



Florida's Warmest Welcome

**CITY OF POMPANO BEACH
REQUEST FOR PROPOSALS**

**T-14-23
MANAGEMENT AND OPERATION OF BEACH
KIOSK**

OPENING: MARCH 15, 2023, 2:00:00 P.M.

**Virtual Zoom Meeting
For access go to:**

<https://pompanobeachfl.gov/pages/meetings>

CITY OF POMPANO BEACH, FLORIDA

REQUEST FOR PROPOSALS

T-14-23

MANAGEMENT AND OPERATION OF BEACH KIOSK

The City of Pompano Beach (the “City”) is seeking proposals from qualified companies/firms to operate a Beach Kiosk Concession located on Beachfront Park, 20 North Pompano Boulevard, Pompano Beach, FL 33062.

The City will receive sealed proposals until **2:00:00 p.m. (local), March 15, 2023**. Proposals must be submitted electronically through the eBid System on or before the due date and time. Any proposal received after the due date and time specified herein will not be considered. Any uncertainty regarding the time a proposal is received will be resolved against the Proposer.

Proposer must be registered on the City’s eBid System in order to view the Request for Proposals (RFP) documents and respond to this RFP. The RFP documents can be downloaded for free from the eBid System as a pdf at: <https://pompanobeachfl.ionwave.net>. The City is not responsible for the accuracy or completeness of any documentation the Proposer receives from any source other than from the eBid System. Proposer is solely responsible for downloading all required documents. A list of Proposers will be read aloud in a public forum. To attend the virtual public meeting, go to <https://pompanobeachfl.gov/pages/meetings> to find the zoom link.

Introduction

The City of Pompano Beach’s main public beach continues to thrive with thousands of tourists and residents visiting throughout the year. Along with a beautiful beach, there are a multitude of amenities needed to support it and its visitors. One of those is a food and beverage concession Kiosk, located at 20 N Pompano Beach Boulevard.

A. Objectives

The City of Pompano Beach (City) requires a long-term sole restaurant/operator to operate a Beach Kiosk Concession (Property), located at 20 North Pompano Beach Boulevard. This Property shall be used for operation of a refreshment stand serving beverages and high-quality food at a moderate price to patrons. The rehabilitation of the Kiosk by the City was completed in August 2012. The kiosk is approximately 339 square feet of interior finished space (451 square feet including bathrooms), excluding outdoor seating.

The Property area includes on servicing counter facing the ocean and another facing the Great Lawn. The Property is compliant with applicable American Disabilities Act (ADA) standards. The

Kiosk does not have cooking facilities or a grease trap; therefore, it cannot be operated as a full restaurant. Photos of the site are provided below:



B. Scope of Services

1. City shall provide the following:
 - a. Site utilities, such as sewer and water service.
 - b. Conduct performance and compliance reviews on a regular basis.
 - c. Provide all exterior repairs and maintenance, including roof, sidewalks and restrooms.
 - d. Provide daily cleaning of restrooms.
 - e. Conduct performance and compliance reviews after the first six (6) month, first twelve (12) months and each subsequent year thereafter.
 - f. Approve in writing by the City's Project Manager all proposed improvements to the Property prior to any construction commencing.

2. Contractor shall provide at a minimum the following:
 - a. Provide moderately priced diverse menu of fresh food and beverage selection. Examples of food to be offered including, but not limited to: muffins, bagels, donuts, pasties, biscotti, cookies, cakes, donuts, salad, sandwiches, soups, hot dogs, hamburgers, other prepared foods, and packaged snacks. Examples of types of beverages to be offered including, but not limited to: coffee, cappuccino, espresso, specialty teas, iced tea, fruit juices, soda, sports beverages and milk. Contractor shall only be allowed to sell the following alcoholic beverages: beer, wine, slushy-flavored drinks and hard seltzer. Contractor must obtain City's approval for change in products, pricing and/or services.
 - b. Personalize the Property to bring out character. Contractor shall decorate and furnish Property, including outdoor seating, to include chairs, tables and umbrellas. All proposed designs shall be preapproved by the City.
 - c. Property to be open to the public Monday to Thursday, 7:30am to 8:30pm. Friday and Saturdays, 7:30am to 9:00pm and Sundays from 7:30am – 7:00pm, including holidays. Contractor may operate longer hours, if and when commercially practical, subject to City's approval.
 - d. All instances of damage, theft and/or vandalism shall be reported to City within twenty-four (24) hours of the incident. The City shall not be responsible for any damages, theft or disappearance from break-in, burglary, or power failure due to hurricane, electrical storm or any act of God. Contractor shall be responsible for all counterfeit monies and cash shortages. Contractor shall bear any losses sustained due to theft of monies, products and/or damage to its equipment.
 - e. Accepts Property in "as in" condition.
 - f. Responsible for all parking payments for owner and employees.
 - g. Contractor shall prepare a plan for other contingencies, such as hurricane evacuation, etc. and submit plan to City for approval prior to start of Property operation.

