the Concessionaire, or in the event of any default of its obligations to persons or entities which are not a party to the Agreement, such person or entity shall not be deemed to have acquired operating rights, or privileges, or title to the Concession or property of the City, Parks Recreation and Beaches Department, or the Concessionaire.

16. Non-Discrimination in Employment and Affirmative Action: Concessionaire shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation. Concessionaire agrees to comply with all applicable federal and state statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Acts of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; Massachusetts General Laws Chapter 151B, §4(1); and all relevant administrative orders and executive orders, including Executive Order 227 and Executive Order 246.

If a complaint or claim alleging violation by the Concessionaire of such statutes, rules or regulations is presented to the Massachusetts Commission Against Discrimination (MCAD), the Concessionaire and its agents agree to cooperate fully with MCAD in the investigation and disposition of such complaint or claim. Concessionaire agrees to assume all legal fees and costs in connection with the defense of such claim. In the event of noncompliance with provisions of this section, the City shall impose such sanctions, as it deems appropriate, including, but not limited to, termination or suspension of the Agreement. The MCAD shall be responsible for determining compliance with this section.

V. PROPOSAL SUBMISSION

All Proposals shall contain the items listed below in the sequence presented:

1. A summary of the Proposer’s overall concession experience, staffing, years in business and principal business enterprise. Include hereunder the resume(s) of the Proposer’s principal(s).

2. A detailed description of the Proposer’s service experience during the past five (5) years with operations similar in size, nature and complexity to the proposed recreation equipment concession.

3. Resumes and qualifications of key personnel proposed to staff the Concession, designating which will directly provide on-site concession management and which will provide off site support for the Concession. For each such key employee, state whether he or she is to be assigned to the Concession on a full-time or part-time basis, and if part-time, the actual time to be allocated to the concession. Identification of the Concession’s primary contact is required, and the primary contact shall not be changed during the term of the agreement without the permission of the New Bedford Park Board of Commissioners.

4. A plan detailing how the Proposer intends to staff and support the Concession for the duration of the Term. The Proposer should include in the plan an organizational chart and employee staffing schedule.

5. A proposed plan of services (including enhanced programming) identifying the manner in which the Proposer intends to manage the Concession in a manner that enhances the community.
6. A proposed schedule detailing the time frame in which the Proposer intends to operate the Concession. Include here the proposed hours of operation of the Concession by date (May – October) and day (Sat., Sun., Mon., etc.)

7. Company Background including experience with comparable projects;
   Number, experience, and qualifications of on-site staff, including name of main company contact; and
   Letters of reference from government clients for comparable projects, in addition to the City undertaking its own inquiries.

8. A proposed list of equipment to be held for rental on the premises

9. a. Proposed budget, including operating costs;

   b. Written bank reference from a FDIC insured institution or a Credit report.

10. Business Particulars

    a. Scaled drawings showing the configuration, dimensions and area required for the waterpark and onshore facility, and access between the two;
    b. Projected customer numbers, demographic characteristics, and origin/travel status;
    c. Any plans to expand the capacity of the waterpark in the future:
    d. Proposed terms of lease including number of years, operating season/months and opening hours; and
    e. Customer registration requirements

11. Equipment and Operations

    a. Capacity, layout and dimensions of all waterpark modules;
    b. Product brand illustrations and quality specifications of modules;
    c. (Integration of waterpark with remaining public swimming areas to the north and south, including relationship to protective roped buoys;
    d. Means of anchoring waterpark and seasonal installation and removal to minimize disturbance to ocean floor and shore;
    e. Location of off-season storage for waterpark components;
    f. Siting, dimensions and nature of small seasonal facility for customer registration and issuing of lifejackets, and any requirements for off-site storage and;
    g. Projected vehicle parking demands and anticipated locations.

12. Safety, Security and Maintenance

    a. Provisions for customer safety, including company representative(s) present at all times and lifeguards with National Lifeguard preferably with Waterfront Option) and Standard First Aid with CPR-C certifications;
    b. Range of available lifejackets for adults and minors;
    c. Security arrangements outside of operating hours;
    d. Garbage pickup provisions and end of season site cleanup (See Section 13, g.)
    e. Environmental protection measures;
    f. Noise limitations including no music or loudspeaker advertising; and
    g. Response strategy for dealing with any extraordinary noise or other nuisance complaints.

