

City of Racine
Invitation to Bid | Contract #2021021
Pershing Park Boat Launch Concession



March 31, 2021 by 10:00am	DUE DATE Bid proposals received after this time will not be considered
Method of submittal	Email Facsimile ONLY
Contact information:	Monica G. Santos – Purchasing Agent City of Racine Purchasing 730 Washington Ave. Room 105 Racine, WI 53403 Office: 262.636.9143 Fax: 262.636.9100 Email: monica.santos@cityofracine.org purchasing@cityofracine.org Website: http://www.cityofracine.org/purchasing

The undersigned hereby proposes to furnish all labor, tools, equipment and all materials, except as definitely specified to be furnished by others, ready for use, all in accordance with these specifications, all as attached hereto and all of which the undersigned has examined, the following work for the compensation indicated.

Firm: _____

Name: _____

Address: _____

City, State, Zip: _____

Phone: _____

Email: _____

1. General Information

The City of Racine is the sole judge of the suitability of all bidders and reserves the right to reject any and all parts of the proposal that is not in the best interest of the City of Racine.

The City of Racine, in its sole discretion and without cause, may terminate the Purchase Order or Contract, in whole or in part, at any time without incurring liability to the bidder for lost profits, or any other costs of damages.

The City of Racine is accepting informal bids for **Pershing Park Boat Launch Concession**

The services to be provided consist of providing a concession service to the public from Pershing Park Boat Launch Concession, a City of Racine owned public park site located at 3 - 5th Street, Racine, WI, and more particularly described in the attached site plan.

A menu with prices must accompany the proposal. Please note that all items must be prepackaged, cooked in air fryer or warming units.

2. Proposal

\$ _____ **Year 1**

\$ _____ **Year 2**

\$ _____ **Year 3**

The three (3) year contract for North Beach Canteen Concessions shall be let to BIDDER as being the most advantageous to the City of Racine. BIDDER shall operate a North Beach Canteen Concession with the City receiving a percent of the gross receipts as follows:

_____ % the first year

_____ % the second year

_____ % the third year.

Gross sales mean the overall total amount of sales, less sales taxes.

3. General Questions

Have you performed any work for the City of Racine in the past? YES NO

Are you part of the Disadvantage Business Enterprise (DBE) Program? YES NO

4. Racine Works Program (RWP)

The “Racine Works Program (RWP)” is a preferential hiring program used by the City of Racine to help residents of the City gain access to employment opportunities on City construction or City funded projects. The Racine Works Program is designed to promote employment of City residents as part of a contractor’s workforce on some City construction projects.

The City of Racine RWP procurement policy promotes the utilization of local workers and maximization of the economic impact of annual operating and capital project spending.

Bidders and contractors shall satisfy the [City of Racine Ordinance Section 46-41](#) if applicable.

5. References

As a part of properly completing the bid, provide the names, addresses, phone numbers and contact persons for a minimum of two companies or municipalities for which the bidder has satisfactorily performed related work within the past five (5) years.

Company Name: _____

Address: _____

Contact Person: _____

Phone Number: _____

E-mail: _____

Company Name: _____

Address: _____

Contact Person: _____

Phone Number: _____

E-mail: _____

6. Specifications

SCOPE

The concession contractor shall provide all services prescribed for the bid price given and shall be responsible for all labor, products, preparation, permits, storage, sales, supplies, advertising, local, state and federal taxes, and related work.

All services and products delivered shall be dispensed in a professional manner in conformance with accepted methods and practices and in strict conformance with all existing state and local codes, laws, ordinances, orders, etc., as if such legal requirements were herein set forth at length. The concession contractor shall obtain and pay for all necessary licenses and permits, fees, approvals and acceptances by the legal authorities controlling such services.

LOCATION

The site said services are to be delivered is Pershing Park Boat Launch, 3 - 5th Street, Racine, Wisconsin at the area specified on site plan. Contractor shall have exclusive use of the area of Pershing Park Boat Launch Concession Building as shown on site plan and shall have no rights to any other area of said building or premises, except as otherwise provided herein.

