

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

DIVISION OF PARKS AND RECREATION
CONTRACT NO. 401011-Snack

REQUEST FOR PROPOSAL
FOR A
SNACK FOOD SERVICES
AT
BAYNARD STADIUM
WILMINGTON STATE PARK

ISSUED JANUARY 2011

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

TABLE OF CONTENTS

	Page(s)
PART 1. LICENSE INFORMATION	3-6
Section 1. Introduction	
Section 2. Products & Services	
Section 3. Fees	
Section 4. Performance Guarantee	
Section 5: License Term and Extension	
Section 6: Inspection	
Section 7: Utilities	
Section 8: Taxes and Permits	
Section 9. Concession Franchise	
Section 10. LICENSEE’S responsibilities	
Section 11. DIVISION’S responsibilities	
PART II. GENERAL CONDITIONS	6-10
Section 1. Accounting System and Reports	
Section 2. Interest Payments	
Section 3. Insurance	
Section 4. Quality and Pricing	
Section 5: Operating Schedule	
Section 6. Trash Removal and Use of Recyclable Products	
Section 7. Marketing and Promotion Plan; Signs; Advertising	
Section 8. Emergencies	
Section 9. Modifications	
Section 10. Damage to Premises	
Section 11. Waiver of Damages	
Section 12. Hold Harmless	
Section 13. Violations	
Section 14. Revocation of License	
PART III. INSTRUCTIONS TO PROPOSERS	10-12
Section 1. Public Notice	
Section 2. Submission of Proposals	
Section 3. Designated Contact for the Request for Proposal	
Section 4. Site Inspections	
Section 5. Bid Guarantee	
Section 6. Data to Accompany Proposal	
Section 7. Evaluation Criteria	
Section 8. Schedule of Events	

PART I. LICENSE INFORMATION

Section 1. Introduction.

The Department of Natural Resources and Environmental Control, DIVISION of Parks and Recreation (DIVISION) is seeking a qualified and competent concessionaire to provide snack food services at Baynard Stadium, Wilmington State Parks commencing on April 1, 2011 (LICENSEE).

Brandywine Park is located within Wilmington State Parks which has been managed by the DIVISION of Parks & Recreation since 1998. This park located in the heart of the City of Wilmington contains statuesque monuments, formal gardens and picturesque natural areas that stroll along both sides of the Brandywine River. The Brandywine Zoo, Baynard Stadium and the Josephine Fountain call this park home.

Baynard Stadium with its ticket booths, press boxes, locker rooms, a concession stand, restroom facilities, and lights for night games make this athletic stadium perfect for football, soccer and track & field events. This stadium is a home field for many local high schools and youth organizations in New Castle County.

Section 2. Products and Services

The successful applicant (LICENSEE) will be granted a license for the provision to operate a snack food concession stand at Baynard Stadium, Wilmington State Parks. The LICENSEE's snack food concession shall include non-alcoholic beverages, coffee, sandwiches, hot dogs, pizza, ice cream novelties, bakery goods, candies, peanuts, etc. and any other refreshments necessary to provide snack food services. Beverage vending machines may also be included in this service under the provisions of the DIVISION's healthy choices initiative. Products must be served in recyclable containers. Additional items such as souvenirs and other non-food items may not be sold without advance written approval by the Department. The LICENSEE agrees to withdraw from sale or rent any items disapproved by the DIVISION. **No alcoholic beverages shall be served, sold or stored on the premises. No tobacco products shall be sold on the premises.**

Section 3. Fees

The LICENSEE, as a fee for the license and concession rights herein granted, agrees to pay to the Department of Natural Resources and Environmental Control, DIVISION of Parks and Recreation, 89 Kings Highway, Dover, DE 19901, an annual license fee of not less than \$7,000.00 or 15% of gross receipts, whichever is greater.

The annual license fee shall be due in monthly installments on the 15th day of the following month for those months the food concession is operational (March through November). If the percent of total gross receipts is greater than the annual license fee, the LICENSEE agrees to pay the additional amount based on the specified percentage of total gross receipts to the DIVISION on or before December 31 of each year.

The LICENSEE agrees to submit a monthly receipts report, including a cash register "Z" tape or POS daily close out report covering each day's operation under this agreement to the Park Superintendent plus a tabulated annual gross receipts report for the period of operation on or before December 31 of each year.

Section 4. Performance Guarantee

The LICENSEE shall furnish and keep in full force and effect, during the term of the License, a performance guarantee made payable to the DIVISION, in the amount of the concessionaire's annual license fee or \$6,000.00 whichever is greater, conditioned for the full performance of all terms and conditions contained in the License. The performance guarantee shall either be a cash deposit, surety bond, certificate of deposit, passbook savings account, automatically renewable irrevocable letter of credit, or another form acceptable to the DIVISION. Said amount is not subject to increase but shall remain constant throughout the terms of the License.

Section 5: License Term and Extension.

The term of this license shall commence on or before April 1, 2011, and terminate on March 31, 2015. This license may be extended for not more than five (5) years, at the discretion of the DIVISION, upon the successful completion of the terms and conditions contained herein by the LICENSEE.

Section 6: Inspection

The LICENSEE shall agree that at all reasonable time free access will be given to authorized representatives of the DIVISION and the other county, state or federal officials having jurisdiction for inspection purposes. The LICENSEE shall further agree that if notified in writing by the DIVISION of its authorized representatives that any part of the licensed premises or the facilities thereof for which the LICENSEE is responsible for services rendered are not in conformance with the license granted then the LICENSEE shall remedy the same within five (5) working days, or a reasonable time period agreed upon between the DIVISION and the LICENSEE.

Section 7: Utilities

The LICENSEE shall pay for all operational costs of electric current, telephone and other utilities used in or about the concession operation. The LICENSEE shall pay the DIVISION \$100.00 per operating month for electric costs and include this amount in their monthly gross receipt payment.

Section 8. Taxes and Permits

The LICENSEE shall pay all State and Federal taxes and/or other license fees which may be imposed or legally chargeable, and obtain all necessary permits and licenses including but not limited to a Delaware Business License and public health license at its own cost and expense, as a result of operating the business conducted hereunder.

Section 9. Concession Franchise

So long as the LICENSEE shall faithfully conform to all the provisions herein, they may provide the snack food services as heretofore described at Baynard Stadium, Wilmington State Parks, but **may not have exclusive rights** if fund raisers are approved by the DIVISION for specific events. If the DIVISION shall deem it in the best interest of the State, the DIVISION reserves the right to award the License to more than one LICENSEE.

Section 10. LICENSEE's Responsibilities.