VI. PRICE

Proposals must include a completed Price Proposal Form in response to this RFP. (The Price Proposal Form is Attachment “A” to this RFP.) The completed Price Proposal Form and Proposal Deposit must be included submission. All price proposals must be for this season, May 31, 2019 to September 7, 2019. Price proposals
must list, in writing and a numerical value, a total fee to be paid under the agreement and the amounts to be paid on May 1, 2019, June 1, 2019 July, 1, 2019, and August 1, 2019, which shall represent one-fourth (1/4) of the total fee, respectively. In case of discrepancy between the written and numerical value, the written value will be used for the purpose of the price proposal. See Attachment "F" #7 Concession payments for agreement terms.

VII. MINIMUM EVALUATION CRITERIA

The Committee will consider a proposal as being responsive and responsible if it meet the following Minimum Evaluation Criteria:

1. Proposals must follow the format and content required by the RFP.

2. The name of the proposer must appear on the front of each proposal.

3. Certificate of Non-Collusion: Proposals must include an executed Certificate of Non-Collusion, attached as Attachment “B” to this RFP.

4. Proposals must include a statement of the proposer’s overall concession experience, staffing and number of years in business.

5. Proposals must include resumes and qualifications of all managers that will provide on-site direction for the concession and its employees.

6. Proposals must include references required under the Non-Price Proposal.

7. A proposed plan of services (including enhanced programming) identifying the manner in which the Proposer intends to manage the Concession in a manner that enhances the community.

8. Proposals must include a proposed rental offering list for the concession.

9. Certificate of Tax Compliance: Proposals must include an executed Certificate of Tax Compliance attached as Attachment “C” to this RFP.

10. Certificate Re: Undocumented Workers: Proposals must include an executed Certificate Re: Undocumented Workers attached as Attachment “D” to this RFP.

11. Vote of Corporation Authorizing Execution of Corporate Agreements: If the proposal is submitted by a corporation, the proposal must include an executed Vote of Corporation Authorizing Execution of Corporate Agreements attached as Attachment “E” to this RFP.

VIII. COMPARATIVE EVALUATION CRITERIA

HA = Highly Advantageous, A = Advantageous, NA = Not Advantageous, U = Unacceptable

The Committee will use the following criteria to evaluate the non-price proposals:

8.1 Successful experience, verified by references, if possible, within the past five years with comparable concessions.

HA: Includes more than three examples of successful concessions.
A: Includes one to three examples of successful concessions.
NA: Includes one or more examples of concessions that prove to be less than successful.
U: Cites no concession experience, or all experience cited proves to be less than successful.
8.2 The quality of the proposed plan of services (including enhanced programming) explaining the manner in which the Proposer intends to manage the facility for the benefit of the community.

HA: Describes with particularity and how the community will be enhanced in several areas by the manner in which the facility is managed.
A: Describes generally how the community will be enhanced by the manner in which the facility is managed.
NA: The proposed use of concession area and facilities is standard. There is no special programming or community connection proposed.
U: No Plan of Services.

8.3 The ability to commit the resources necessary to complete the Services Required under Section IV above for the duration of the Agreement.

HA: More than sufficient staff and resources available and committed.
A: Sufficient staff and resources available and committed.
NA: Sufficient staff and resources available, but insufficient commitment.
U: Insufficient staff and resources available.

8.4 Proposed rental listing including quality, safe, and affordability of products offered.

HA: Equipment offerings are diverse and interesting while being safe and in excellent condition. Proposal includes offerings such as tours, trainings or other types of enhanced programming using recreational equipment. Prices are reasonable.
A: Equipment offerings are diverse and interesting while being safe and in excellent condition. Prices are reasonable.
NA: Equipment offerings are more standard and do not include any program offerings. Prices reasonable.
U: Equipment offerings are more standard. Prices unreasonable.

IX: RULE FOR AWARD

The City will select the responsive and responsible proposer submitting the most advantageous proposal, taking into consideration all of the evaluation criteria as well as the proposed price.

