

RESOLUTION 17-23

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH COASTAL PARASAIL FOR THE FRANK BROWN PARK CONCESSIONS IN THE AMOUNT OF \$65,700; AUTHORIZING EXECUTION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT RESOLVED that the appropriate officers of the City are authorized but not required to accept and deliver on behalf of the City that certain Agreement between the City and Coastal Parasail, relating to the provision of concessions at Frank Brown Park, in the basic annual amount of Sixty Five Thousand Seven Hundred Dollars (\$65,700), in substantially the form of the proposal attached as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 12th day of January, 2017.

CITY OF PANAMA CITY BEACH

By: 
Mike Thomas, Mayor

ATTEST:


Diane Fowler, City Clerk



CITY OF PANAMA CITY BEACH AGENDA ITEM SUMMARY

1. DEPARTMENT MAKING REQUEST/NAME:

Parks and Recreation

2. MEETING DATE:

January 12, 2017

3. REQUESTED MOTION/ACTION:

Parks & Recreation staff recommends the council authorize the City to contract with Coastal Parasail, the only responsive bidder, for the Frank Brown Park Concession Contract in the amount of \$65,700.

4. AGENDA

PRESENTATION
PUBLIC HEARING
CONSENT
REGULAR

☐
☐
☒
☐

5. IS THIS ITEM BUDGETED (IF APPLICABLE)? YES ☐ NO ☐ N/A ☒
BUDGET AMENDMENT OR N/A

DETAILED BUDGET AMENDMENT ATTACHED YES ☐ NO ☒ N/A ☐

6. BACKGROUND: (WHY IS THE ACTION NECESSARY, WHAT GOAL WILL BE ACHIEVED)

On December 13, 2016 the Parks and Recreation Department received two sealed bids for the "Frank Brown Park Concession Contract." The only responsive bid was from Coastal Parasail for a total contract price of \$65,700.00.

This amount will be paid to the City in three installments:

\$16,425.00 due May 1, 2017

\$32,850.00 due September 1, 2017

\$16,425.00 due December 1, 2017

5. Proposal Form

BID PROPOSAL FORM

TO: City of Panama City Beach, Florida

SUBMITTED: December 13, 2016.

2017 Frank Brown Park Concessions Contract

This proposal of Coastal Parasail, Inc. (hereinafter called "BIDDER"), organized and existing under the laws of the State of Florida, doing business as a corporation (a corporation, a partnership or an individual), is hereby submitted to the CITY OF PANAMA CITY BEACH.

By submission of this BID, each BIDDER certifies that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER agrees to perform all the work described in the contract for the following lump sum:
PROPOSED BID AMOUNT (minimum of \$60,000):

\$ 65,700.00.

The BIDDER proposes and agrees, if this Proposal is accepted, to contract with the City in the required form of the Agreement, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to perform the work in full and in accordance with the shown, noted, described and reasonably intended requirements of the contract documents.

BIDDER acknowledges receipt of the following ADDENDUM:

Addendum No. _____

Addendum No. _____

Addendum No. _____

The Undersigned, as Bidder, hereby declares that they have examined the bid specifications and informed themselves fully in regard to all conditions pertaining to the proposal submitted. Site investigation, if deemed necessary by the Bidder, shall be performed prior to Bid submittal.

BY: Adris Pender, Coastal Parasail, Inc. TITLE: President

ADDRESS: PO Box 18671 CITY: Panama City STATE: FL ZIP: 32417

EMAIL ADDRESS: chuteadris@aol.com

PHONE: 850-527-6335 DATE: 12/12/16

SIGNATURE - (Confirming all information above is correct) 

Exhibit A

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT ("Agreement"), made as of this ____ day of _____, 2017 ("Effective Date"), by and between the CITY OF PANAMA CITY BEACH, a municipal corporation in Bay County, Florida, as City, and COASTAL PARASAIL, INC., whose address is P.O. Box 18671, Panama City Beach, FL 32417, as Contractor;