C. Conditions of Operation

1. Management of the Property

Contractor shall:

- a. Have one manager to oversee staffing and operations of Property, who will be the direct point of contact for the City.
- b. Address all health and safety concerns promptly.
- c. Ensure that the Property is sufficiently staffed at all times with qualified personnel in order to handle patron demand and provide exceptional customer service.
- d. Ensure employees are easily identifiable as staff and are appropriately dressed for working in the Property. Employees shall wear uniforms.
- e. Provide an operation that will be safe, customer oriented with prompt service, complaint resolution, and effective employee performance and training.
- f. Policies created, including but not limited to refunds, clearly posted for patrons to view. Contractor shall provide a copy of said policies to the City's Contract Administrator prior to starting operations.
- g. Provide strong exception customer service. Service should be professional, timely, attentive and friendly. Orders shall be taken in a friendly and courteous manner.
- h. Provide supervision of Property at all times during operation hours.
- i. Provide staffing for all aspects of the operation.

2. Permitting –

- a. Meet all Health Department regulations, other applicable laws and regulations, and be solely responsible for any payments and permits relating thereto.
- b. Meet all Department of Environmental Protection regulations, other applicable laws and regulations and be solely responsible for any payments and permits relating thereto.
- c. Manage, operate and maintain of facility and provide services in accordance with legal requirements and safety practices required for the safe operations
- d. Shall comply with the requirements of all applicable Federal, State, and Local laws and regulations, as appropriate, including, but not limited to, ADA compliance, health, minimum wage, social security, unemployment insurance, worker's compensation and equal employment guidelines.

3. Merchandise –

- a. Menu items and prices will be approved by City prior to sale. Agreed upon menu and prices shall remain posted at Shop in plain view of patrons standing and waiting for service. Approved pricing and food quality brand names shall reflect current market rates. All posted material shall be clear and printed, not in hand written format. Contractor shall request approval from City. The City will provide

Contractor with contact information for the City's project manager upon execution of the contract required to the property.

- b. Provide an attractive display and storage of merchandise. All signage and displays shall need prior approval by the City.
- c. Shall provide signage to be approved by the City prior to installation. Any permit fees required will be at the Contractor's expense.
- d. Only non-glass items shall be used for beverages and food. Plastic straws and Styrofoam products are prohibited.
- e. Alcoholic beverages may be sold with written approval from the City. Contractor will obtain and pay for all permits, licenses and other business taxes, including Alcoholic Beverage Licenses. Alcoholic beverages shall be allowed within the boundaries of the Property deck area only. The sale of alcoholic beverages beyond this boundary is prohibited.

4. Maintenance –

- a. Responsible for all janitorial services for the interior building and exterior seating, serving and maintenance of facility, garbage removal service, any telephone, electricity, internet and cable services.
- b. Provide signage to Property. All signage to be preapproved by the City.
- c. Perform regular hourly maintenance and cleaning of Property's outdoor seating tables and outdoor area.
- d. Provide regular extermination services, no less than monthly, and as needed.
- e. Dispose of all garbage and waste in designate on site dumpsters upon closing each evening, and when needed. No garbage, including boxes, barrels, cartons, etc. shall be stored during business hours within sight of the public.
- f. Shall accept the Shop as is.
- g. Responsible for all maintenance and clean up related to vandalism incidents.