X: MISCELLANEOUS

1. Disclaimer: The City of New Bedford assumes no responsibility and no liability for costs incurred relevant to the preparation of responses to this RFP. The City shall bear no responsibility or liability due to copies of revisions lost in mailing or not delivered to a prospective proposer due to unforeseen circumstances. Proposers must acknowledge receipt of all addenda within their responses to this solicitation.

2. Additional Information: Questions concerning this request for proposals shall be submitted in writing to: Richard Calderon, 133 William Street, New Bedford, MA 02740 before 11:00 a.m. on Tuesday March 21, 2017. Questions may be delivered, mailed or faxed. City responses will be mailed or faxed to all proposers on record as having picked up the RFP through an Addendum to this RFP.

3. Written Agreement: The selected proposer will be required to execute an Agreement in a form similar to the one attached hereto as Attachment “F”

4. Proposal Ownership: All proposals including attachments, supplementary materials, rendering, sketches addenda, etc. shall become upon submission, the property of the Awarding Authority, and will not be returned to the applicant, except as provided in Section “II” above, herein.

5. Liability and Indemnity: The exercise of this licensed use shall constitute Concessionaire’s acceptance of complete liability and responsibility for Concessionaire’s use of the property and its actions and the actions of
its members, guests, invitees, agents and employees upon the site, and an agreement that the Concessionaire will indemnify, defend and hold harmless the City against any and all claims that may arise therefrom. Further, the Concessionaire will not make any claims against the City for any injury, loss or damage to persons (including bodily injury or death) or property occurring from any cause arising out of the authorized use by the Concessionaire, its agents or guests.

**ALL PROPOSALS SHALL BE DEEMED TO BE MADE WITH FULL KNOWLEDGE AND UNDERSTANDING OF THE EXISTING FACILITY CONDITION. ALL LIMITATIONS OR CONDITIONS REGARDING A PROPOSAL SUBMISSION MUST BE CLEARLY STATED IN THE PROPOSAL.**
CITY OF NEW BEDFORD, MASSACHUSETTS

ATTACHMENT “A”

PROPOSAL PRICING SHEET

PROPOSAL PRICE:  (For 2019 season, May 31, 2019 to September 7, 2019)

(Written Amount)

(Numerical Amount)

Proposer’s Name ________________________________  Proposer’s Telephone # ________________________________

By: ________________________________  Proposer’s Fax # ________________________________
Signature and Title ________________________________
Name (Print): ________________________________

Proposer’s Address: ________________________________________________________________

______________________________________________________________
CITY OF NEW BEDFORD  
MASSACHUSETTS  

ATTACHMENT “B”  

NON-COLLUSION AND TAX COMPLIANCE FORM  

CERTIFICATE OF NON-COLLUSION  

The undersigned certified under penalties of perjury that this Proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.  

________________________________________  
Signature of individual submitting Proposal  

________________________________________  
Name of business/organization  

ATTACHMENT “C”  

TAX COMPLIANCE CERTIFICATION  

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes reporting of employees and contractor, and withholding and remitting child support.  

________________________________________  
Signature of person submitting Proposal  

________________________________________  
Name of business
CITY OF NEW BEDFORD, MASSACHUSETTS
ATTACHMENT “D”

CERTIFICATE RE: UNDOCUMENTED WORKERS

As evidenced by the signature of the Proposer’s authorized signatory below, the Proposer certifies under the pains and penalties of perjury that the Proposer shall not knowingly use undocumented workers in connection with the performance of any contract with the City of New Bedford; that pursuant to federal and state requirements, the Proposer shall verify the immigration status of all workers assigned to such contracts without engaging in unlawful discrimination; and that the Proposer shall not knowingly or recklessly alter, falsify or accept altered or falsified documents from any such worker(s). The Proposer understands and agrees that breach of any of these terms during the period of any contract may be regarded as a material breach, subjecting the Proposer to sanctions, including but not limited to monetary penalties, withholding of payments, contract suspension or termination.