WITNESSETH

That in consideration of the covenants herein written and the rent agreed to be paid, city does let and Concession Agreement unto the Contractor the building, fixtures, and equipment for two concession stands located at the Frank Brown Park ("Park"), which premises include: North Complex and Middle Grounds, together with a designated concessions cart area in the South Complex (collectively the "Stands") as they are more particularly described in Exhibit "A" attached hereto, as well as nonexclusive right of ingress and egress through the Park to the Stands, subject to the provisions hereof, which are:

1. The initial term of this Agreement is eleven months, and shall commence on February 1, 2017. Thereafter, the City shall have the option to renew this Concession Agreement upon the same terms and conditions for one consecutive term of one (1) year commencing February 1, 2018. Upon any failure to so renew, this Concession Agreement shall terminate.
2. Either party in its sole discretion and without cause may terminate this agreement on the first day of any calendar month by delivering written notice of termination to the other party not less than thirty (30) days prior to the date of termination. If the Contractor fails to timely and properly fulfill any obligation under this

agreement, the City may terminate this agreement by giving written notice to the Contractor of such termination and the effective date thereof.

3. Beginning on the Effective Date and throughout the term of this Agreement, Contractor shall pay to the City an annual rent amount of \$_____, (the “annual rent”) payable in three installments. 25% of the Annual Rent shall be due on or before May 1, 50% of the Annual Rent shall be due on or before September 1, 2017, and the remaining 25% by December 1, 2017. A late fee of \$25 per day will assessed beginning on the 10th of the month in which payment is due.
4. Contractor agrees to operate the Stands as concession stands from February 1 through November 30 (the “Season”). Contractor shall operate the Stands according to the schedule of events and games provided by the City. Contractor shall operate the Stands at least thirty (30) minutes prior to and ten (10) minutes after all scheduled athletic play. Contractor shall not close any Stand without the prior authorization from City in its sole discretion, which authorization shall not be unreasonably withheld. If Contractor desires to open less than all 3 concessions for certain games or days, a written request for such limited operation must be submitted to the Director of Parks and Recreation at least 72 hours prior to the scheduled event, who shall approve or deny the request within 24 hours of receipt of the request.
5. Contractor shall offer for sale food and drink, and other items normally associated with a concession stand convenient to the public using the Park; provided, however, that drinks offered for sale in the Stands shall be limited to bottled Coca-cola products. Fountain drinks are prohibited. Contractor shall provide to the City a menu of concession items to be offered at each Stand, and City reserves the right

in its sole discretion to reasonably require Contractor to discontinue the sale or rental of any item in the opinion of City constituting a nuisance or hazard at the Park or which conflicts with a sponsor of or any event at the Park. City's rights contained herein and in this Agreement shall not be construed as an obligation or duty of any nature, including a duty to monitor or supervise Contractor's business. Contractor shall not display, distribute or advertise anything which has not been approved by the City.

6. The cart permitted in the South Complex shall be limited to the provision of hot dogs, drinks and snow-cones/shaved ice. The cart must be no larger than 60" long and 49" tall, portable and walked into the brick area under the umbrella adjacent to the large pole in the South Complex. Contractor is prohibited from using a motor vehicle in this area.
7. Contractor shall not sell alcoholic beverages. Exceptions may be made for Special Tournament Events for which the sale and consumption of alcoholic beverages has been approved by the City, provided the Contractor is properly licensed by the State for such distribution and approved by the Tournament Director for such.
8. City retains responsibility of maintenance of the structure and the exterior of the concession buildings in the North Complex and Middle Grounds. City shall not be responsible for damage to any contents owned by Contractor, including inventory, on account of any failure to properly maintain the structure or building unless City fails to act reasonably after written notification by Contractor of needed maintenance.
9. All maintenance of the buildings' interiors in a clean and orderly manner shall be the responsibility of the Contractor. Contractor covenants to maintain the premises in an orderly condition at all times and to assume responsibility for daily trash or

garbage disposal. Contractor shall at all times keep the areas and spaces adjacent to and surrounding the Stands clean and free of paper, trash and refuse of any kind generated from the operation of the Stands. Cooking oils shall be properly disposed of and in no event shall be discarded into any drain, sink or toilet connected to the City's utility system. Recycling and employment of additional disposal services which reduce refuse volume are encouraged where practicable.