Any agreement to make major alterations, additions, major repairs, permanent decorations, restorations or improvements shall be submitted in advance of execution to the City for written approval, and Concessionaire shall furnish a copy of the Lease Agreement to any person making such major alterations, additions, major repairs, permanent decorations or improvements to the premises. **Specific authority must be granted by the Director of Parks, Recreation and Cultural Services.** Any such Construction permitted by the City to be made by Concessionaire shall become the property of the City.

Concessionaire shall not install any type of equipment on the roof of the building without written permission from the City.

CAPITAL IMPROVEMENTS

The City has the right to make whatever capital improvements it deems necessary or desirable at any time without expense to the Concessionaire. Before making any such improvements, the City shall meet with Concessionaire to discuss the effect of the improvement and making of such improvement upon Concessionaire's operation of the leased premises. Concessionaire shall make itself available for such discussion. The City shall make a good faith effort to minimize or limit any adverse effect of any such improvement or the making of such improvement upon Concessionaire's operation of the leased premises. The parties expressly understand and agree that Concessionaire shall not be relieved of any of its obligations under the Lease Agreement, nor shall the City be liable to Concessionaire for any interruption of, costs or damages to, Concessionaire's operation that may result from City's making any capital improvements.

The City agrees to give reasonable advance notice to Concessionaire of the date and time of any work which the City intends to do on the leased premises.

SPECIFIC CONDITIONS

This concession service shall be operated under the conditions as set forth herein by the City of Racine Board of Parks, Recreation and Cultural Services Board:

1. **EXCLUSIVE RIGHTS**

The type of products and services delivered shall be subject to the approval of the Licensors and the Director of Parks, Recreation and Cultural Services or authorized designee.

2. **FACILITIES, EQUIPMENT AND SERVICES FURNISHED BY OWNER**

The facilities, equipment and services to be provided by the City of Racine Department of Parks, Recreation and Cultural Services are as follows:

A. Facilities:

1. Concession area
2. Storage space
3. Restrooms
4. Parking lot
5. 11 Launch Lanes with Piers
6. Fish Cleaning Station

B. Equipment

1. Hot water heater
2. 4 compartment sink

C. Services Provided

1. Electricity (100 amp)
2. Water
3. Sewer
4. Spring set up of water service to facility
5. Spring set up of Fish Cleaning Station
6. General and major repairs to concession area and Fish Cleaning Station
7. Fall shut down of canteen water system
8. At least twice a week refuse removal during the period between May 1st and November 1st of each calendar year. Additional refuse removal

requests by the Concessionaire shall be directed to the Director of Parks, Recreation and Cultural Services or his/her designee

9. Installation and removal of piers
10. The City shall be responsible, at its own expense and at no expense to Concessionaire, to provide for winterizing and care during the off-season months of the building on the leased premises, if the building is not being used by the Concessionaire. Once the building is winterized for the season, the City is under no obligation to restore water services.

3. EQUIPMENT AND SERVICES PROVIDED BY THE CONCESSION CONTRACTOR

Concessionaire shall enforce all current rules and City ordinances pertaining to the park and the use of the bathhouse facilities. Any additional rules proposed by Concessionaire shall be approved in writing by the City prior to their posting. Said approval by the City shall not be unreasonably withheld.

The equipment and services to be provided by the Contractor are as follows:

A. Equipment

1. All food preparation equipment
2. All beverage and food cooling, freezing and dispensing equipment
3. An appropriate cash register that produces a record of all sales
4. All shelving and display racks
5. Any vending machines

B. Services

1. Minor maintenance of the restrooms and Fish Cleaning Station
2. General litter control in area designated on site plan attached
3. Monitor Kiosk pay station, selling of season passes and inform boaters of pay system

4. SUBCONTRACTING

No rights granted by the contract may be sold, assigned, mortgaged, pledged, transfer controlling interest, or sublet by the Contractor without prior written approval of the City.

5. DEFAULT

In the event that the Contractor defaults in its responsibilities under this agreement, the Board of Parks, Recreation and Cultural Services Commissioners shall give written notice of such default. If the Contractor does not cure such default within ten (10) days of the date of such notice, then the City may terminate the agreement to operate Pershing Park Boat Launch Concession immediately. The Contractor shall make all payments owing to the City within ten (10) days after such termination. Contractor's liabilities arising under its operations shall survive termination and expiration of the agreement.