______________________________
Proposer’s Authorized Signature

______________________________
Printed Name

______________________________
Date
Attachment “E”
City of New Bedford,
Massachusetts

VOTE OF CORPORATION AUTHORIZING EXECUTION OF CONTRACT

At a meeting of the City of Directors of ______________________ duly called and held on
___________________________ at which a quorum was present and acting throughout, the
following vote was duly adopted.

VOTED: That ______________________ ______________________ of the corporation be and
hereby is authorized to sign the contract and deliver in the name and on behalf of corporation a contract with:

The City of New Bedford, MA

For performing services, all in such form and on such terms and conditions as he/she, by the execution
thereof, shall deem proper.

A true copy:

ATTEST:
If the vendor accepts this contract and then fails to supply the commodity/service as ordered by the City of
New Bedford, and if the City decides to legally pursue this non-supply, then the vendor agrees to the
jurisdiction of the appropriate court in the of Massachusetts.

(Affix Corporate Seal)

___________________________

Clerk of the Corporation
ATTACHMENT “F”

Concession Agreement

This Concession Agreement, hereinafter referred to as the “Agreement” is made and entered into this _____ day of __________, 2019, between the City of New Bedford, Massachusetts acting through its Mayor and Board of Park Commissioners, hereinafter referred to as the “City” and ___________________, hereinafter the “Concessionaire.”

Witnesseth:

Whereas, the City of New Bedford, MA owns East Beach hereinafter referred to as the “Licensed Premises”.

Whereas, Condition No. 2C of said Release Agreement and Declaration of Covenants provides that the City will not sell, lease, assign or otherwise dispose of the Property, except to another eligible governmental agency. However, nothing in this provision shall preclude the City from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties.

Whereas, the City and Concessionaire desire to provide recreation equipment rental services for the use and benefit of the general public.

Whereas the City is satisfied that provision of additional authorized services and facilities at East Beach is in the City’s best interest;

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and agreements as hereinafter set forth, the City agrees to allow Concessionaire to provide recreation equipment rental services hereinafter to be mentioned upon a portion of the real property described in “Exhibit A” attached hereto and incorporated herein by this reference and located at East Beach.

1. **Location**: The City does hereby assign to the Concessionaire the use of East Beach, as described in “Exhibit A”.

2. **Use of Premise**: The “Licensed Premises”, Located at East Beach site, is to be used by Concessionaire to provide recreation equipment rental services and other authorized activities, as permitted by the New Bedford Board of Park Commissioners (hereinafter “Park Board”). Concessionaire shall use, occupy and maintain Licensed Premises herein assigned in a business like, careful, clean and non-hazardous manner for the sole purpose of providing recreation equipment rental services in strict accordance with all terms and provisions as set forth in “Exhibit A” by the City. Written approval by the City shall be required for any other proposed use in addition to those specified above.

The Concessionaire shall have the right to use the Shared Area on a non-exclusive basis. The Concessionaire shall at no time prohibit public access to the water or any facilities of East Beach with the exception of the Concession area which may be locked for the purpose of securing Concessionaire’s personal property, provided that a duplicate key has been provided to the Director of Parks Recreation & Beaches.

The Concessionaire shall not make nor allow any unlawful, improper or offensive use of the Licensed Premises. The Concessionaire shall use the Licensed Premises and Shared Area for the purpose of operating the recreation equipment rental services.
The City reserves the right to utilize the Licensed Premises upon written request, for City sponsored events, provided the City event does not conflict with an events or program previously scheduled by the Concessionaire. The City agrees to indemnify and defend the Concessionaire against, and hold it harmless from, any and all suits, demands, loss of liability, on account of or in connection with any injury, loss or damage to any person or property resulting or claiming to have resulted from the use of the Licensed Premises, and grounds abutting the Licensed Premises by the City, its servants, agents, employees, or visitors, resulting or claimed to have resulted for the City’s omission, fault negligence, or other misconduct.

3. **Personal Property:** Concessionaire shall have use of the personal property / equipment (if any) in the licensed area and shall be obligated to maintain the personal property / equipment (if any) in good working condition, subject to reasonable wear and tear. Upon completion / termination of this agreement, the personal property / equipment (if any) shall be accounted for and returned to the City. During the course of this agreement any damage to personal property / equipment shall be reported to the City.