The LICENSEE will be granted the right to provide a snack food service at Baynard Stadium, Wilmington State Parks that is approved by the DIVISION. The LICENSEE's responsibilities under this license shall include the following:

(1) The LICENSEE shall furnish and install any additional necessary equipment not provided by the DIVISION at the concession location for the preparation, display and storage of merchandise sales items and the necessary supplies in order to provide the specified snack food services granted to them under this license.

(2) The LICENSEE shall be responsible for the following:

- A. Daily cleaning and janitorial service of the sales area, and other building space assigned to the LICENSEE.
- B. Repairs and maintenance of food service equipment provided by the DIVISION.
- C. Daily collection and deposit of litter, garbage, and refuse from the grounds and buildings assigned to or used by the LICENSEE into the parks dumpster.
- D. Repairs and maintenance to interior building fixtures and utilities. (locks, light bulbs, water faucets, etc.)

(3) The LICENSEE shall publicly display in a conspicuous place at the concession area a neat and legible sign listing rates, prices and charges for all products and services.

(4) The LICENSEE shall be responsible for providing quality products and services at a reasonable price to park visitors.

(5) The LICENSEE shall be responsible to employ only competent, mature and orderly employees and their employees shall keep themselves neat and clean and be courteous to all guests and patrons of the park.

(6) The LICENSEE shall maintain books of account and records of all operations and establish systems of bookkeeping and accounting in a manner satisfactory to the DIVISION. The LICENSEE also agrees to submit an annual financial statement, which includes listing of all gross receipts/sales, prepared by a certified public accountant, ending December 31 of each year. This annual statement shall be submitted to the DIVISION on or before April 15 of each year.

(7) The LICENSEE shall ensure that all facilities and equipment supplied by the DIVISION be returned to the DIVISION in good order, condition and repair, reasonable wear and tear expected.

Section 11. DIVISION's Responsibilities.

The DIVISION's responsibilities under this license shall include the following:

(1) The DIVISION shall provide concession facilities to include the 17'9" x 20' building including the following food service equipment: (a) one stainless steel double sink; (b) one stainless steel single sink; (c) one exhaust fan for stove and (d) ten (10) gallon hot water heater.

(2) The DIVISION shall be responsible for major utility and structural repairs and exterior maintenance

(3) The DIVISION reserves the right to enlarge, close and/or reduce the size of any area for the purposes of improvement, repair, construction or any other legitimate purpose. It is understood that any of the above action shall not entitle the LICENSEE to any reduction or suspension of the License fee unless otherwise approved by the DIVISION.

PART II. GENERAL CONDITIONS

Section 1. Accounting System and Reports.

(a) The LICENSEE shall keep proper and complete books and records of accounts of its operation under this license. Internal control procedures implemented by the LICENSEE shall be adequate to ensure that all revenue is accounted for and recorded. All receipts of any nature from snack food services provided by the LICENSEE shall be immediately and properly recorded.

(b) The LICENSEE shall permit the DIVISION or its authorized representatives to examine and audit financial records relative to this license at any reasonable time during normal business hours, after giving the LICENSEE twenty-four (24) hours notice of the date and time of such examination and audit. The LICENSEE shall retain these financial records for a period of three (3) years beyond the termination of this license, unless earlier disposal is approved by the DIVISION in writing.

Section 2. Interest Payments.

Any payments which become due from the LICENSEE to the DIVISION and which are not paid on or before the due date shall be subject to an interest penalty of twelve (12) percent per annum until paid, computed from the due date. When a late payment is received, the LICENSEE shall be billed the amount of interest owed. This provision is in no way a waiver of the LICENSEE's obligation to make payments when they are due.

Section 3. Insurance.

(a) The LICENSEE shall, as a condition precedent to this agreement taking effect, before assuming any rights hereunder, at their own cost and expense, purchase and maintain such insurance during the term of this license as will protect the LICENSEE from claims under the Workman's Compensation Act, and shall also take out and maintain such public liability insurance as will protect the LICENSEE, the State of Delaware, the DIVISION, and their officers and employees, from any claims for personal injuries, including death, and property damage arising out of, or occurring or caused by operation under this license by the LICENSEE or anyone directly or indirectly employed by the LICENSEE while on the job, by agents of the LICENSEE, or otherwise arising out of this license. Such policies shall be endorsed to cover

“occurrences” and not merely “accidents.” All required insurance must be in effect and continue so during the term of the license in not less than the following amounts:

<u>Type</u>	<u>Amount</u>
Workman’s Compensation Insurance	Unlimited
Public Liability Insurance	
Single Limit Liability for any one Occurrence, not less than	\$500,000.00

(b) The policies shall provide, at a minimum, the amount of insurance coverage mentioned above. The LICENSEE may obtain greater coverage limits at their own discretion. The policies shall be submitted to the DIVISION for approval. Upon approval, each policy shall be returned to LICENSEE and a certificate of insurance thereof shall be delivered to the DIVISION. Each policy and certificate shall be endorsed thereon: “No cancellation of or change to this policy shall become effective until after ten (10) days written notice by Registered Mail to the DIVISION.” The LICENSEE expressly agrees that its purchase of insurance coverage of the type and amounts specified above, or of greater amounts, shall not be construed as limiting LICENSEE’S duty of their officers or employees as provided herein-above.

(c) If at any time any said policies shall be or become unsatisfactory to the DIVISION as to form or substance, or if any company issuing any such policies shall become unsatisfactory to the DIVISION, the LICENSEE shall promptly obtain a new policy, submit the same to the DEPARTMENT for approval, and submit a certificate thereof as provided herein. Upon failure of the LICENSEE to furnish, deliver and maintain such insurance as above provided, this license may, at the election of the DIVISION, be forthwith declared suspended, discontinued or terminated and any and all payments made by LICENSEE on account of this license shall thereupon be retained by the DIVISION.

Section 4. Quality and Pricing.

(a) The LICENSEE warrants that all products and services offered by it to the public shall be of the highest quality and consistent with the quality specifications provided by the LICENSEE pursuant to this section. The LICENSEE shall have the right and privilege to charge such prices and rates as are reasonable and fair. All prices and price changes shall be subject to the prior written approval of the DIVISION.

(b) The LICENSEE shall submit a price list to the DIVISION each season before the beginning of the operation with a schedule of services to be offered and the prices to be charged for each service. The LICENSEE agrees to offer only such services and merchandise at such prices as have been approved by the DIVISION. In approving rates, primary consideration will be given to the prices charged for similar classes of services and merchandise furnished outside the areas administered by the DIVISION under similar conditions.