6. CONCESSION EMPLOYEES

The concession personnel shall be employees of the Contractor, and the Contractor shall be completely and entirely responsible for the acts and conduct of all persons in its employment and for the acts and conduct of all sub-concessionaires, if applicable.

7. SITE MAINTENANCE

The Contractor shall keep the concession area free and clean from all debris and dirt, shall not permit any decayed foods or similar substances to accumulate upon the premises, and shall not permit commercial product advertising matter or signs to be displayed upon the exterior of any of the premises hereby licensed.

8. SALES CONTAINER LIMITATIONS

No liquid refreshments and/or other refreshments shall be sold from the Concession in glass containers. Liquid refreshments and other food items shall be served in plastic, paper or aluminum containers, with no other containers delivered to customers.

9. OTHER REGULATIONS AND PERMITS

The Contractor shall comply with all laws, ordinances, rules and regulations of the State, City, Board of Parks, Recreation and Cultural Services Commissioners, and other public authorities and shall obtain and pay for all necessary bonds, permits and licenses. The canteen concession operation will be subject to the approval of the City of Racine Health, Fire, Electrical, and Building Inspectors, as necessary.

10. ALCOHOL BEVERAGES

No intoxicating liquor, fermented malt beverages or non-intoxicating soda water beverages shall be sold without necessary permits and licenses.

11. INSPECTION BY STAFF

Authorized representatives of the City shall have access at all reasonable times to the canteen concession area and building for the purpose of inspecting the facility, food operation and method of operation of the canteen concession.

12. STORAGE

Materials, supplies and equipment stored in the building shall be stored at the risk of the Contractor. The City shall not be responsible for these items. The Contractor shall not store materials, supplies and equipment that do not pertain to the operation of Pershing Park Boat Launch concession at the facility.

13. LAUNCH FEE COLLECTION

In addition to other sales, Concessionaire is authorized to sell boat launch passes obtained from the city. Concessionaire is entitled to Fifteen Percent (15%) of all revenue realized from said sales and shall provide a monthly accounting to the Director of Parks, Recreation and Cultural Services. The Launch fee rates are posted at www.cityofracine.org

14. INSURANCE

The Contractor shall carry adequate insurance to cover loss of its property and City property, including monies collected, and the Contractor also agrees to hold harmless the City of Racine and the Board of Parks, Recreation and Cultural Services Commissioners, their officers, agents, and employees, from any and all liability to any person or persons for injuries to life, person or property, for or by reason of anything done, or permitted to be done or suffered, or omitted to be done by the Contractor or any of its agents or employees on the premises covered by this agreement.

The Contractor shall carry, at its own expense, insurance in a company satisfactory to the City insuring the aforesaid liabilities in the sum of at least \$300,000.00 for bodily injury or death of any one person per occurrence; \$500,000.00 for bodily injury or death of any two or more persons per occurrence; and \$50,000.00 for injury or destruction of property of

others per occurrence and shall deposit proof of such insurance with the City upon execution of the Agreement. The insurance policy shall name the city of Racine as an additional insured and shall provide a thirty (30) day notice of cancellation, termination or reduction of coverage to the City of Racine. Such insurance shall also cover any damage done to the canteen concession stand or to any other part of the building or premises which may be caused by negligence on the part of the Contractor or its agents and employees. Contractor shall also carry workers compensation insurance in the amounts required by the State of Wisconsin. Current certificates of such insurance shall be provided to the City during the term of the Agreement.

15. PARKING

The City of Racine will provide one (1) automobile parking spot located within the Pershing Park Boat Launch. Location shall be determined by the Director of Parks, Recreation and Cultural Services or designee.

16. RESTORATION OF PREMISES

Upon expiration or termination of the contract, the Contractor shall restore the premises to the City in as good condition as at the commencement of the contract, ordinary wear and tear excepted. All supplies and merchandise shall be removed by the Contractor at the end of each term.

