



**Department of Natural Resources and
Environmental Control
Division of Parks and Recreation**

CONTRACT NO.: NAT-12-012-FOOD

**REQUEST FOR PROPOSALS (RFP) FOR PROFESSIONAL SERVICES
FOR THE MANAGEMENT AND OPERATION OF A CAFÉ
AT THE INDIAN RIVER MARINA
DELAWARE SEASHORE STATE PARK**

Proposals Due: January 14, 2013 by 3:00 p.m.

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SECTION I – GENERAL OVERVIEW AND KEY DATES

The State of Delaware's Division of Parks and Recreation seeks a concessionaire to provide management and operational service of a café located at the Indian River Marina at Delaware Seashore State Park. This request for proposal ("RFP") is issued pursuant to 29 Del. C. § 6981 and 6982 and 7 Del.C. §4701.

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: December 14, 2012
Mandatory Pre-Bid Meeting	Date: December 20, 2012 @ 2:00 p.m.
Questions Due	Date: January 3, 2013
Responses to Questions	Date: January 10, 2013
Deadline for Receipt of Proposals	Date: January 14, 2013 by 3:00 p.m.
Oral Presentations	Date: By appointment
Anticipated Notification of Award	Date: January 31, 2013
Execution of Contract	Date: February 28, 2013

A pre-bid meeting will be held on December 20, 2012 at 10:00 a.m. at the Indian River Marina at Delaware Seashore State Park, 39415 Inlet Road, Rehoboth Beach, Delaware 19971. Attendance at this meeting is mandatory for all prospective vendors and will be a pre-requisite for submitting a bid.

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing vendor's interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the vendor may have taken in presenting the proposal. Furthermore, the transmittal letter must attest to the fact that no activity related to this proposal and any resultant Contract will take place outside of the United States. The State of Delaware reserves the right to deny any and all exceptions taken to the RFP requirements.

SECTION II – GENERAL INTRODUCTION

The Department of Natural Resources and Environmental Control, Division of Parks and Recreation (DIVISION) is seeking a qualified and competent concessionaire to operate a café with full menu fare including but not limited to fully prepared seafood dishes (excluding off premise raw seafood sales), alcoholic beverages, non-alcoholic beverages, and any other refreshments necessary to carry on the business in accordance with the terms and conditions set forth in the contract for the general public at the Indian River Marina located in Delaware Seashore State Park commencing on (hereinafter referred to as CONCESSIONAIRE).

The concession facility is located at the Indian River Marina located on the north side of the Indian River Inlet at Delaware Seashore State Park, the third largest state park containing over 2638 acres. The Marina also provides many services for boaters and fisherman including wet slip rental, a large onsite facility for multi-seasonal storage of many size vessels, charter and head boat operations, fish cleaning services, bait & tackle, and fresh seafood sales, a 12 unit cottage complex and campground facility. It is located within minutes of the Atlantic Ocean and Inland Bays and has been renowned as some of the finest fishing grounds on the East Coast. With the new Indian River Inlet Bridge that opened in May 2012 and campground renovation in 2014, Delaware State Parks foresees these additions as enhancements to tourism of the Indian River area.

The building for the Indian River Marina food service concession operation is approximately 1,400 square feet (35'x 40') with an outside usable deck area of approximately 1,100 square feet. The exterior deck/plaza area is trapezoidal in shape with a pergola on the western edge of the concession operation. This building has limited traditional cooking equipment and outdoor grill capabilities. See attached floor plan layout and Division-provided amenities list. Additional square footage in the grassy area outside the café is available for service. (See attached plans).