(c) If, in the sole opinion of the DIVISION, any goods or services offered by the LICENSEE are inconsistent with the image or reputation of the DIVISION or the State of Delaware, or are otherwise deemed unsuitable for sale on the licensed premises, the DIVISION shall request the LICENSEE to cease selling such goods or services and the LICENSEE shall cease doing so immediately upon receipt of such a written request from the DIVISION.

Section 5: Operating Schedule

The LICENSEE agrees to operate the concession service in accordance with the following minimum schedule:

Events held in the months of April through June and September through November
and
During scheduled events/programs as specified in advance by the Park Superintendent

The LICENSEE shall remain open for the duration of the event being held. Concession hours may be contingent on weather conditions and attendance to be determined by the Park Superintendent. The LICENSEE shall contact the Park Superintendent prior to canceling service for the day. The DIVISION reserves the right to revoke the License of the LICENSEE if they do not adhere to the schedule of operations.

Section 6. Trash Removal and Use of Recyclable Products

The LICENSEE is required to serve all food and beverages in recyclable containers. The DIVISION shall provide trash cans inside the concession area and LICENSEE shall be responsible for disposal of all rubbish, refuse, garbage and debris collected within the concession. The LICENSEE agrees to fulfill this responsibility in compliance with the spirit and intent of Executive Order 18, Leading by Example Towards a Clean Energy Economy & Sustainable Natural Environment, as issued by Governor Markell on February 17, 2010 and which may be reviewed at http://governor.delaware.gov/orders/exec_order_18.shtml.

Section 7. Marketing and Promotion Plan; Signs; Advertising.

(a) The LICENSEE is encouraged to work with the DIVISION on a marketing and promotion plan for each calendar year, beginning with calendar year. Such plan may contain promotional activities at or in connection with Delaware State Parks annual promotional activities or with individual state parks or facilities. (The DIVISION is considered a “qualified organization” for purposes of receiving deductible charitable contributions.)

(b) The LICENSEE agrees not to use signs or any other means of soliciting business, without the approval of the DIVISION, and agrees not to advertise said license in any manner or form on or about the premises licensed to it, or elsewhere, or in any newspaper or otherwise, without such approval. Any printed advertising shall include the correct name and location of the operation, i.e. Baynard Stadium, Wilmington State Parks. The LICENSEE agrees that a copy of the advertisement will be sent to the DIVISION.

(c) The DIVISION, through their authorized agents, reserves the right to prohibit the erection, display or use of signs which are not in keeping with the park area. Permission must be granted by the DIVISION or their authorized agents prior to the erection, display or use of signs. The DIVISION also reserves the right to designate the type, size, wording, color and number of signs requested by the LICENSEE.

(d) It is mutually agreed by the LICENSEE and the DIVISION that no permanent or temporary advertising, signage, or trademark visibility for the LICENSEE’s snack food service will be displayed or permitted anywhere in state parks without prior written approval from the DIVISION, except that it is agreed that the LICENSEE shall be permitted to include its trademark and brand names on its equipment.

Section 8. Emergencies.

The LICENSEE and the DIVISION or their designated agent(s) shall be available by phone and/or pager twenty-four (24) hours a day, seven (7) days a week for emergencies during the entire term of the license. Information on how to contact the LICENSEE or their designee is to be provided to the Park Superintendent.

Section 9. Modifications.

This license may be modified or cancelled by agreement in writing, executed by the DIVISION and the LICENSEE and approved by the Secretary of the Department of Natural Resources and Environmental Control within sixty (60) days notice. No such modification or cancellation shall be effective until so executed and approved.

Section 10. Damage to Premises.

In the event State property or facilities are damaged in any way whatsoever by reason of any act or omission of the LICENSEE or its employees, the LICENSEE shall repair at its own cost and expense the facility or property so damaged. Upon the failure of the LICENSEE to make such repairs within five (5) working days or a reasonable time period agreed upon by the DIVISION and the LICENSEE, the DIVISION will repair such damage at the cost and expense of the LICENSEE and deliver a detailed invoice to LICENSEE due and payable within thirty (30) days of the date of the invoice.

Section 11. Waiver of Damages.

The LICENSEE waives any and all claims for compensation of any loss or damage sustained by the LICENSEE resulting from fire, water, natural disaster (e.g., hurricane, tornado, etc.), civil commotion or riots.

Section 12. Hold Harmless.

The LICENSEE expressly agrees to indemnify and hold the State of Delaware, the DIVISION, and any of its employees harmless from any and all claims arising out of any violation by the LICENSEE of any law, rule, regulations or order, and from any and all claims for loss, damage or injury to persons or property of whatever kind or nature arising from the operation of this license by the LICENSEE, or from the negligence or carelessness of employees, agents or invitees of LICENSEE while on the job.

Section 13. Violations.

Upon failure of the LICENSEE to provide adequate service or operate the license herein granted in a satisfactory manner or to comply with any of the terms or conditions of this license, federal, state or local laws or any rule, regulation or order of the Department affecting the license in regard to any and all matters, this license may be suspended or revoked at any time on thirty (30) days written notice to the LICENSEE. Any license fees accrued at date of revocation shall immediately become due and payable to the DIVISION.

Section 14. Revocation of License.

In addition to the rights of revocation otherwise specifically provided in this license agreement, the DIVISION shall have the right to revoke this license at any time on thirty (30)

days written notice to the LICENSEE if: (1) the LICENSEE files a petition in bankruptcy, is adjudicated a bankrupt, makes an assignment for the benefit of creditors or has a receiver appointed for it; or (2) the LICENSEE fails to observe or perform all of the terms, conditions and agreements on its part to be observed or performed pursuant to this license after notice specifying the details of such breach shall have been given to the LICENSEE by the DIVISION, provided, however, that if such breach cannot be remedied within such 30 day period, the LICENSEE shall be deemed to have cured the same if it undertakes to remedy the same within such 30 day period and then diligently pursues such remedy to completion.

PART III. INSTRUCTIONS TO PROPOSERS

The Department of Natural Resources and Environmental Control, DIVISION of Parks and Recreation (DIVISION) reserves the right to consider and evaluate only those proposals submitted that meet the basic criteria and specifications as herein described. The DIVISION reserves the right to reject any or all proposals, and to waive technicalities, irregularities and omissions, or solicit new proposals if, in the DIVISION's judgment, the best interest of the State will be served thereby.

Section 1. Public Notice.

Public Notice of this Request for Proposal has been provided in accordance with 29 Del.C. §6981.

Section 2. Submission of Proposals.

The proposal form (Part IV), which includes a non-collusion affidavit, is to be used in submitting a proposal. The proposal shall be submitted in a sealed envelope that is clearly marked: **"Snack Food Services at Baynard Stadium"**. It must be delivered to the address below prior to 3:00 p.m., **February 7, 2011**.