17. HOURS OF OPERATION

The Contractor shall operate the canteen concession at minimum the Saturday prior to Memorial Day through Labor Day of each year. The Contractor must provide services during all scheduled activities unless weather conditions preclude recreational activities. In the event of inclement weather, the contractor must give notice to the Parks, Recreation and Cultural Services Department of his intention to close (minimum one hour notice). The Parks, Recreation and Cultural Services Department will provide a schedule of events for Pershing Park Boat Launch and will give one week's notice of additional events.

The concession shall be set up and ready to operate at minimum before established time of 10:00 a.m. opening and will remain open and operative through 8:00 p.m. minimum. Any additional hours must be agreed to by the Director of Parks, Recreation and Cultural Services or authorized designee.

18. TERM OF AGREEMENT

The term of this agreement shall be for a three (3) year period from May 1, 2021, through December 31, 2023 with an option to extend for two (2) additional one year terms, if mutually agreed to in writing by both the Concessionaire and City.

19. ACCOUNTING

- A. The Concessionaire contract is based upon gross income; therefore, the Concessionaire shall submit to the City a monthly, itemized statement of gross revenue receipts from the entire operation of the concession operation on a form approved by the City of Racine which is based on the forms provided as Exhibit "A" and Exhibit "B" to this contract. This statement shall be submitted to the City by the twenty-fifth (25th) day of each month, showing an accounting of gross revenue receipts for the previous calendar month. The Concessionaire shall keep or cause to be kept such reasonable books, records, journals, accounts and ledgers as may be required to properly and accurately reflect the amounts of revenues and expenses in accordance with generally accepted accounting principles. Said statements shall be subject to Wisconsin public records law.
- B. The City shall have the right, at any and all reasonable hours, and upon reasonable notice, to inspect and verify the books of concessionaire with reference to the operation of the entire concession operation. The City shall have the right, at the City's expense, at any and all reasonable hours, and upon reasonable notice, to have an audit performed upon Concessionaire's operation of the concession operation, as the City may deem necessary or desirable.
- C. Concessionaire shall keep and provide to the City, upon request, all cash register tapes from all gross revenue items. Cash register tapes shall be retained by Concessionaire for each year during the term of this lease plus one additional year.
- D. The City shall have the right of access to any and all portions of the North Beach Bathhouse Concession premises, at any and all reasonable hours, and upon reasonable notice, for the purpose of inspecting, analyzing and/or gathering information relating to the premises itself.

20. SECURITY DEPOSIT

- A. Concessionaire shall provide at execution of the Lease, a security deposit of Two Thousand, Five Hundred Dollars (\$2,500.00). Said \$2,500 shall be deposited in an escrow account to be invested by the City with interest earned being added to the

escrow account. This deposit shall be used by the City, at the option and in the sole discretion of the City, to reimburse the City for any default of any provision(s) of the lease. Such breach shall include, but not be limited to, the failure to pay the percentage of monthly gross receipts, the failure to maintain or restore premises, failure to maintain equipment, failure to provide adequate insurance coverage, failure to pay any liens that may be filed against the premises or any equipment, or for any other violation of any term of the Agreement. City shall give to Concessionaire ten (10) days written notice of the City's intent to withdraw funds from the escrow account. The notice shall state the amount the City intends to withdraw and the act of default by Concessionaire.

- B. The total sum of Two thousand, Five Hundred Dollars (\$2,500.00) shall be on deposit by the Concessionaire with the City each year of the lease. If any amount has been expended by the City from the original \$2,500 security deposit for defaults, Concessionaire shall deposit an amount equal to the sum withdrawn by the City within 30 days of letter notification, so that the City has available to it the total sum of \$2,500 as a security deposit for the term of the lease agreement.
- C. Any balance remaining, without interest, on the security deposit in the escrow account shall be refunded by the City to Concessionaire within sixty (60) days from the date of the termination of the last year of the lease.

21. PAYMENT AND REPORT SCHEDULE

- A. Audits
- B. The City of Racine reserves the right to audit the Contractor's records in regard to this contract. Contractor shall maintain all such records until twelve (12) months following the expiration or termination of this agreement and shall promptly deliver the concession sales records to the City upon written request.
- C. Payments shall be made to the City on or before the twenty-fifth (25th) day of each month.
- D.