5. Compensation –

- a. Responsible for all money collection on all concession sales.
- b. Responsible for payment of all Florida sales tax for all revenue collected.
- c. Contractor shall provide either a percentage of gross receipts or a guaranteed flat fee.
- d. If a percentage of gross receipts is proposed, Contractor shall also provide a monthly report of gross sales, which shall be due along with payment. Monthly reports shall show detailed itemized revenue for all sales. City also reserves the right to request yearly reconciliations and additional auditing requirements to be included in the final agreement with Contractor.

6. Minimum Requirements:

- a. Contractor shall provide documentation that they have three (3) years or more of continuous experience within the last ten (10) years in the ownership, management or operation of a Kiosk/restaurant/concession or similar service in the hospitality industry.
- b. Demonstrate financial ability to open and operate the Property such as bank statements, existing balance sheets from established business operations, any lease agreements, etc.
- c. Contractor will provide an operational plan for the Property including a proposed menu.
- d. Provide a minimum of three (3) references with knowledge of your business practices. State your relationship with the company or individual.
- e. Provide a business plan with sufficient detail including estimated costs to open the business. Describe necessary equipment and fixtures, tables and chairs, staffing and supervision, supplies needed to open the Property.
- f. Provide a marketing plan that indicates advertising strategies that would distinguish from other Kiosk operations.

D. Term of Agreement/Contract

The City reserves the right to negotiate the length of the term of the agreement with the highest ranked proposer based on the City's best interest. The length of the term shall comply with City Charter and Ordinance codes. The City would prefer a minimum of five (5) year term, and it is open to negotiations. For lease considerations proposer must provide a minimum of \$100,000.00 in improvements to the Property; of which fifty (50) percent of the dollar amount of the improvements shall be expended in the first year of the agreement and the remainder by the end of the second year.

In the event delivery/service is scheduled to end because of the expiration of this agreement/contract, the Contractor shall continue to deliver/service upon the request of the General Services Director. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing agreement/contract.

E. Required Proposal Submittal

Sealed proposals must be submitted electronically through the eBid System on or before the due date and time indicated previously. The file size for uploads is limited to 250 MB. The Proposer shall upload its response as one (1) file to the eBid System, however, if the file size exceeds 250 MB, the response must be split and uploaded as two (2) separate files . The financial statements should be uploaded to the Response Attachments tab in the eBid System as a separate file titled "FINANCIAL STATEMENTS" and marked "CONFIDENTIAL".

Information to be included in the proposal:

In order to maintain comparability and expedite the review process, it is required that proposals be organized in the manner specified below.

Title Page:

Show the project name and number, the name of the Proposer's company/firm, address, telephone number, name of contact person and the date.

Table of Contents:

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

Letter of Transmittal:

Briefly explain the Proposer's understanding of the project and the Proposer's vision for the Beach Kiosk's operation in the next five (5) years. State the name(s) of the person(s) who will be authorized to make decisions for the Proposer, title(s), office and E-mail addresses and telephone numbers. Please limit this section to two (2) pages.

Business Plan

Proposer shall include a detailed plan for operation of the Beach Kiosk. The plan shall contain the proposed food choices and the pricing for said items. The submitted business plan shall contain at a minimum all the items listed under the Scope of Services

If the Proposer is including site improvements, Proposer must submit a rendering of the proposed improvements. City retains the right to negotiate with the Highest Ranked Proposer on changes to the proposed improvements and business plan prior to execution of an agreement. Improvements shall be at the sole cost of the Proposer.

Compensation:

Proposer shall include a narrative detailing how the Proposer plans to compensate the City for the right to operate the Beach Kiosk. Proposer shall include all benefits the Proposer is willing to provide the City in consideration for the right to operate the Beach Kiosk, including any possible improvement projects to the premises. Proposers shall provide at least a five-year plan with a total of all benefits brought to the City, which shall include, but not be limited to, monthly payments or estimated percentage gross of sales, and the estimated value of the improvements Proposer is willing to make to the premises.

Improvements Schedule (Optional):

Proposer shall provide a timeline/timetable for the completion of any improvements they are willing to conduct to the premises.

References:

Submit a client reference list, including the name of contact, company/firm and/or governmental entity, address, telephone number and type of service provided to each reference.