**Division of Parks and Recreation
Attention: Office of Business Services
89 Kings Highway
Dover, Delaware 19901**

Please use this full address and mark the envelope as directed to insure proper delivery. Any proposals received after the specified date and time will be returned. All proposals received will be evaluated and a decision on the license award(s) will be made on or before February 21, 2011.

In addition to any other requirements of this Request for Proposal, LICENSEE shall provide evidence of a Delaware Business License or evidence of an application to obtain the business license or other documentation verifying their status as a viable business or organization.

Section 3. Designated Contact for the Request for Proposal.

All requests, questions or other communications about this Request for Proposal shall be made in writing to the DIVISION. Address all communications to the person listed below;

Division of Parks and Recreation
Attention: Kerri Bennett
89 Kings Highway
Dover, Delaware 19901
Kerri.bennett@state.de.us

Communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be permitted or recognized as valid and may disqualify the vendor. Vendors shall rely only on written statements issued by the designated contact for the Request for Proposal.

Section 4. Site Inspections.

Prospective applicants are encouraged to visit Baynard Stadium, Wilmington State Parks to familiarize themselves with the physical conditions and limitations involved and to become acquainted with the operation contemplated. Please contact, Andy Roy, Park Superintendent at Wilmington State Parks at (302) 577-7020 to schedule a visit. In submitting a proposal, the applicant warrants that they have investigated the conditions to be encountered for providing the service including character, quality and amount of service to be provided, materials and equipment to be furnished and the requirements of the license.

Section 5. Bid Guarantee

No offer will be considered unless the applicant submits a **certified check** drawn on a reputable banking institution, payable to the DIVISION of Parks and Recreation, in the sum of \$2,500.00. This certified check is required as a cash deposit to guarantee the applicant's performance of the terms and provisions of said License and is to be submitted along with the offer and application forms. The DIVISION reserves the right to retain all or a portion of the deposit if the applicant fails to execute the awarded License. Upon award of the License, the \$2,500.00 deposit of the successful applicant will be retained by the DIVISION of Parks and Recreation and may, at the option of the DIVISION if all other obligations have been met, be credited towards the License's final annual license fee payment for the first year of operation. The deposits of all other applicants will be returned immediately after the License has been awarded.

Section 6. Data to Accompany Proposal.

Each applicant must file the following items along with the offer:

- A financial statement prepared by a Certified Public Accountant in accordance with Generally Accepted Accounting Principles for the last fiscal year demonstrating the applicant's ability to operate a business.
- The applicant's ability (e.g., financial strength, personnel, etc.) to satisfy the requirements of the License. If financing has to be secured, this should be described.
- If the applicant is, or is to be, a newly formed corporation within the last three (3) years, a financial statement relating thereto should accompany the offer showing the amount of capital pledged or paid in by the stockholders together with

personal financial statements and business and personal references of the individual stockholders.

- If the applicant is a partnership or other business entity must provide sufficient financial information to enable the DIVISION to make a reasonably informed judgment concerning the financial ability of the applicant to provide the appropriate services and its authority to do business in the State of Delaware.
- Evidence of the applicant's financial ability to meet these requirements together with details as to any proposed financing arrangements. The successful applicant must be prepared to show written commitments to support such financial arrangements.
- Description of experience in providing quality snack food services.
- A minimum of three (3) business references.
- Business and marketing plan including but not limited to special events, etc.
- Proposed operating hours

Failure to provide complete information will be sufficient grounds to disregard any offer. The applicant(s) should include any additional data that might assist the DIVISION in evaluating their expertise or plan of operation.

Section 7. Evaluation Criteria.

(a) The DIVISION will evaluate an applicant's current qualifications, performance data and commission rate and then rank in order of preference the applicants deemed to be submitting the best proposal and qualified to perform the required services herein described. The following criteria will be utilized in evaluating and ranking the applicants under consideration:

- (1) Background and experience (e.g., past performance on similar ventures, financial strength, qualifications and experience of personnel, etc.); **Weight: 20%**
- (2) Response to the Request for Proposal (e.g., quality and value of products and services, including pricing, etc.). **Weight: 30%**
- (3) Benefits of the proposal to Delaware State Parks (e.g., percentage of gross receipts from snack food service, etc.). **Weight 25%**
- (4) Financial ability to operate a snack food service operation. **Weight 25%**

(b) If necessary, the DIVISION may require an applicant to submit additional information regarding their ability to make the required investment, general competence to provide the service in a satisfactory manner, and equal employment opportunity posture.

Section 8. Schedule of Events

Public Notice:	January 9, 2011
Deadline for Receipt of Request for Proposals:	February 7, 2011
Notification of Award:	February 21, 2011

PART IV. PROPOSAL FORM

The Department of Natural Resources and Environmental Control, DIVISION of Parks and Recreation (DIVISION) reserves the right to reject any or all proposals. Please indicate below the license for which a proposal is being submitted:

_____ The license to provide a snack food service for Baynard Stadium, Wilmington State Parks

Pursuant to and in compliance with the instructions, conditions and mutual covenants as listed in the attached Request for Proposal, the undersigned hereby offers to pay the DIVISION as compensation for a license and for the privilege of operating the license described above an annual fee for the snack food service as authorized under this license:

Upon selection of a successful bidder, the term of this LICENSE shall be for five (5) years from the date of its execution and shall be renewable for five (5) additional years.

YEAR	\$ (dollar) amount	% of revenue amount
2011	\$ _____	_____ %
2012	\$ _____	_____ %
2013	\$ _____	_____ %
2014	\$ _____	_____ %
2015	\$ _____	_____ %

The bid guarantee \$2,500 shall be made upon submittal of the RFP.

As stated in Part I, Section 3, the DIVISION will consider no offer providing for less than \$7,000.00 and 15% total gross receipts from the Snack Food Service.

“NON-COLLUSIVE PROPOSAL CERTIFICATION”

By submission of this proposal, each proposer and each person signing on behalf of any other proposer certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

(1) The prices of this proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and

(3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

The undersigned hereby certifies the following: 1) compliance with the “Non-Collusive Proposal Certification;” 2) an understanding of the Request for Proposal; and 3) the ability to perform this license and to provide all services, labor, material and equipment necessary for this license.