10. Maintenance of heating and air conditioning, plumbing, wiring and other systems or machinery owned and installed by City shall be its responsibility. Contractor must have written approval from the City prior to the installation of any equipment that requires additional electrical or plumbing, which shall only be installed at Contractor's expense. Contractor may install trade fixtures upon the approval of City's Building Inspector, in his sole discretion, as to type and manner of installation. Upon termination of this Agreement by lapse of time or otherwise, Contractor at its expense shall immediately remove any installed trade fixtures and restore the Stands to the same condition as immediately before installation.
11. Four keys to the Stands will be checked out to Contractor, and shall be returned to the City upon termination of this Agreement. Contractor will be charged \$250 for each replacement key.
12. City shall be responsible for maintenance of the equipment listed on the inventory attached and incorporated as Exhibit B, until such time as such equipment is deemed obsolete or beyond repair. Contractor shall be responsible for the acquisition, maintenance and replacement of all other equipment necessary to perform the work under this Agreement. The condition and use of the City's equipment listed on the inventory attached and incorporated as Exhibit "B" shall be inspected and verified annually each September at the end of each fiscal year.

13. City reserves the right to enter the Stands at any time for the purpose of inspection of equipment, insect control, fire prevention inspection, or similar purposes.
14. Liability insurance policy acceptable to the City, with single limits of One Million Dollars (\$1,000,000) and an aggregate limit of Three Million Dollars (\$3,000,000), covering the Stands, Contractor, and Contractor's business, shall be maintained by Contractor at all times. The policy shall name the City as an additional insured. Contractor shall be responsible for maintaining Worker's Compensation as required by the State of Florida, which policy need not name the City as an additional insured. Contractor shall be responsible for obtaining any other insurance as it may desire upon its operations, property and inventory.
15. Contractor agrees to indemnify and hold City harmless from any claim or demand by any third party arising out of Contractor's occupancy or use of the Stands. Contractor shall at all times relieve, indemnify, protect and save harmless the City, its officers, agents and employees from all claims and liability, including expenses incurred in defending against the same, that may arise from (a) the operation, maintenance, use or occupation of the Stands by Contractor; (b) the acts, omissions or negligence of Contractor, its agents, officers, employees or permittees; or (c) the failure of Contractor to observe or abide by any of the terms or conditions of this agreement or any applicable law, ordinance, rule or regulation. The obligation of Contractor to so relieve, indemnify protect and hold harmless the City, its officers, agents and employees shall continue during any periods of occupancy or holding over by Contractor, its agents, officers, employees or permittees beyond the expiration or termination of this agreement.
16. Contractor covenants to neither permit nor commit waste, and covenants to comply with all applicable Federal, State, County, and City laws, rules, and regulations,

including payment of all applicable taxes, respecting the use, operation and maintenance of the Stands, and shall pay for any and all licenses required in connection with the use, operation and maintenance of the Stands. Any license required by the Florida Department of Business and Professional Regulation for food service shall be prominently displayed in each Stand.

17. In the event of damage by storm, fire or other casualty making the premises unfit for occupancy, City shall be under no obligation to rebuild and this Agreement shall be terminated with each party relieved of responsibility to the other. If City notifies Contractor within ten (10) days of intention to rebuild, the rent shall abate during the period of restoration, which City covenants to accomplish with reasonable dispatch should it chose to rebuild.
18. Upon termination of this Agreement by lapse of time or otherwise, Contractor covenants to surrender possession of the Stands in as good a condition as received, reasonable wear and tear excepted. Contractor will be charged a \$500 cleaning fee if the Stands are not returned in good condition.
19. Contractor understands and agrees that vehicles shall not be permitted to drive through the gates into the North Complex and Middle Grounds in the period one hour before the first scheduled game and one hour after the last game. Notwithstanding the forgoing, Contractor shall be permitted to drive a golf cart into the North Complex and Middle Grounds to service and bring product to the Stands. No one shall operate a golf cart without a valid driver's license.
20. This Agreement is not assignable, and Contractor shall not transfer or sublet any right granted to Contractor under this Agreement.
21. In consideration of the rent aforesaid to be paid and the covenants contained herein, whenever Contractor is not in breach of any covenant contained herein, Contractor

is hereby granted the exclusive right to provide concession stand food, drink, and other items usually associated with a concession stand. No other commercial activity or solicitation shall be conducted on the premises.

