



**CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444**

**AGREEMENT FOR
SOLICITATION NO. RFP 2018-046
FOR BEACH EQUIPMENT RENTAL CONCESSIONS**

OCEANSIDE BEACH SERVICES

PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Delray Beach, a Florida municipal corporation ("City"), whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444, and Oceanside Beach Services, Inc., a corporation (hereafter referred to as "Contractor"), whose address is PO Box 13018 North Palm Beach, FL 33408.

WHEREAS, the City desires to retain the services of the Contractor to provide the goods and services in accordance with the City's Request for Proposals No. 2018-046, and the Contractor's response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the City agree as follows:

ARTICLE 1. INCORPORATION OF REQUEST FOR PROPOSALS

The terms and conditions of this Agreement shall include and incorporate the terms, conditions, and specifications set forth in the City's Request for Proposals No. 2018-046 and the Contractor's response thereto, including all documentation required thereunder.

ARTICLE 2. DESCRIPTION OF GOODS OR SCOPE OF SERVICES

The Contractor shall provide the goods and/or perform those services identified in the specifications accompanying the City's Request for Proposals, which are incorporated herein by reference, subject to the following change(s):

5.4 BEACH EQUIPMENT

- i. ~~At no time will more than~~ Three hundred fifty (350) set-ups (as defined above and below) ~~be are~~ permitted on the beach. The three hundred fifty (350) total includes equipment for Atlantic Dunes Park. ~~Only 350 set-ups be allowed.~~ This includes no more than 300 on the main beach and 50 at Atlantic Dunes location. Annually, between December 15 – April 30 and off-season holiday weekends Memorial Day, July 4th, Labor day and Thanksgiving, Contractor may increase the set-ups to accommodate increased demand. Requests for additional set-ups must be submitted in writing a minimum of two (2) weeks prior to the date of the request. This request for additional set-ups MUST include a map with detailed locations noted where the additional set-ups may be located, if approved. Requests for additional set-ups must be accompanied by the additional fee as noted in the fee section. If the request is denied, the fee will be returned.
- ii. The maximum allowable amount of equipment may be lowered by the City of Delray Beach as needed due to beach erosion, diminished beach size, special events, or other circumstances. The City shall have the right to increase or decrease the number of set-ups and locations at the discretion of the City.
- ...
- v. The City reserves the right to perform random inspections of the equipment to determine quality, safety, and compliance with contract. Violations of the contract will result in monetary penalties as follows:

During off-season, non-holiday weekends, contract violations shall be assessed at \$1,000 per calendar day.

- ~~a. Warning: The contractor will receive a warning of a potential violation (first time only) and be allowed 48 hours to rectify the violation.~~
- ~~b. First violation: \$5,000~~
- ~~c. Second violation: \$10,000~~
- ~~d. Third violation: \$20,000~~
- ~~e. Fourth violation: Contract termination~~

5.9 RATES CHARGED FOR BEACH EQUIPMENT

- a. Resale and Rental Rates and Fees –

All ~~resale and~~ equipment rental ~~for concessions and amenities~~ rates shall be visibly posted on the Premises at all times during operation. All rate signage must be preapproved by the City Manager or his designee. All rate signage locations must be approved by the City Manager or his designee. All rates shall be consistent with those rates and fees for similar services and merchandise in recreational facilities and tourist attractions in the Dade, Broward, and Palm Beach County market, and shall be proposed by the Contractor based upon its reasonable judgment. All rental rates for beach umbrellas, chairs, cabanas, and similar beach equipment or packages which include a standard set-up as noted above shall be approved by the City Manager.

~~5.21~~ ADDITIONAL AMENITIES

~~Additional Amenities may include, but are not limited to, beach equipment upgrades, equipment color changes, day beds, and sunscreen lotion. Additional Amenities shall not include Alcoholic beverages, clothing or any other items for sale, or any activity that would limit or curtail public use of the beach. All proposed Additional Amenities and related pricing and plans are subject to approval by the City.~~

~~A proposed Additional Amenities plan must be provided in Tab 7 of the proposal section of this RFP. Placement of Additional Amenities must be included as part of the proposed site plan.~~

~~The City will negotiate a percentage of the Contractor's annual gross revenue net sales tax collected, derived from the Contractor's rental and/or sale of any and all items offered to customers in the operation of Additional Amenities in accordance with the terms of this contract.~~

ARTICLE 3. COMPENSATION

The Contractor shall pay to the City, in compliance with the Pricing Schedule attached hereto and incorporated herein, according to the terms and specifications of the referenced Request for Proposal, subject to the following change(s): section 4.15, "Minimum Fees," shall be deleted in its entirety.

ARTICLE 4. MISCELLANEOUS PROVISIONS

- a. Notice Format. All notices or other written communications required, contemplated, or permitted under this Agreement shall be in writing and shall be hand delivered, telecommunicated, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

- i. As to the City: City of Delray Beach
100 NW 1st Street
Delray Beach, Florida 33444
Attn: City Manager
Email: lauzier@mydelraybeach.com
- ii. with a copy to: City of Delray Beach
200 NW 1st Street
Delray Beach, Florida 33444
Attn: City Attorney
- iii. As to the Contractor: Oceanside Beach Services, Inc
P.O. Box 13018
North Palm Beach, FL 33408
Attn.: Michael J. Novatka, President
Email: info@beachservices.com

b. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

c. Effective Date. The effective date of this Agreement shall be as of the date it has been executed by both the parties hereto.

ARTICLE 5. CONTRACT TERM

The Contract and Agreement shall be effective for five (5) years beginning on or about November 1, 2018, as of the effective date of this Agreement, and shall expire on October 31, 2023.

(Remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereinafter written.

CITY OF DELRAY BEACH, FLORIDA

[SEAL]

By: _____
Mark R. Lauzier, City Manager

ATTEST:

By: _____
Katerri Johnson, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
City Attorney

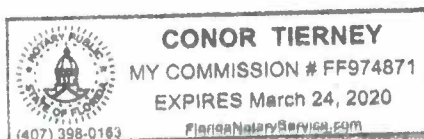
[SEAL]

CONTRACTOR

By: _____
Michael J. Novatka
Printed Name
President
Title

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 14th day of January, 2019, by Michael Novatka, as President (name of officer or agent, title of officer or agent), of Ocean Side Beach Service (name of corporation acknowledging), a Florida (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced FL driver's license (type of identification) as identification



Notary Public – State of Florida

PRICING SCHEDULE

		Contractor's Proposed Annual Fee
Year One Annual Concession Fee:	(minimum acceptable \$405,000.00)	\$405,000.00
Year Two Annual Concession Fee:	(minimum acceptable \$405,000.00)	\$405,000.00
Year Three Annual Concession Fee:	(minimum acceptable \$415,000.00)	\$415,000.00
Year Four Annual Concession Fee:	(minimum acceptable \$415,000.00)	\$415,000.00
Year Five Annual Concession Fee:	(minimum acceptable \$415,000.00)	\$415,000.00
Total Five Year Concession Fee:		\$2,055,000.00

NOTE: APPLICABLE FLORIDA STATE SALES TAXES SHALL BE ADDED TO THE ABOVE LISTED ANNUAL CONCESSION FEE.