City Forms:

The RFP Proposer Information Page Form and any other required forms must be completed and submitted electronically through the City’s eBid System.

Litigation:

Disclose any litigation within the past five (5) years arising out of your company’s/firm’s performance.

Financials:

The financial information described in Section 6 “Minimum Requirements” shall be uploaded to the Response Attachments tab in the eBid System as a separate file titled “FINANCIAL STATEMENTS” and marked “CONFIDENTIAL”.

F. Insurance

The insurance described herein reflects the insurance requirements deemed necessary for the agreement/contract 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 expedite the review process to determine the most qualified Proposer.

The Contractor(s) shall not commence operations until certification or proof of insurance, detailing terms and provisions of coverage, has been received and approved by the City’s Risk Manager.

If you are responding to this RFP and have questions regarding the insurance requirements hereunder, please use the Questions feature in the eBid System. If the agreement/contract has already been awarded, please direct any inquiries and proof of the requisite insurance coverage to City staff responsible for oversight of the subject project/agreement/contract.

Contractor is responsible for delivering to the City for timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the City as an additional insured on all such coverage.

Throughout the term of the agreement/contract, City, by and through its Risk Manager, reserves the right to review, modify, reject or accept any insurance policies required by the agreement/contract, including limits, coverages or endorsements. The City reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as the City's review or acceptance of insurance maintained by Contractor, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by Contractor under the agreement/contract.

Throughout the term of the agreement/contract, Contractor and all subcontractors or other agents hereunder, shall, at its sole expense, maintain in full force and effect, the following insurance coverages and limits described herein, including endorsements.

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/firm (number of employees) or the state in which the work is to be performed or of the state in which Contractor is obligated to pay compensation to employees engaged in the performance of the work. No exemption will be considered. 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 as City's interests may appear, on General Liability Insurance only, relative to claims, which arise from Contractor's negligent acts or omissions in connection with Contractor's performance under this agreement/contract.
 - b. Such liability insurance shall include the following checked types of insurance and indicated minimum policy limits:

Type of Insurance

Limits of Liability

GENERAL LIABILITY:

Minimum \$1,000,000 Per Occurrence and \$2,000,000 Per Aggregate

* Policy to be written on a claims occurrence basis

XX comprehensive form	bodily injury and property damage
XX premises - operations	bodily injury and property damage
— explosion & collapse hazard	
— underground hazard	
XX products/completed operations hazard	bodily injury and property damage combined
XX contractual insurance	bodily injury and property damage combined
XX broad form property damage	bodily injury and property damage combined
XX independent contractors	personal injury
XX personal injury	
— sexual abuse/molestation	

XX liquor legal liability

AUTOMOBILE LIABILITY: Minimum \$1,000,000 Per Occurrence and \$2,000,000 Per Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.

XX comprehensive form
XX owned
XX hired
XX non-owned

Minimum \$10,000/\$20,000/\$10,000
(Florida's Minimum Coverage)

REAL & PERSONAL PROPERTY

___ comprehensive form Agent must show proof they have this coverage.

EXCESS LIABILITY		Per Occurrence	Aggregate
XX umbrella form	bodily injury and property damage	\$3,000,000	\$3,000,000
___ other than umbrella	combined		

PROFESSIONAL LIABILITY		Per Occurrence	Aggregate
___ * Policy to be written on a claims made basis		\$1,000,000	\$1,000,000

c. If Professional Liability insurance is required, Contractor agrees the indemnification and hold harmless provisions of the agreement/contract shall survive the termination or expiration of the agreement/contract for a period of three (3) years unless terminated sooner by the applicable statute of limitations.

ENVIRONMENTAL / POLLUTION LIABILITY Per Occurrence Aggregate

* Policy to be written on a claims made basis

___ environmental/pollution liability
\$1,000,000 /\$1,000,000

CYBER LIABILITY	Per Occurrence	Aggregate
* Policy to be written on a claims occurrence basis		
___	\$1,000,000	/\$1,000,000

__Network Security / Privacy Liability
__Breach Response / Notification Sublimit (minimum limit of 50% of policy aggregate)
__Technology Products E&O - \$1,000,000 (only applicable for vendors supplying technology related services and or products)
__Coverage shall be maintained in effect during the period of the Agreement and for not less than four (4) years after termination/ completion of the Agreement.