Applicant: Print name, address and telephone number

Federal Identification/Social Security Number: _____

When the applicant is an individual:

Applicant’s Signature

When the applicant is a partnership:

Partner’s Signature

Partner’s Signature

Partner’s Signature

When the applicant is a corporation:

Corporate Name

ATTEST:

Secretary/Treasurer

President

BALANCE SHEET

DATE: _____, 20__

ASSETS

CURRENT ASSETS

- 1. Cash on hand and in bank \$ _____
- 2. Marketable securities _____
- 3. Notes and accounts receivable _____
- 4. _____
- 5. _____
- 6. _____
- 7. Total current assets _____

FIXED ASSETS

- 8. Buildings, equipment, etc. _____
- 9. LESS: Accumulated depreciation _____
- 10. Net fixed assets _____
- 11. Land _____
- 12. Total fixed assets _____

OTHER ASSETS

- 13. Investments _____
- 14. _____
- 15. _____
- 16. Total other assets _____
- 17. TOTAL CURRENT, FIXED, and OTHER ASSETS \$ _____

LIABILITIES AND NET WORTH

CURRENT LIABILITIES

- 18. Notes and accounts payable \$ _____
- 19. Accrued liabilities _____
- 20. _____
- 21. _____
- 22. _____
- 23. Total Current Liabilities _____

OTHER LIABILITIES

- 24. Mortgages and long-term liabilities _____
- 25. _____
- 26. _____
- 27. Total other Liabilities _____
- 28. Total Liabilities _____
- 29. Net Worth _____
- 30. TOTAL LIABILITIES AND NET WORTH \$ _____

QUALIFICATIONS AND PERFORMANCE OF APPLICANT

1. Individual or Firm Name & Business Address:

Phone Number: _____ E-mail address _____

Submittal is for: _____ Parent Company _____ Branch Office

2. Name and Title of individual completing application:

3. Year present firm/organization was established: _____

a.) Total number of years experience managing a Snack Food Service Operation _____

4. Name of Parent Company, if any: _____

a.) Former firm name(s), if any, and year (s) established:

5. Is the business a:

_____ Sole Proprietorship _____ Corporation, in which State?
_____ Partnership _____ Other legal entity

6. Names of Principals to contact:

	Name/Title	Telephone Number
a.)	_____	_____
b.)	_____	_____
c.)	_____	_____
d.)	_____	_____

7. Total personnel for this operation: _____

List by discipline or job description:

8. Describe nature of business: _____

9. Names and addresses of major banks in which the firm/organization has accounts:

a.) _____ c.) _____

b.) _____ d.) _____

10. Names and addresses of several major companies with whom your firm/organization has had accounts during the past three years:

a.) _____ c.) _____

b.) _____ d.) _____

11. Names and addresses of other business/personal references:

a.) _____ c.) _____

b.) _____ d.) _____

SAMPLE LICENSE

**SNACK FOOD SERVICES
AT
BAYNARD STADIUM
WILMINGTON STATE PARKS**

Preface

WHEREAS, the State of Delaware has provided certain facilities for the use and benefit of the public in areas under the administration of the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, and

WHEREAS, the DIVISION of Parks and Recreation desires the LICENSEE, hereinafter named, to provide a snack food service at Baynard Stadium, Wilmington State Parks in such a manner and to approved standards as will provide maximum use and service to and for the general public, service being the essence of this agreement, and

WHEREAS, the LICENSEE desires to obtain permission to operate said snack food service, and

NOW THEREFORE, for the purpose of providing this service, the following license is granted in accordance with the provisions set forth herein.

GRANT OF LICENSE

The Secretary of the Department of Natural Resources and Environmental Control and the Director of the Division of Parks and Recreation, hereinafter referred to as the DIVISION, in consideration of the covenants and representations made herein by the LICENSEE, hereby grants to

NAME:

ADDRESS:

TELEPHONE:

hereinafter referred to as the LICENSEE, LICENSEE hereby accepts from the DIVISION, a license to operate a snack food service at Baynard Stadium, Wilmington State Parks in New Castle County for the period beginning (date) and ending (date), both days inclusive.

In consideration of the covenants hereinafter contained but subject to the laws of the State of Delaware and applicable orders, rules and regulations of the DIVISION thereof now in existence or which may hereinafter be enacted, the parties hereto agree as set forth herein.

SECTION I – ADMINISTRATION

EXTENSION OPTION:

The term of the License between the DIVISION and the LICENSEE shall be for five (5) years from the date of execution and shall be renewable for five (5) additional years for a total of 10 years.

FACILITIES AND EQUIPMENT:

Facilities and equipment will be furnished as follows:

A. By the DIVISION:

Concession facilities to include the 17'9" x 20' building.

Included with the facility is the following food service equipment:

- One (1) stainless steel triple sink
- One (1) stainless steel single sink
- One (1) exhaust fan for stove
- Ten (10) gallon hot water heater

B. By the LICENSEE:

The LICENSEE will furnish and install all necessary equipment not provided by the DIVISION at the concession location for the preparation, display and storage of merchandise sales items and the necessary supplies in order to provide the specified snack food services granted to them under this license.

NO LEASE:

It is expressly understood and agreed that no building space or building or any part of the concession area, is leased to the LICENSEE, but that during the term of the license, the LICENSEE shall have the use of the concession area, as herein provided; and that the LICENSEE has the right to occupy the space assigned to it and to operate the concession herein granted to it and to continue in possession thereof only so long as each and every provision and condition herein contained is properly complied with.

LICENSE FEE:

The LICENSEE, as a fee for the license and concession rights herein granted, agrees to pay to the Department of Natural Resources and Environmental Control, DIVISION of Parks and Recreation, 89 Kings Highway, Dover, DE 19901, an annual license fee of ____% total gross receipts. Total gross receipts will not include employee purchases given a 50% discount on food and drink.

Upon award of this License the DIVISION shall retain the \$2,500 bid guarantee that shall be credited towards the final annual license fee payment for the first operating year.

The annual license fee of \$_____ shall be due in monthly installments on the 15th day of the preceding month for those months the food concession is operational (March through November). If the percent of total gross receipts using the above figures is greater than the

annual license fee, the LICENSEE agrees to pay the additional amount based on the specified percentage of total gross receipts to the DIVISION on or before December 31 of each year.

The LICENSEE agrees to submit a monthly receipts report, including a cash register "Z" tape or POS daily close out report covering each day's operation under this agreement to the Park Superintendent plus a tabulated annual gross receipts report for the period of operation on or before December 31 of each year.

PERFORMANCE GUARANTEE:

The LICENSEE shall furnish and keep in full force and effect, during the term of the License, a performance guarantee made payable to the DIVISION, in the amount of the concessionaire's annual license fee or \$6,000.00 whichever is greater, conditioned for the full performance of all terms and conditions contained in the License. The performance guarantee shall either be a cash deposit, surety bond, certificate of deposit, passbook savings account, automatically renewable irrevocable letter of credit, or another form acceptable to the DIVISION. Said amount is not subject to increase but shall remain constant throughout the terms of the License.