22. INDEMNITY PROVISIONS

Concessionaire shall indemnify and save harmless the City from and against any and all losses, costs (including attorney's fees), damages, expenses and liability (including statutory liability and liability under Worker's Compensation and Unemployment Compensation Laws) in connection with claims for damages as a result of injury or death

of any person or property damage to any property sustained by Concessionaire, its agents, employees, customers, invitees, contractors, subcontractors and all other persons which may arise from and in any manner grow out of any act or neglect on or about the leased premises by Concessionaire, Concessionaire's agents, employees, customers, invitees, contractors, subcontractors and all other persons.

Concessionaire shall immediately notify the City of any injury or death of any person or property damage to any property sustained by Concessionaire or legal action taken against the Concessionaire as a result of any injury or death of any person or property damage.

LIVE MUSIC

Live music may be played at the Pershing Park Boat Launch Concession on holidays and on the following days of the week as follows: Wednesday, Thursday, Friday, Saturday (6:00 p.m. to 9:30 p.m.), and Sunday (2:00 p.m. to 6:00 p.m.).

SIGNS

Signage shall be restricted to those signs already in existence, except for special event signage that is approved in advance by the Parks, Recreation and Cultural Services Department Director (or designee) following a formal request by Concessionaire.

SOUND AMPLIFYING EQUIPMENT

Sound amplifying equipment, which is hereby defined as any device used for the amplification of the human voice, music or other sound (including stereos, radios and speakers), shall, at all times, be pointed to face directly to the southeast (i.e., Lake Michigan). Further, the sound levels will be controlled to a level that does not violate section 42-136 of the municipal code.

At no time shall sounds emanating from sound amplifying equipment exceed 15 DBA above the ambient sound level as measured at any property line.

TRAILER STORAGE

No trailer storage of any kind, except as designated by the Director of Parks, Recreation and Cultural Services (or designee) will be permitted unless the Board of Parks, Recreation and Cultural Services approves such storage in advance, following a formal request by Concessionaire. Trailers used for refrigeration purposes will be negotiated based on the amount of electrical usage.

ADDITIONAL RESTROOM OR MISCELLANEOUS FACILITIES

In the event additional restroom or miscellaneous facilities (i.e., tents, tables, etc.) are needed for special events, the City will be responsible for providing and removing such facilities or equipment if the event is sponsored by the City. If the event is sponsored (following prior approval of the Parks, Recreation and Cultural Services Board) by the Concessionaire, such facilities will be provided and removed by the Concessionaire, at its cost. If the event is sponsored (following prior approval of the Parks, Recreation and Cultural Services Board) by any other organization, such facilities will be provided and removed by the respective organization, at its cost.

MUSIC LICENSES

The Concessionaire must provide a copy of the appropriate BMI, ASCAP and/or SESAC license to the City prior to each beach/concession season, and for any event during said season where a particular license is required by an individual music licensing organization.

EMPLOYEES ENGAGED IN AFTER-EVENT CLEANUP ACTIVITIES

The Pershing Park Boat Launch Concession shall be closed at such a time on a daily basis that will allow all cleanup and stocking activities to be concluded by the park's closing time (10:00 p.m.), pursuant to City Ordinance Section 70-101.

BATHROOM MAINTENANCE

Opening, closing, cleaning and routine maintenance of the restroom facilities on the property will be the responsibility of the Concessionaire. Bathroom facilities will be open at 5:00 a.m. and closed no later than 10:00 p.m. Memorial Day through Labor Day.

In addition, Concessionaire shall be responsible on a daily basis for regularly monitoring and cleaning the restrooms provided by the City at the Laurel Clark Memorial Fountain. In lieu of compensation therefore, the City will forego \$500 a month of its share of the Concessionaire's monthly revenues. EXCLUSIVE RIGHTS AND PAYMENTS of this agreement for LCMF restroom maintenance services between May 1st and October 30th of each calendar year. Restroom must be open by 10 am each morning and closed by 10 pm each night.

23. MODIFICATION AMENDMENT

This lease may be modified or amended upon the mutual agreement of the parties. However, such modification or amendment must be in writing, dated and fully executed by both parties.