3. Employer's Liability. Contractor and all subcontractors shall, for the benefit of its employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.
4. Policies: Whenever, under the provisions of the agreement/contract, insurance is required of the Contractor, the Contractor shall promptly provide the following:
 - a. Certificates of Insurance evidencing the required coverage;
 - b. Names and addresses of companies providing coverage;
 - c. Effective and expiration dates of policies; and
 - d. A provision in all policies affording City thirty (30) days written notice by a Carrier of any cancellation or material change in any policy.
5. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company/firm shall provide thirty (30) days written notice to the City.
6. Waiver of Subrogation. Contractor hereby waives any and all right of subrogation against the City, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement/contract to waive subrogation without an endorsement, then, Contractor shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition to the policy not specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such agreement/contract on a pre-loss basis.
7. The Contractor 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 agreement/contract. Certificate(s) to be issued to City of

Pompano Beach, Attention Risk Manager, 100 West Atlantic Boulevard, Pompano Beach, Florida, 33060.

G. Selection/Evaluation Process

A Selection/Evaluation Committee (the “Committee”) will be appointed to select the most qualified company(ies)/firm(s). The Committee will present its findings to the City Commission.

Proposals will be evaluated using the following criteria:

	<u>Criteria</u>	<u>Point Range</u>
1	Experience and Financial Capabilities Previous related work experience and qualifications in the subject area of personnel assigned; Demonstrates a clear understanding of scope of work and other technical or legal issues related to the project; Proposers ability to finance and operate the Beach Kiosk and provide City compensation;	0-25
2	References History and performance of firm/project team on similar projects; References and recommendations from previous clients.	0-10
3	Compensation Monthly payment or percentage of gross revenue offered to City;	0-30
4	Business Plan Operating plans for the Beach Kiosk; Proposed Site Improvements if any; Quality and Variety of proposed food choices; Proposed prices to be charged for all items being sold.	0-35
	Total	0-100

Financial statements or other financial information that are required as submittals to prequalify for an RFP will be exempt from public disclosure; however, financial statements or other financial information submitted to prequalify for an RFP, and were not required by the City, may be subject to public disclosure.

Value of Work Previously Awarded to Company/Firm (Tie-breaker) - In the event of a tie, the company/firm with the lowest value of work as a prime contractor on City projects within the last five years will receive the higher ranking, the company/firm with the next lowest value of work shall receive the next highest ranking, and so on. The analysis of past work will be based on the City's Purchase Order and payment records.

The Committee has the option to use the above criteria for the initial ranking to short-list Proposers and to use an ordinal ranking system to score short-listed Proposers following presentations (if deemed necessary) with a score of “1” assigned to the short-listed Proposer deemed most qualified by the Committee.

Each company/firm should submit documentation that evidences the company’s/firm’s capability to provide the services required for the Committee’s review for short listing purposes. After an initial review of the Proposals, the City may invite Proposers for an interview to discuss the proposal and meet the company’s/firm’s representatives, particularly key personnel who would be assigned to the project. Should interviews be deemed necessary, it is understood that the City shall incur no costs as a result of this interview, nor bear any obligation in further consideration of the submittal.

When more than three responses are received, the Committee shall furnish the City Commission (for its approval) a listing, in ranked order, of no fewer than three companies/firms deemed to be the most highly qualified to perform the service. If three or less companies/firms respond to this RFP, the list will contain the ranking of all responses.

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 RFP; or, review the responses itself 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.

H. Hold Harmless and Indemnification

Proposer covenants and agrees that it will indemnify and hold harmless the City and all of its officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the Proposer, whether direct or indirect, or whether to any person or property to which the City or said parties may be subject, except that neither the Proposer nor any of its subcontractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused by or resulting from the sole negligence of the City or any of its officers, agents or employees.

I. Right to Audit

Contractor's records which shall include but not be limited to accounting records, written policies and procedures, computer records, disks and software, videos, photographs, subcontract files (including proposals of Successful and Unsuccessful Proposers, originals, estimates, estimating worksheets, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to the agreement/contract (all the foregoing hereinafter referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by City's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the Contractor or any of its payees pursuant to the

execution of the agreement/contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with the agreement/contract.