COLLUSION OR FRAUD:

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price or otherwise will render the offers of such vendor(s) void.

ACCOUNTS AND AUDIT:

The LICENSEE agrees to maintain the books of account and records of all operations and to establish systems of bookkeeping and accounting in a manner satisfactory to the DIVISION and to permit an inspection of said books and records by the DIVISION and the State Auditor's Office as often as in the judgment of the DIVISION such inspection is deemed necessary. The DIVISION will conduct an audit at least once during the term of the License. In the event of the discrepancy, the concessionaire will be made accountable for any and all unreported revenues and will be penalized an additional 5% of the unreported amount.

The LICENSEE also agrees to submit an annual financial statement, which includes a listing of all gross receipts/sales, prepared by a certified public accountant, ending December 31 of each year. This annual statement shall be submitted to the DIVISION on or before April 15 of each year.

TAXES AND PERMITS:

The LICENSEE shall pay all State and Federal taxes and/or other license fees which may be imposed or legally chargeable, and obtain all necessary permits and licenses at its own cost and expense, as a result of operating the business conducted thereafter.

CONCESSION FRANCHISE:

So long as the LICENSEE shall faithfully conform to all the provisions herein, they may provide the snack food services as heretofore described at Baynard Stadium, Wilmington State Parks, but **may not have exclusive rights** if fund raisers are approved by the DIVISION for specific

events. If the DIVISION shall deem it in the best interest of the State, the DIVISION reserves the right to award the License to more than one LICENSEE.

ASSIGNABILITY:

The LICENSEE shall not sell, mortgage, rent, assign or parcel out the license hereby granted, or any interest herein, or allow or permit any other person or party to use or occupy any part of the premises or spaces covered by the license for any purpose whatsoever, nor shall the license be transferred by operation of law, it being the purpose and spirit of this instrument to grant this license and privilege personally and solely to the LICENSEE herein named.

INSPECTION:

The LICENSEE agrees that all reasonable times free access will be given to authorized representatives of the DIVISION and the other county, state or federal officials having jurisdiction for inspection purposes. The LICENSEE further agrees that if notified in writing by the DIVISION of its authorized representatives that any part of the licensed premises or the facilities thereof for which the LICENSEE is responsible for services rendered are not in conformance with this license will remedy the same within five (5) working days, or a reasonable time agreed upon between the DIVISION and the LICENSEE.

UTILITIES:

The LICENSEE shall pay for all operational costs of electric current, telephone and other utilities used in or about the concession operation. The LICENSEE shall pay the DIVISION \$100.00 per operating month for electric costs and include this amount in their monthly gross receipt payment. The DIVISION shall provide trash cans inside the concession area and LICENSEE shall be responsible for disposal of all rubbish, refuse, garbage and debris collected within the concession.

LIABILITY FOR ACCIDENTS:

The LICENSEE expressly agrees to hold the State of Delaware, the Department or any of its employees harmless from any and all claims arising out of any violations by the LICENSEE of any law, rule, regulation or order, and from any and all claims for loss, damage or injury to persons or property of whatever kind or nature arising from the operation of this license by the LICENSEE or from the negligence or carelessness of employees of the LICENSEE while on the job. The LICENSEE expressly agrees to indemnify the State of Delaware, the Department or any of its employees to the extent of any recoveries against them individually and/or jointly arising from it.

The LICENSEE shall, as a condition precedent to this agreement taking effect, before assuming any rights hereunder, at their own cost and expense, take out and maintain such insurance for the term of the license as will protect the LICENSEE from claims under the Workman's Compensation Act, and shall also take out and maintain such public liability insurance as will protect the LICENSEE, the State of Delaware, the Department and their officers and employees from any claims for personal injuries, including death, and property damage arising out of or occupying or caused by operation under this license by the LICENSEE or anyone directly or indirectly employed by said LICENSEE while on the job, by agents of the LICENSEE, or otherwise arising out of this LICENSE. Such policies shall be endorsed to cover "occurrences"

and not merely “accidents”. All required insurance must be in not less than the following amounts:

<u>Type</u>	<u>Amount</u>
Workman’s Compensation Insurance	Unlimited
Public Liability Insurance	
Single limit liability for any one occurrence, not less than	\$500,00.00

The policies shall provide, at a minimum, the amount of insurance coverage mentioned above. The LICENSEE may obtain greater coverage limits at their own discretion. The policies shall be submitted to the DIVISION for approval. Upon approval, each policy shall be returned to the LICENSEE and a certificate of insurance shall be delivered to the DIVISION. Each policy and certificate shall be endorsed thereon: “No cancellation of or change to this policy shall become effective until after ten (10) days written notice by Registered Mail to the DIVISION”. The LICENSEE expressly agrees that its purchase of insurance coverage of the type and amount specified above, or of greater amounts shall not be construed as limiting LICENSEE’s duty to indemnify the State of Delaware, the Department or any of their officers or employees as provided herein above.

If at any time any of said policies shall be or become unsatisfactory to the DIVISION as to form or substance, or if any company issuing any such policies shall become unsatisfactory to the DIVISION, the LICENSEE shall promptly obtain a new policy, submit the same to the DIVISION for approval, and submit a certificate thereof as provided herein. Upon failure of the LICENSEE to furnish, deliver and maintain such insurance as above provided, this license, may, at the election of the DIVISION, be forthwith declared suspended, discontinued or terminated and any and all payments made by LICENSEE on account of this license shall thereupon be retained by the DIVISION.

SECTION II – OPERATIONS AND MAINTENANCE

PRICES, RATES AND CHARGES:

The LICENSEE shall display in a conspicuous place at the concession area, a neat and legible sign listing all public services offered by the snack food concession and the prices to be charged for each service. This price list shall be submitted to the DIVISION each season before the beginning of operation with a schedule of the services to be offered and the prices to be charged for each service. The LICENSEE agrees to offer only such services and merchandise at such prices as have been approved by the DIVISION.

In approving rates, primary consideration will be given to the prices charged for similar classes of services and merchandise furnished outside the areas administered by the DIVISION under similar conditions.

ITEMS FOR SALE AND SERVICE:

The LICENSEE may, upon compliance by them with all the provisions herein, offer the following services and items for sale:

Non-alcoholic beverages, coffee, sandwiches, hot dogs, pizza, ice cream novelties, bakery goods, candies, peanuts, etc., and any other refreshments necessary to provide the snack food services. Beverage vending machines may also be included in this service. **Products must be served in recyclable containers.**

Additional items such as souvenirs and other non-food items may not be sold without advance written approval by the DIVISION.