24. EMERGENCY ENTRY

- A. If the City discovers any action or condition on the North Beach Bathhouse Concession facilities which presents a danger to the general public or which could result in substantial harm to said facilities, then in that event the City shall have an absolute right to enter upon the facility and enter into the structures and buildings thereon which may be affected by said condition and take remedial measures as it may deem appropriate. Said re-entry rights shall be confined to the area where the dangerous or harmful condition exists and shall be limited to such time period as is necessary to correct the condition.
- B. The Security Deposit may be used by the City to rectify any of the conditions and actions due to emergency entry.

25. DIRECT CONTACT AND MAIL NOTICES

- A. Direct contact regarding matters concerning the lease and / or operation of the Pershing Park Boat Launch Concession facilities shall be made in writing.
- B. All formal notices shall be sent by certified mail. If there is a change in address desired or necessary for one of the parties, it shall be the obligation of that party to arrange to formally amend the lease to reflect the correct address.
- C. The City's mailing address is:
City of Racine Parks, Recreation and Cultural Services Department

800 Center Street, Room 127

Racine, WI 53403

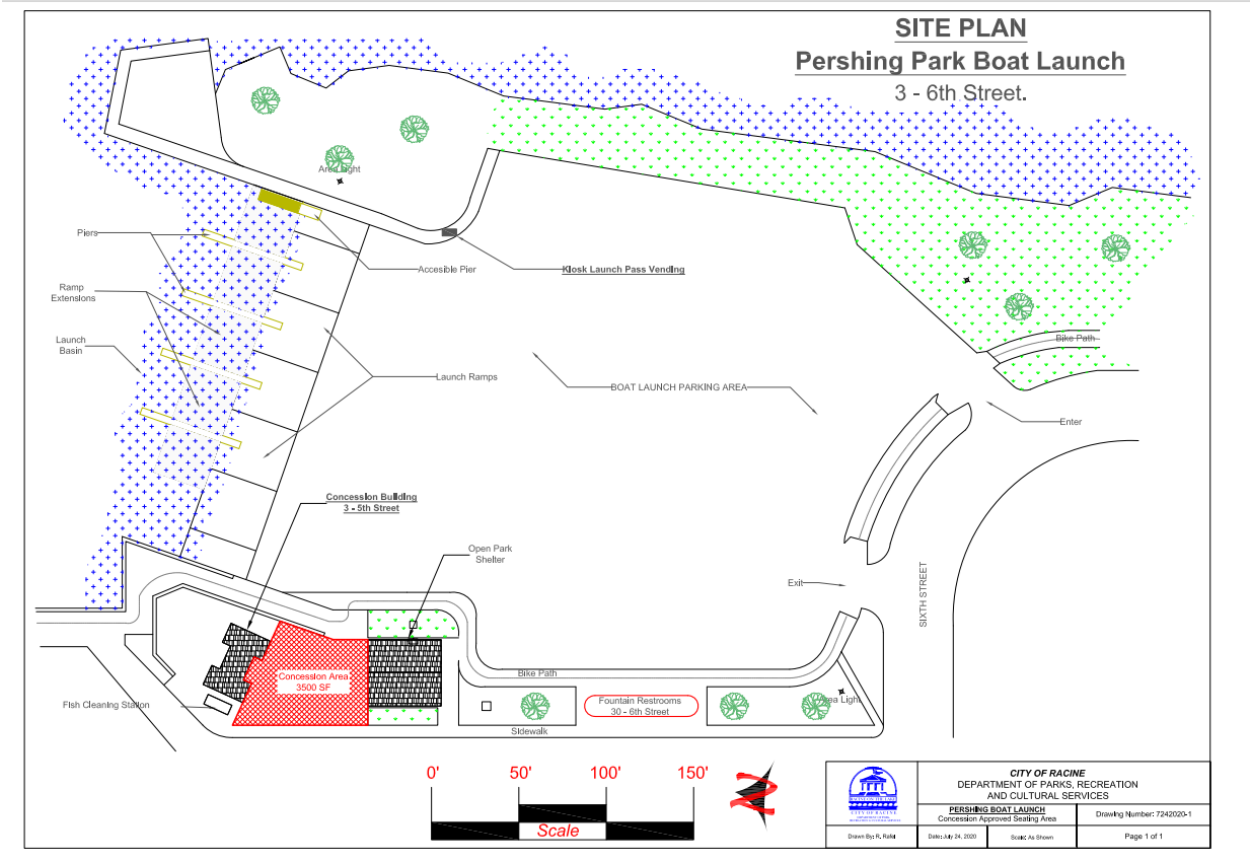
26. MISCELLANEOUS

- A. The lease agreement shall be binding upon the parties hereto, their respective heirs, devisees, personal representatives, administrators, successors, and assigns. It cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto; any such variance or waiver must be in writing and signed by the duly authorized agent or agents who executed this agreement.
- B. No waiver by the City or Concessionaire of any breach of any provision of the lease agreement shall be deemed for any purpose to be a waiver of any breach of any other provision hereof, or of any continuing or subsequent breach of the same provision.

- C. Each right of the parties hereto is accumulative and is in addition to each other legal right which the party may have in the event of any default of the other.
- D. In the event any covenant, condition, or provision herein contained is held to be invalid by a final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.
- E. The lease agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
- F. All enclosed buildings on the premises shall be smoke free and no smoking shall be enforced by the Concessionaire.

27. ADDITIONAL CONDITIONS

Exhibit "C" is a detailed account of additional conditions that the Concessionaire is expected to provide over the duration of the contractual agreement.



LEASE DETAIL
Monthly Report of Revenue

For Month of _____

	Total
Revenue	
Concession income – food.....	100.00
Concession income – beverages.....	200.00
Concession income – other.....	98.00
Other revenue	<u>110.00</u>
TOTAL REVENUE.....	508.00

Lease Payment @ _____ % _____

LEASE DETAIL
Year to Date Report of Revenue

January 1 through _____, 20 _____

	<u>Total</u>
Revenue	
Concession income – food	100.00
Concession income – beverages	200.00
Concession income – other	98.00
Other revenue	<u>110.00</u>
YTD TOTAL REVENUE	508.00