4. **Term:** This agreement shall be effective from May 24, 2019 to September 6, 2019.

5. **Renewal:** The Concessionaire may request renewal of this agreement for up to two (2) consecutive seasonal terms (2020, 2021) upon the same terms and conditions or upon conditions to be mutually agreed upon at that time.

6. The renewal request may be exercised by the Concessionaire by providing written notice to the Director of Parks Recreation & Beaches on or before December 1st for the seasonal term in the following calendar year. The City shall have thirty (30) days to accept or reject the renewal request. If the City does not act on the renewal request within the prescribed period, the renewal will be presumed to have been denied by the City.

7. **Concession Payments:** Payments to the City of New Bedford totaling $________ shall be made in three (3) equal amounts as follows: 1/3 by June 15, 2019, 1/3 by July, 15, 2019 and 1/3 by August 15, 2019. Payments must be in the form of a certified check or money order and must be made payable to the “City of New Bedford”. All payments must be mailed or hand delivered to Parks Recreation & Beaches 181 Hillman Street Building 3, New Bedford, MA 02740. At the discretion of the Park Board – and based upon the Annual End of Service report presented to the City in accordance with Article 13 o. of this agreement – the annual fee may be adjusted or waived by the City at the start of a new or renewal lease cycle or to reflect substantial investment in the site and/or pond by the Concessionaire.

8. **Concessionaire’s Records and Documents:** With respect to all matters covered by this Agreement concessionaire’s records and documents shall be subject at all times to inspection review or audit by the City. Concessionaire will supply City any documentation that may reasonably be requested by the City.

9. **Operations and Maintenance:** Concessionaire may set hours of operation as it sees fit as long as they conform to the local and state ordinances and do not begin before 8:00 a.m. or terminate after 9:00 p.m. daily. At a minimum, the Concessionaire shall be open in May, June and September on Saturdays and Sundays from 11:00 am to 5:00 pm. At a minimum, the Concessionaire shall be open every day during the months of July and August from 11:00 am to 5:00 pm. The Concessionaire may operate the facility beyond these minimum hours with the permission of the Department of Parks Recreation & Beaches during the period between April 15 and October 1 of each contract year, unless the City elects to extend the season.
Concessionaire shall be responsible for maintaining the licensed area - including the public area. Concessionaire shall employ a private trash disposal firm to remove garbage from the property on a regular basis.

10. **Licenses and Permits:** All necessary licenses and permits to operate the concession must be obtained from the appropriate offices before operation may begin. All licenses are subject to Code of Enforcement for safety, health and fire inspections.

11. **Operating Expenses and Utilities:** Concessionaire shall be responsible for all utilities associated with operating the concession, as well as the costs (if any) associated with installation/upgrade of systems that are required to operate the concession stand. At all times, the concession must meet all local, state and federal code requirements.

12. **Non-discrimination:** City of New Bedford, MA and Concessionaire agree to comply with all Federal and State laws relating to nondiscrimination in connection with any use, operation, program, or activity on or related to the previously described property, including, but not limited to:

   Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-1), which prohibits discrimination on the basis of race, color, or national origin;

   The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age;

   Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap;

   The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151), which requires facilities located on the property to be accessible to the physically handicapped; and

   The Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which requires that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

13. **Alterations / Improvements:** Concessionaire may not make alterations or improvements to the assigned premises without the written consent of the Park Board representing the City. Such written consent will not be unreasonably withheld or delayed.

14. **Ownership of Improvements:** Concessionaire acknowledges that the building/property is subject to the possibility of reversion, with improvements without compensation, back to the City.

15. **Maintenance and Repair:** The Concessionaire is responsible for repair and maintenance of the licensed area and shall at its sole cost and expense maintain the assigned property in good condition and perform such repairs that become necessary from time to time during the term of this agreement and any renewals hereof as set forth herein.

16. **Inspection of Concession Areas:** Concessionaire shall allow any agent representing the City, at any and all reasonable times to inspect any facility operated under this Agreement.