DISAPPROVAL OF ITEMS:

The LICENSEE agrees to withdraw from sale any items or service disapproved by the DIVISION. **No alcoholic beverages or tobacco products shall be sold on the premises.**

OPERATING SCHEDULE:

The LICENSEE agrees to operate the concession service in accordance with the following minimum schedule:

Events held in the months of April through June and September through November
And
During scheduled events/programs as specified in advance by the Park Superintendent

The LICENSEE shall remain open for duration of the event being held. Concession hours may be contingent on weather conditions and attendance to be determined by the Park Superintendent. The LICENSEE shall contact the Park Superintendent prior to canceling service for the day. The DIVISION reserves the right to revoke the License of the LICENSEE if they do not adhere to the schedule of operations.

FEE NOT AFFECTED:

The DIVISION reserves the right to enlarge, close and/or reduce the size of any area for purposes of improvement, repair, construction and any other legitimate purpose. It is understood that any of the above actions will not entitle the LICENSEE to any reduction or suspension of the License fee unless otherwise approved by the DIVISION.

PROTECTION OF PROPERTY:

The LICENSEE shall protect all State property from damage by themselves, their employees, the public or the elements, insofar as it is possible to do so. It is further understood that the State of Delaware, the Department and the DIVISION and any of its employees shall not be responsible for any of the LICENSEE's property.

EMERGENCY:

The DIVISION and LICENSEE or their designated agent shall be available by phone and/or pager twenty-four (24) hours a day, seven days a week for emergencies during the scheduled operating period of the License. Information on how to contact the LICENSEE or their designee is to be provided to the Park Superintendent.

DAMAGE TO PREMISES:

In the event State property or facilities are damaged in any way whatsoever by reason of any act or omission of the LICENSEE or its employees, then the license shall continue in full force and effect and the LICENSEE shall repair at its own cost and expense the facility or property so damaged. Upon the failure of the LICENSEE to make such repairs within five (5) working days or a reasonable time period agreed upon by the DIVISION and the LICENSEE, the DIVISION may repair such damage at the cost and expense of the LICENSEE.

SANITATION:

The LICENSEE shall see that the premises occupied under this license are kept clean and sanitary at all times in conformity with all rules and regulations pertaining to sanitation and public health. The LICENSEE shall provide containers within the concession area for the collection of all daily operating refuse and garbage. Disposal of such materials shall be the responsibility of the LICENSEE, and such materials may be deposited in the DIVISION's refuse container. LICENSEE shall endeavor to ensure compliance with Delaware's Executive Order No. 18, Leading by Example towards a clean energy economy and sustainable natural environment which can be found at www.governor.delaware.gov/orders/exec_18.shtml.

KNOWLEDGE OF ALL APPLICABLE LAWS AND REGULATIONS:

The LICENSEE will keep itself fully informed and comply with all laws, ordinances, rules and regulations in any manner affecting its operations under this agreement, and of all orders and decrees of bodies and tribunals having jurisdiction or authority over the same. No illegal activities shall be permitted by the LICENSEE, its employees or agents.

SMOKING PROHIBITED:

Smoking is prohibited in State owned facilities.

ALTERATIONS:

If any alterations, modifications, additions or improvements of the licensed premises and facilities are desired by the LICENSEE, the LICENSEE shall first submit plans and specifications therefore to the DIVISION for approval, and no alterations, modifications, additions and improvements shall be made or work commence without first obtaining the DIVISION's written approval and consent. All costs for any approved work shall be the responsibility of the LICENSEE unless the DIVISION consents to share a portion of said costs or provide necessary materials and/or labor.

MAINTENANCE OF GROUNDS, BUILDINGS AND FACILITIES:

The responsibility for the maintenance of all buildings, grounds, facilities and equipment furnished by the DIVISION and designated for use under this license shall be as follows:

- A. By the DIVISION:
Major utility and structural repairs and exterior maintenance to buildings and facilities, including capital improvements, extensive renovation and exterior painting.

- B. By the LICENSEE:

Daily cleaning and janitorial service of the sales area, and other building space assigned to the LICENSEE.

Repairs and maintenance of food service equipment provided by the DIVISION.

Daily collection and deposit of litter, garbage, and refuse from the grounds and buildings assigned to or used by the LICENSEE into the parks dumpster.

Repairs and maintenance to interior building fixtures and utilities. (locks, light bulbs, water faucets, etc.).

ADVERTISING:

The LICENSEE agrees not to use signs or other means of soliciting business, without the approval of the DIVISION and agrees not to advertise said license in any manner or form on or about the premises licensed to it or elsewhere or in any newspaper or otherwise without such approval. Any printed advertising shall include the correct name and location of the operation i.e. Baynard Stadium, Wilmington State Parks. The LICENSEE agrees that a copy of the advertisement will be sent to the DIVISION.

CONCESSION SIGNS:

The DIVISION, through their authorized agents, reserves the right to prohibit the erection, display or use of signs which are not in keeping with the park area. Permission must be granted by the DIVISION or its authorized agents prior to the erection, display or use of signs. The DIVISION also reserves the right to designate the type, size, wording, color and number or signs requested by the LICENSEE.

DISCRIMINATION:

No person or group shall be excluded from participation, denied any benefits or subjected to discrimination by the LICENSEE on the basis of race, color, national origin, age, sex, sexual preference, or disability in accordance with all acceptable State and Federal laws and regulations.

SECTION III – EMPLOYEES

PERSONNEL:

The LICENSEE will operate and manage said license and employs such personnel satisfactory to the DIVISION. Any employee left in charge of the concession shall be at least 18 years of age. The LICENSEE agrees to replace said personnel or any employee, whenever requested by the DIVISION upon satisfactory performance and due cause begin shown. The LICENSEE agrees to have a sufficient number of personnel on duty at such licensed area for the proper operation of this license.

STANDARDS OF EMPLOYEE PERFORMANCE:

The LICENSEE will employ only competent, mature and orderly employees and its employees will keep themselves neat and clean and will be courteous to all guests and patrons of the park. The LICENSEE and its employees will not use improper language, behave in a boisterous

manner or engage in any unlawful or unbecoming conduct during the course of their employment by the LICENSEE.

NO DISCRIMINATION:

The LICENSEE expressly agrees, under penalty of summary cancellation of this license, to operate the concession licensed without discrimination as to race, color, national origin, sex, sexual preference, or disability in accordance with all applicable State and Federal laws and regulations and in compliance with the provisions set forth in the Civil Rights Act of 1964, the American Disability Act, and the Laws of the State of Delaware.