22. If any rent required by this Agreement shall not be paid within five (5) days after the same shall become due, or should Contractor fail twice within any thirty six (36) hour period to timely open and fully operate a concession stand as required by the Agreement, or should Contractor fail to observe or perform any obligation herein mentioned within five (5) days after the receipt of written notice thereof, the tenancy and all exclusive rights created by this Agreement shall, at the option of the City, terminate, and City shall have right to immediately resume possession of the Stands for its own account, and retain or recover immediately from the Contractor rent through the end of the current month (if not already paid). The City shall also recover all expenses incurred by reason of the breach and retaking of possession, including reasonable attorney's fees.
23. BOILERPLATE STARTS HERE: All notices required or permitted hereunder shall be in writing and, together with rent payable, shall be to the City at the Parks and Recreation Department, 16200 Panama City Beach Parkway, Panama City Beach, Florida 32413, and to Contractor at the address first above stated, or to such address as to which notice shall have been given as herein provided.
24. Contractor and its employees shall at all times treat the public honestly and fairly. All sales shall be recorded by cash registers which publicly display the amount of each sale and automatically issue a customer's receipt or certify the amount recorded on a sales slip. At no time shall the Contractor or its employees argue or use profanity while dealing with or in the presence of the public.

25. Contractor and its employees should maintain a clean appearance and wear a uniform shirt provided by Contractor and identifying them as Contractor's employee.
26. Contractor shall permit no person to discharge, in whole or in part, any of the Contractor's obligations hereunder within the geographic boundaries of Frank Brown Park, (i) who shall have been convicted or pled guilty or *nolo contendere*, regardless of whether adjudication was withheld, of a crime against children within the five year period next preceding such discharge (a "Disqualifying Crime"), or (ii) who shall have failed to consent in writing to a criminal history background check for a Disqualifying Crime; or (iii) who is a full-time employee of the City. From time to time at City's request, Contractor shall furnish a list of the names and addresses of all persons discharging any of its obligations hereunder within the geographic boundaries of Frank Brown Park, together with evidence that Contractor has conducted a criminal background check to ensure each such person is eligible under this section to discharge Contractor's obligations within Frank Brown Park.
27. Nothing in this Agreement shall be construed so as to create the relationship of principal and agent, a partnership, joint venture, or any association whatsoever between the City and the Contractor, other than the relationship of the landlord to its tenant.
28. No modification or waiver of this Concession Agreement shall be binding unless executed in writing by both parties. No waiver or delay in the enforcement of any right or power in this Concession Agreement, and no course of dealing between the parties, shall constitute or be deemed a waiver of any other right or power contained in this Concession Agreement or a subsequent waiver of the same right or power.

29. This Concession Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

THE CITY:

CITY OF PANAMA CITY BEACH

By: _____

Mario Gisbert, City Manager

Attest: _____

Diane Fowler, City Clerk

Signed, sealed and delivered

In the presence of:

CONTRACTOR:
COASTAL PARASAIL, INC.

By: _____

Adris Pender
Its: President

Exhibit A

(illustration of Concession Areas)



Exhibit B

(description of City inventory in Stands)

Equipment Inventory North Complex Concession:

Qty	Description of Equipment
2	Double Deep Fat Fryer
1	Flat Top Grill
1	Three compartment sink
1	Upright Freezer
1	Refrigerator
1	Mop sink
1	Bun/Food Warmer (DD)
1	Infrared Heating Lamp
1	Ice machine
1	Handwashing sink
1	Stove/oven
2	Stainless Steel prep tables
1	Hood vent system

Equipment Inventory Middle Ground Concession:

Qty	Description of Equipment
1	Ice machine
1	3 compartment sink
1	Handwashing sink
1	Mop sink
1	Hood vent system