ADDITIONAL CONDITIONS

- A. Repaint bathrooms as needed.
- B. Repaint railings as needed.
- C. Plant flowers and other plants as needed in island.
- D. Blow down the deck and steps daily of sand as needed.
- E. Keep weeds from growing in the cracks of sidewalks.
- F. Recycle glass, cardboard, and cans.
- G. Provide security as needed to provide a fun, secure, family atmosphere.
- H. Provide the use of volleyball nets and balls to the general public.
- I. Maintain an updated website that links to City of Racine Parks Recreation and Cultural Services, Real Racine, Kids Cove, Racine Zoo, and other local businesses. Upcoming events at North Beach should also be included on the website.
- J. Expand on level of activities offered at North Beach; i.e., Kids Craft Events, to Downtown Shop Gallery Evening, etc.
- K. Expand on variety of concessions offered; i.e., smoothies, vegetarian options, etc.

7. Indemnification and Insurance Requirements:

Indemnification

To the fullest extent allowable by law, Contractor hereby indemnifies and shall defend and hold harmless the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers and each of them from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature whether arising before, during, or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement regardless if liability without fault is sought to be imposed on the City of Racine, Contractor's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the sole fault, sole negligence, or willful misconduct of the City of Racine, or its elected and appointed officials, officers, employees or authorized representatives or volunteers. This indemnity provision shall survive the termination or expiration of this Agreement.

In any and all claims against the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers by an employee of Contractor, any subcontractor, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, Disability Benefit Acts, or other employee benefit acts.

No provision of this Indemnification clause shall give rise to any duties not otherwise provided for by this Agreement or by operation of law. No provision of this Indemnity clause shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers under this or any other contract. This clause is to be read in conjunction with all other indemnity provisions contained in this Agreement. Any conflict or ambiguity arising between any indemnity provisions in this Agreement shall be construed in favor of indemnified parties except when such interpretation would violate the laws of the state in which the job site is located. Contractor shall reimburse the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

Insurance Requirements

The Contractor shall not commence work under a contract until he has obtained all insurance required under this paragraph and has filed certificates thereof with the Owner, nor shall the Contractor allow a Subcontractor to commence work until all similar insurance required has been so obtained and filed with the Contractor. Unless otherwise specified in this Agreement, the Contractor shall, at its sole expense, maintain in effect at all times during the performance of the Work, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