SECTION IV – TERMINATION

TERMINATION IN CASE OF FIRE OR ACT OF GOD:

If the facilities or equipment used by the LICENSEE shall be damaged or destroyed by fire, Act of God, or otherwise so that same cannot be used for the purposes herein, then in that event, this license shall terminate and each party shall be released from further obligations hereunder and the license fee shall be prorated for the period of operation.

VIOLATIONS:

Upon failure of the LICENSEE to provide adequate service to the public or operate this license herein granted in a satisfactory manner, as determined by the DIVISION alone, or to comply with any of the provisions or conditions of this agreement, federal, state or local laws or any rule, regulation or order of the DIVISION affecting the license or the licensed premises in regard to any and all matters, then after 30 days of the giving of written notice to LICENSEE to remedy said violations and/or services, this license may be suspended or terminated at the option of the DIVISION, such suspension or termination to immediately become effective on the mailing thereof.

Should the LICENSEE/Manager be convicted of a crime related to or affecting the operation of the concession, the DIVISION may terminate this license by notice in writing immediately effective on mailing.

In the event this license terminates as aforesaid for any violation, all rights of the LICENSEE therein shall be forfeited without any claims for damage, compensation, refund of its investment, if any, or any other payment whatsoever against the DIVISION or the State.

In the event this license terminates as aforesaid, any property of the LICENSEE within said license area may be held by the DIVISION until all indebtedness of the LICENSEE hereunder is paid in full.

RELIEF:

The LICENSEE, may, at the discretion of the DIVISION, be relieved in whole or in part of any or all of the obligations of this agreement for such stated periods of time as the DIVISION may deem proper upon written application showing circumstances beyond the LICENSEE's control warranting such relief. In the event of early termination of this License, any request for

reimbursement of license fees or security deposit will be reviewed on a case by case basis and/or refunded at the DIVISION'S discretion.

EXPIRATION:

Upon expiration of the license period, LICENSEE may remove all furnishings, equipment and inventory furnished by it provided all license fees have been paid. The LICENSEE may also remove its fixtures attached to the buildings or facilities which the DIVISION has authorized in writing. In removing said fixtures, the LICENSEE agrees to replace the original fixture and/or restore the building to its original condition.

LICENSE DISPUTES:

In the event that the LICENSEE encounters any operating problems concerning this License their first obligation is to contact the Park Superintendent. If the problem cannot be resolved through the Park Superintendent, the Park Administrator for the Region will be the next level contact. Third level contact is the DIVISION Office of Business Services Chief. Fourth level of contact is the Park Operations Manager and finally, the DIVISION Director.

In the event that after the effective date, LICENSEE breaches any of its obligations, representations or warranties hereunder, the DIVISION shall give LICENSEE notice thereof, specifying in reasonable detail the conduct or circumstance that the DIVISION believes constitutes a breach. LICENSEE will promptly commence to cure such breach and shall cure the same within thirty (30) days or such longer period as is reasonably required, in all events not exceeding three (3) months provided that such three (3) month period shall be extended for so long as the LICENSEE is diligently pursuing a remedy and such remedy can be achieved within a reasonable time. If LICENSEE disputes whether a breach has occurred and such dispute is not resolved in good faith negotiations within thirty (30) days of the date notice is given to the LICENSEE then the matter shall be referred to the Chief Executive Officer of LICENSEE and the Director of the DIVISION who shall in good faith attempt to resolve the disputed issue within thirty (30) days from the date of referral. If pursuant to the foregoing procedures it is determined that a breach has occurred, then the LICENSEE shall commence to cure that breach and cure the same within like time periods as referenced above. Each party shall have the right to pursue any and all legal remedies available to them in the Courts of the State of Delaware, in the event that the negotiations described above do not lead to a resolution of the dispute within the time provided.

LOBBYING AND GRATUITIES:

Lobbying or providing gratuities shall be strictly prohibited. LICENSEES found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this License shall have their license immediately terminated.

The LICENSEE shall warrant that no person or selling agency has been employed or retained to solicit or secure a License resulting from this agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any License resulting from this breach without liability or at its discretion recover the full amount of the performance bond.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this License shall be conducted in strict accordance with the manner, forum and conditions set forth in this License.

BUYOUTS, CHANGE OF OWNERSHIP, INSOLVENCY:

- a) In the event the LICENSEE should change ownership for any reason whatsoever, the DIVISION shall have the exclusive option of continuing under the terms and conditions of the License with the LICENSEE or its successors or assigns for such period of time as is necessary to replace materials, programs or services or immediately terminating the License.
- b) In the event that the LICENSEE should become insolvent for any reason whatsoever or makes an assignment for the benefit of creditors, or have a receiver appointed, or should it be declared bankrupt under the laws of the United States or Canada, or should a petition of or reorganization or rearrangement be filed under the bankruptcy laws, the DIVISION shall have the exclusive option of continuing with the LICENSEE or its successors or assigns or trustee in bankruptcy under the terms and conditions of the License for the full remaining term of the License, or continuing with the LICENSEE or its successors or assigns or trustee in bankruptcy under the terms and conditions of the License until such period of time as is necessary to replace the materials, programs, or services or immediately terminating the License.

RENEWAL, RENEGOTIATION, OR CANCELLATION:

On or before November 30, 2015, the LICENSEE shall notify the DIVISION in writing of its intention to continue operating the snack food service, and the DIVISION shall notify the LICENSEE in writing by December 31, 2015, if they intend to discontinue or openly bid the snack food service at Baynard Stadium, Wilmington State Parks. Any agreement to renew or renegotiate between the parties shall be mutually agreed upon. The DIVISION, at its sole discretion, may cancel, bid or negotiate with others at this time unless a new agreement is entered into with the LICENSEE.

ENTIRE AGREEMENT:

This instrument contains the entire agreement of the parties hereto, and no representations, claims, modifications or additions made prior to subsequent to the date of this license shall be valid and binding unless made in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this instrument, the day and year above-written.

Witness:

DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

Collin P. O'Mara, Secretary

Charles A. Salkin, Director
Division of Parks and Recreation

I hereby certify that Collin P. O'Mara, Secretary of the Department of Natural Resources and Environmental Control of the State of Delaware and Charles A. Salkin, Director of the Division of Parks and Recreation, personally appeared before me, and acknowledged that they signed and delivered the aforesaid instrument as their own free and voluntary act of said agency, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 20__.

Notary Public

My commission expires: _____

STATE OF DELAWARE)
) SS.
COUNTY OF _____)

Witness:

COMPANY NAME

President of Company

I hereby certify that _____, President of _____, personally appeared before me, and acknowledged that they signed and delivered the aforesaid instrument as their own free and voluntary act of said agency, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 20__.

Notary Public

My commission expires: _____

STATE OF _____)
) SS.
COUNTY OF _____)