For the purpose of such audits, inspections, examinations and evaluations, the City's agent or authorized representative shall have access to said records from the effective date of the agreement/contract, for the duration of the Work, and until five (5) years after the date of final payment by City to Contractor pursuant to the agreement/contract.

City's agent or its authorized representative shall have access to the Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. City's agent or its authorized representative shall give auditees reasonable advance notice of intended audits.

Contractor shall require all subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in any written agreement/contract. Failure to obtain such written agreements/contracts which include such provisions shall be reason to exclude some or all of the related payees' costs from amounts payable to the Contractor pursuant to the agreement/contract.

J. Retention of Records and Right to Access

The City is a public agency subject to, Florida Statutes Chapter 119. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service;
2. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
3. 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;
4. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the agreement/contract term and following completion of the agreement/contract if the Contractor does not transfer the records to the City; and

Upon completion of the agreement/contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the agreement/contract, the Contractor shall destroy any

duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the agreement/contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

K. Communications

No negotiations, decisions, or actions shall be initiated or executed by the company/firm as a result of any discussions with any City employee. Only those communications, which are in writing from the City, may be considered as a duly authorized expression on behalf of the City. In addition, only those communications, which are in writing and signed from an authorized designee of the company/firm, will be recognized by the City as duly authorized expressions on behalf of the company/firm.

L. No Discrimination

There shall be no discrimination as to race, sex, color, age, religion, or national origin in the operations conducted under any agreement/contract with the City.

M. Independent Contractor

The Contractor will conduct business as an independent contractor under the terms of the agreement/contract. Personnel services provided by the company/firm shall be by employees of the company/firm and subject to supervision by the company/firm (whose eligibility must be confirmed through the US Department of Homeland Security and Social Security E-Verify system), and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under the agreement/contract shall be those of the company/firm.

N. Staff Assignment

The City reserves the right to approve or reject, for any reasons, Proposer's staff assigned to this project at any time. Background checks may be required.

O. Agreement/Contract Terms

The agreement/contract resulting from this RFP shall include, but not be limited to the following terms:

The agreement/contract shall include as a minimum, the entirety of this RFP, together with the Contactor's Proposal. Agreement/Contract shall be prepared by the City of Pompano Beach City Attorney.

If the City defends any claim, demand, cause of action, or lawsuit arising out of any act, action, negligent acts or negligent omissions, or willful misconduct of the Contractor, its employees, agents or servants during the performance of the agreement/contract, whether directly or indirectly, Contractor agrees to reimburse the City for all expenses, attorney's fees, and court costs incurred in defending such claim, cause of action or lawsuit.

The City reserves the right to negotiate a lease, a concessionaire agreement or similar agreement, whichever is determined to be in the best interest of the City.

P. Waiver

It is agreed that no waiver or modification of the agreement/contract resulting from this RFP, or of any covenant, condition or limitation contained in it shall be valid unless it is in writing and duly executed by the party to be charged with it, and that no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting the agreement/contract, or the right or obligations of any party under it, unless such waiver or modification is in writing, duly executed as previously provided. The parties agree that the provisions of this paragraph may not be waived except by a duly executed writing.

Q. Survivorship Rights

The agreement/contract resulting from this RFP shall be binding on and inure to the benefit of the respective parties and their executors, administrators, heirs, personal representative, successors and assigns.

R. Manner of Performance

Proposer agrees to perform its duties and obligations under the agreement/contract resulting from this RFP in a professional manner and in accordance with all applicable local, federal and state laws, rules and regulations.

Proposer agrees that the services provided under the agreement/contract resulting from this RFP shall be provided by employees that are educated, trained and experienced, certified and licensed in all areas encompassed within its designated duties. Proposer agrees to furnish the City with all documentation, certification, authorization, license, permit, or registration currently required by applicable laws or rules and regulations. Proposer further certifies that it and its employees are now in and will maintain good standing with such governmental agencies and that it and its employees will keep all license, permits, registration, authorization or certification required by applicable laws or regulations in full force and effect during the term of the agreement/contract. Failure of Proposer to comply with this paragraph shall constitute a material breach of agreement/contract.