Worker's Compensation and Employers Liability Insurance - The Contractor shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. The Contractor shall provide statutory coverage for work related injuries and employer's liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

Commercial General Liability and Automobile Liability Insurance - The Contractor shall provide and maintain the following commercial general liability and automobile liability insurance:

Coverage – Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

- a) Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG0001)
- b) Insurance Services Office (ISO) Business Auto Coverage (Form CA0001), covering Symbol 1 (any vehicle)

Limits -The Contractor shall maintain limits no less than the following:

- a) General Liability - One million dollars (\$1,000,000) per occurrence (\$2,000,000 general aggregate if applicable) for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the City of Racine) or the general aggregate including product-completed operations aggregate limit shall be twice the required occurrence limit.
- b) Automobile Liability- One million dollars (\$1,000,000) for bodily injury and property damage per occurrence limit covering all vehicles to be used in relationship to the Agreement.

- c) Umbrella Liability- One Million dollars (\$1,000,000) for bodily injury, personal injury and property damage per occurrence in excess of coverage carried for Employers' Liability, Commercial General Liability and Automobile Liability as described above.

Required Provisions - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- a) The City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status as respects liability arising out of activities performed by or on behalf of the Contractor; on products and completed operations of the Contractor; for premises occupied or used by the Contractor; and on any vehicles owned, leased, hired or borrowed by the Contractor.
- b) The coverage shall contain no special limitations on the scope of protection afforded to the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers.
- c) For any claims related to this project, the Contractor's insurance shall be primary insurance as respects the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by the City of Racine, its elected and appointed officials, officers, employees, or authorized representatives or volunteers shall not contribute to it.
- d) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers.
- e) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- f) Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Contractor, except after sixty (60) days (or 10 days for non-payment of premium) prior written notice by U.S. mail has been given to the City of Racine.
- g) Such liability insurance shall indemnify the City of Racine, its elected and appointed officials, officers, employees or authorized representatives or volunteers against loss from liability imposed by law upon, or assumed under contract by, the Contractor for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

- h) The general liability policy shall cover bodily injury and property damage liability, owned and nonowned equipment, blanket contractual liability, completed operations liability with a minimum of a 24 month policy extension, explosion, collapse, underground excavation, and removal of lateral support, and shall not contain an exclusion for what is commonly referred to by the insurers as the "XCU" hazards. The automobile liability policy shall cover all owned, non-owned, and hired vehicles. All of the insurance shall be provided on policy forms and through companies satisfactory to the City of Racine, and shall have a minimum A.M. Best's rating of A-VII.

Deductibles and Self-Insured Retentions - Any deductible or self-insured retention must be declared to and approved by the City of Racine. At the option of the City of Racine, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

Evidences of Insurance - Prior to execution of the agreement, the Contractor shall file with the City of Racine a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all required provisions 1-8.

Responsibility for Work - Until the completion and final acceptance by the City of Racine of all the work under and implied by this agreement, the work shall be under the Contractor's responsibility care and control. The Contractor shall rebuild, repair, restore and make good all injuries, damages, re-erections, and repairs occasioned or rendered necessary by causes of any nature whatsoever.

Sub-Contractors - In the event that the Contractor employs other contractors (subcontractors) as part of the work covered by this agreement, it shall be the Contractor's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

END OF DETAILED SPECIFICATIONS

BIDDER'S CERTIFICATION

I hereby certify that all statements herein are made in behalf of:

Name of Corporation, Partnership or Person submitting bid

a corporation organized and existing under the laws of the State of: _____

a partnership consisting of: _____

an individual trading as: _____

of the City of _____ State of _____

that I have examined and carefully prepared this proposal from the

plans and specifications and have checked the same in detail before

submitting this proposal; that I have full authority to make such statements

and submit this proposal in its (their) behalf, and that said statements are true and correct

SIGNATURE: _____

TITLE: _____

Sworn and subscribed to before me

this _____ day of _____ 20 ____.

(Notary or other officer authorized to administer oaths)

SEAL:

My commission expires _____