17. **Indemnity:** Concessionaire hereby expressly agrees to indemnify, save and hold harmless, and defend the City against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person, organization, its representatives, or employees.
18. **Insurance**: Concessionaire shall, at its own expense, provide such public liability insurance that will protect Concessionaire and the City from all claims for damages to property and persons, including death, and particularly the use of rental equipment, which may arise in the operation of the activities conducted under this Agreement or anyone directly or indirectly employed by Concessionaire. All policies shall name the City as an additional insured. The public liability insurance shall provide limits of not less than $1,000,000 per incident and $3,000,000 in the aggregate for personal injury or death, and shall include products liability coverage. Property damage liability insurance shall provide a limit of not less than $100,000.

Prior to May 15th, Concessionaire agrees to provide evidence to the City that insurance is current based on subsequent renewal information.

19. **Assignment and Subletting**: Concessionaire shall not assign this Agreement or any interest therein, nor let or sublet the said premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or underlet shall be grounds for termination of Agreement by the City.

20. **Amendment to Concession Agreement**: This Agreement contains all of the terms and conditions between the parties, and no alteration, amendment, or addition shall be valid unless in writing and signed by both parties.

21. **Laws and Regulations**: Concessionaire is aware of, and agrees that it will use the assigned premises so as to conform with deeded environmental and usage controls and not violate any laws, regulations and/or requirements of the United States of America and/or Commonwealth of Massachusetts and/or any ordinance, rule or regulation of the City now or hereafter made, relating to the use of the premises.

22. **Signage**: Concessionaire shall place no sign or advertisement upon any location of the property unless prior written approval has been granted by the Park Board representing the City and the Parks Recreation and Beaches Department shall have the right, without first notifying Concessionaire, to remove at the expense of Concessionaire, any sign or signs that may be erected without prior approval.

23. **Surrender/Waste**: Concessionaire agrees that upon expiration of this Agreement or earlier termination thereof, it shall surrender the assigned premises to the City in as good or better condition as they were in at the time of execution of this document, ordinary wear excepted.

Concessionaire further agrees that it shall permit no waste nor suffer the same to be committed, nor injure nor misuse the demised premises.

24. **Liens**: Concessionaire shall keep the assigned premises free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by Concessionaire during the term of this Agreement or any extension or renewal thereof.

25. **Waiver**: Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this Agreement shall be deemed a waiver of breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this Agreement, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and
no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other.

The city is not liable for loss of business revenue in the event that the city determines that the pond needs to be shut down for a necessary reason. The City will give the Concessionaire as much advanced notice as possible in the event of this type of determination.

26. **Termination**: This Concession Agreement shall terminate automatically upon the occurrence of any of the following events:

   a. The City unilaterally terminates the Agreement upon Thirty (30) days written notice for any cause whatsoever and specifying the date of termination.
   b. The City terminates the Agreement immediately because the Concessionaire has materially violated a provision of this Agreement.
   c. The expiration of the term of this Agreement or any renewal thereof.

27. **Notice**: Any notice by either party to the other shall be in writing and shall be deemed to be given only if delivered personally or mailed by registered or certified mail as follows:

   City of New Bedford
   Dept. of Parks Recreation & Beaches
   181 Hillman St Bld 3
   New Bedford, MA 02740

   Concessionaire:

   Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this paragraph.

Signature Page Follows
IN WITNESS WHEREOF, the City of New Bedford, Massachusetts has authorized the Chairman of the Park Board representing the City to sign this Agreement and Concessionaire has approved the Agreement and signed as of the date first noted above.

Department:

BY: ____________________        BY: ____________________
    Mary S. Rapoza             Peter Boswell
    Director, Parks Recreation & Beaches Park Board Chairman

CONCESSIONAIRE

By: ____________________        By: ____________________
    Jamie Ponte, Commissioner, DPI

Approved as to Form and Legality

Chief Finance Office

By ____________________        By ____________________
    Eric Cohen               Ari Sky
    Assistant City Solicitor  Chief Financial Officer

BY: ____________________        BY: ____________________
    Susan Bruce             Jonathan Mitchell
    Director of Purchasing  Mayor
Proposed location of Inflatable Water Park