SECTION III – RFP INSTRUCTIONS AND GENERAL INFORMATION

A. Required Information:

The following information shall be provided in each proposal listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

1. Delaware Business Contract:
 - a. Provide evidence of a Delaware Business Contract or evidence to obtain the business contract. The process for which can be found at <http://revenue.delaware.gov/services/BusServices.shtml>
2. Proposed menu with pricing and layout of operation.
3. Completed questionnaire of the forms attached to this RFP in such detail as to facilitate a comprehensive analysis.
4. Proposed operating hours.
5. Business and Marketing Plans.
6. Business and personal references.
7. Financials:
 - a. Statement of applicant's financial condition in the form of a balance sheet.
 - b. Evidence of applicant's financial ability to meet these requirements together with details as to any proposed financing arrangements. The successful vendor must be prepared to show written commitments to support each financial arrangement.
 - c. A complete personal financial statement.
 - d. If the vendor 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 vendor to provide the appropriate services and its authority to do business in the State of Delaware.
 - e. If the vendor is, or is to be, a newly formed corporation within the last three (3) years, a financial statement relating thereto should accompany the offering showing the amount of capital pledged or paid in by the stockholders together with the personal financial statements and business and personal references of the individual stockholders.
8. Professional liability insurance in the amount of \$1,000,000.00.
9. Evidence of applicant's experience.
10. Before a contract is awarded, the Certificate of Insurance and/or copies of the insurance policies referencing the contract number stated herein shall be submitted to the Division at the following address:

**Delaware Division of Parks and Recreation
Contract No. NAT-12-012-FOOD
89 Kings Highway
Dover, Delaware 19901**
11. Fully completed credit check and background investigation forms.
12. Pre-selection interview may be required by the Division at the agency's sole discretion to gather additional information regarding the vendors' expertise, qualifications and proposal.
13. A Bid Guarantee of \$2,500.00.

NOTE: The vendor should also include any additional data that might assist the Division in evaluating their expertise or plan of operation.

B. Bid Guarantee

No offer will be considered unless the vendor(s) submits a certified check drawn from 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 vendor's performance of the terms of said contract 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 vendor fails to execute the awarded contract. Upon award of the contract, the \$2,500.00 deposit of the successful vendor will be retained by the Division of Parks and Recreation and may at the option of the Division if all of the obligations have been met, be credited towards the annual contract fee payment for the first year of operation. The deposits of all other vendors not selected will be returned immediately after the contract has been awarded.

C. RFP Issuance:

Copies of this RFP are available in electronic form through the State of Delaware, Government Support Services website at <http://bids.delaware.gov>. Paper copies of this RFP will be available upon request by contacting:

Kerri Bennett
Delaware Division of Parks and Recreation
89 Kings Highway
Dover, Delaware 19901
kerri.bennett@state.de.us
(302) 739-9206

D. Public Notice:

Public Notice has been provided in accordance with 29 Del. C. § 6981.

E. RFP Designated Contact:

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Kerri Bennett
Department of Natural Resources
and Environmental Control
Delaware Division of Parks and Recreation
89 Kings Highway
Dover, Delaware 19901
kerri.bennett@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

F. Consultants and Legal Counsel:

The State of Delaware may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Vendors shall not contact the State of Delaware consultant or legal counsel on any matter related to the RFP.

G. Assistance to Vendors with a Disability:

Vendors with a disability may receive accommodations regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten (10) days prior to the deadline for receipt of proposals.

H. Contact with State Employees:

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of

Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

I. Organizations Ineligible to Bid:

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended are ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason are ineligible to respond to the RFP.

J. Exclusions:

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

1. Has been convicted for commission of a criminal offense as an incident to obtain or attempt to obtain a public or private contractor subcontract or in the performance of the contract or subcontract;
2. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
3. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
4. Is a registered sex offender or has been convicted of a violent crime under State statute;
5. Has violated previous contract provisions such as:
 - a. Failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts;
 - c. Has violated ethical standards set out in law or regulation; and
 - d. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

K. RFP Submissions:

Acknowledgement of Understanding of Terms: By submitting a proposal, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

L. Proposals:

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with three (3) paper copies. One (1) paper copy must be marked as a "Master" copy and contain original signatures on all appropriate forms.