S. Acceptance Period

Proposals submitted in response to this RFP must be valid for a period no less than one hundred and twenty (120) days from the closing date of this RFP.

T. RFP Conditions and Provisions

The completed proposal (together with all required attachments) must be submitted electronically to the City on or before the time and date written herein. All Proposers, by electronic submission of a proposal, shall agree to comply with all of the conditions, requirements and instructions of this RFP as stated or implied herein. All proposals and supporting materials submitted will become the property of the City.

The Proposal shall not contain any alteration to the RFP posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Proposer affirms that a complete set of RFP documents was obtained from the eBid System or from the Purchasing Division of the General Services Department only and no alteration of any kind has been made to the RFP. Exceptions or deviations may not be added after the submittal date.

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

The City reserves the right to postpone or cancel this RFP, or reject all proposals, or reject and resolicit, if in its sole discretion 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 proposals, or to award agreement/contract for the items herein, in part or whole, if it is determined to be in the best interests of the City to do so.

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.

U. Standard Provisions

1. Governing Law

Any agreement/contract resulting from this RFP shall be governed by the laws of the State of Florida, and the venue for any legal action relating to such agreement/contract will be in Broward County, Florida.

2. Licenses

In order to perform public work, the Contractor shall:

Be licensed to do business in Florida, if an entity, and hold or obtain such Contractor and Business Licenses if required by state statutes or local ordinances.

3. Conflict of Interest

For purposes of determining any possible conflict of interest, each Proposer must disclose if any Elected Official, Appointed Official, or City Employee is also an owner, corporate officer, or an employee of the company/firm. If any Elected Official, Appointed Official, or City Employee is an owner, corporate officer, or an employee, the Proposer must file a statement with the Broward County Supervisor of Elections pursuant to, Section 112.313, Florida Statutes.

4. Drug Free Workplace

The Contractor will be required to verify it will operate a “Drug Free Workplace” as set forth in Section 287.087, Florida Statutes.

5. 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 agreement/contract to provide any goods or services to a public entity, may not submit a proposal on a agreement/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 agreement/contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

6. Patent Fees, Royalties, And Licenses

If the Contractor requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Contractor and its 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 or after completion of the work.

7. Permits

The Contractor shall be responsible for obtaining all permits, licenses, certifications, 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 to the requirements of said legislation.

8. Familiarity With Laws

It is assumed the Contractor will be familiar with all federal, state and local laws, ordinances, rules and regulations that may affect its services pursuant to this RFP. Ignorance on the part of the company/firm will in no way relieve the company/firm from responsibility.

9. Withdrawal of Proposals

A Proposer may withdraw its proposal without prejudice no later than the advertised deadline for submission of proposals by written communication to the City of Pompano Beach, General Services Department, 1190 N.E. 3rd Avenue, Building C, Pompano Beach, Florida 33060.

10. Composition of Project Team

Proposers are required to commit that the principals and personnel named in the proposal will perform the services throughout the agreement/contract term unless otherwise provided for by way of a negotiated agreement/contract/written amendment to same executed by both parties. No diversion or substitution of principals or personnel will be allowed unless a written request that sets forth the qualifications and experience of the proposed replacement(s) is submitted to and approved by the City in writing.

11. 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 Section 218, Florida Statutes, payment will be made within forty-five (45) days after receipt of a proper invoice.

12. Public Records

- a. The City is a public agency subject to, Section 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:
 - i. Keep and maintain public records required by the City in order to perform the service;
 - ii. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in, Section 119, Florida Statutes or as otherwise provided by law;

- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the agreement/contract term and following completion of the agreement/contract if the Contractor does not transfer the records to the City; and
 - iv. Upon completion of the agreement/contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the agreement/contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the agreement/contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.
- b. Failure of the Contractor to provide the above-described public records to the City within a reasonable time may subject Contractor to penalties under, Section 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE AWARDED PROPOSER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AWARDED PROPOSER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT/CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060
(954) 786-4611
RecordsCustodian@copbfl.com**

V. Questions and Communication

All questions regarding this RFP are to be submitted using the Questions feature in the eBid System. Questions must be received at least seven (7) calendar days before the scheduled RFP opening. Oral and other interpretations or clarifications will be without legal effect. Addendum/Addenda will be posted to this RFP in the eBid System, and it is the Proposer's responsibility to obtain all addenda before submitting a response to this RFP.

W. Addenda

The issuance of a written addendum or posting of an answer in response to a question submitted using the Questions feature in the eBid System are the only official methods whereby interpretation, clarification, or additional information can be given. If any addendum is issued to this RFP, the addendum will be issued via the eBid System. It shall be the responsibility of each Proposer, prior to submitting its response, to check the eBid System or to contact the Purchasing Division of the General Services Department at purchasing@copbfl.com to determine if addendum was issued and to make such addendum a part of its proposal. Any Addendum will be posted to this RFP in the eBid System.

PROPOSER INFORMATION FORM

COMPLETE THE PROPOSER INFORMATION FORM ON THE ATTACHMENTS TAB IN THE EBID SYSTEM. PROPOSERS ARE TO COMPLETE FORM IN ITS ENTIRETY AND INCLUDE THE FORM IN YOUR PROPOSAL THAT MUST BE UPLOADED TO THE RESPONSE ATTACHMENTS TAB FOR THE RFP IN THE EBID SYSTEM.

To: The City of Pompano Beach, Florida

The below named company/firm hereby agrees to furnish the proposed services under the terms stated subject to all instructions, terms, conditions, specifications, addenda, legal advertisement, and conditions contained in the RFP. I have read the RFP and all attachments, including the specifications, and fully understand what is required. By submitting this proposal. I will accept agreement/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 (Legal Registered) _____

Federal Tax Identification Number _____

Address _____

City/State/Zip _____

Telephone No. _____ Fax No. _____

Email Address _____

VENDOR CERTIFICATION REGARDING SCRUTINIZED COMPANIES LISTS

REQUESTED INFORMATION BELOW IS ON THE ATTRIBUTES TAB FOR THE RFP IN THE EBID SYSTEM. PROVIDE THIS INFORMATION ELECTRONICALLY.

Proposer's Name: _____

Vendor FEIN: _____

Section 215.4725, Florida Statutes, prohibits agencies from contracting (at any dollar amount) with companies on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel. As the person authorized to sign electronically on behalf of the Proposer, I hereby certify by selecting the box below that the company responding to this RFP is not listed on the Scrutinized Companies that Boycott Israel List. I also certify that the company responding to this RFP is not participating in a boycott of Israel, and is not engaged in business operations in Syria or Cuba. I understand that pursuant to Sections 287.135 and 215.4725, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.

I Certify



STATEMENT UNDER SECTION 287.087, FLORIDA STATUTES ON DRUG-FREE WORKPLACE

REQUESTED INFORMATION BELOW IS ON THE ATTRIBUTES TAB FOR THE RFP IN THE EBID SYSTEM. PROVIDE THIS INFORMATION ELECTRONICALLY.

Preference must be given to Contractors submitting certification with their bid or proposal, certifying they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. This requirement affects all public entities of the State and becomes effective January 1, 1991.

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- (1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- (2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- (3) Give each employee engaged in providing the commodities or contractual services that are under bid, a copy of the statement specified in subsection (1).
- (4) In the statement specified in subsection (1) notify the employees that as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace, no later than five (5) days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in, a drug abuse assistance or rehabilitation program if such is available in the employee's community, by an employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that his company/firm complies with the above requirements.

I Certify: _____

CONFLICT OF INTEREST

REQUESTED INFORMATION BELOW IS ON THE ATTRIBUTES TAB FOR THE RFP IN THE EBID SYSTEM. PROVIDE THIS INFORMATION ELECTRONICALLY.

For purposes of determining any possible conflict of interest, all proposers must disclose if any City of Pompano Beach employee is also an owner, corporate officer, or employee of their business. Indicate either "Yes" (a City employee is also associated with your business), or "No". If answer is "Yes", you must file a statement with the Supervisor of Elections, pursuant to Florida Statutes 112.313.

No ____ Yes ____