All proposals must be properly sealed and clearly marked as specified below and received no later than **3PM EST on January 14, 2013**. The Proposals may be delivered by certified or registered U.S. Mail, Express Delivery (e.g., FedEx, UPS, etc.), or by hand to:

Vendor Name
Street Address
City, State, Zip

Contract No. NAT-12-012-FOOD
Contract Title: IRM CAFE
Department of Natural Resources and Environmental Control
Division of Parks and Recreation
Office of Business Services
89 Kings Highway
Dover, Delaware 19901

SEALED BID PROPOSAL

Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

M. Proposal Modifications:

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

N. Proposal Costs and Expenses:

The State of Delaware will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor's conference, system demonstrations or negotiation process.

O. Late Proposals:

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the Contract No. and Title, vendor name and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

P. Proposal Opening:

The State of Delaware will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of the State of Delaware personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

Q. Non-Conforming Proposals:

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

R. Concise Proposals:

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures and other promotional

materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

S. Realistic Proposals:

It is the expectation of the State of Delaware that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The State of Delaware shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

T. Confidentiality of Documents:

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the State of Delaware Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor information to a competing vendor prior to award of the contract.

The State of Delaware is a public agency as defined by State law and as such, it is subject to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. Under the law, all of the State's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on the contract award is made, its contents will become public record and nothing contained in the proposal will be deemed confidential except proprietary information. Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002(d) and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

U. Discrepancies and Omissions:

Vendor is fully responsible for the completeness and accuracy of their proposal and for examining this RFP and all addenda. Failure to do so will be at the sole risk of the vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

V. 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 agreements of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor a separate response to this RFP, and is in all respects fair and without

collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

W. Lobbying and Gratuities:

Lobbying or providing gratuities shall be strictly prohibited. Vendors 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 RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon 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 contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

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

X. Solicitation of State Employees:

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the State of Delaware to leave employment with the State of Delaware in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the State of Delaware's contracting officer. Solicitation of State of Delaware employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a State of Delaware employee who has initiated contact with the vendor. However, the State of Delaware employees may be legally prohibited from accepting employment with the vendor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

Y. RFP Question and Answer Process:

The State of Delaware will allow written requests for clarification of the RFP. All questions will be considered into a single set of responses and posted on the State's website at <http://bids.delaware.gov> by **12:00 p.m.** Vendor's names will be removed from questions in the responses released. Questions should be submitted in the following format. Deviations from this format will not be accepted.

**Section Number
Paragraph by Alphabet
Page Number
Text of Passage being questioned
Question**

Z. State's Right to Reject Proposals:

The State of Delaware reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the State of Delaware's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the State of Delaware may deem necessary in the best interest of the State of Delaware.

AA. State's Right to Cancel Solicitation:

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

BB. Notification of Withdrawal of Proposal:

Vendors may modify or withdraw its proposal by written request, provided that both proposal and request is received by the State of Delaware prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the State of Delaware at the proposal submission deadline. All proposals received are considered firm offers at that time.

CC. Revisions to the RFP:

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at <http://bids.delaware.gov>. The State of Delaware is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

It is the vendor's responsibility to be aware of any addenda or modifications to the RFP contract terms. By submitting an offer to the State, vendors shall have acknowledged receipt, understanding, and commitment to comply with all materials, revisions, and addenda related to the Request for Proposal.

DD. Exceptions to the RFP:

Any exceptions to the RFP or the State of Delaware's terms and conditions must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee.

EE. RFP Evaluation Process:

An evaluation team composed of representatives of the State of Delaware will evaluate proposals on a variety of quantitative criteria. Neither the highest price nor the highest scoring proposal will necessarily be selected.

The State of Delaware reserves full discretion to determine the competence, responsibility, professionalism and/or financial ability of vendors. Vendors are to provide in timely manner any and all information that the State of Delaware may deem necessary to make a decision.

FF. Proposal Evaluation Team:

The Proposal Evaluation Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del. C. § 6982(b). The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Director of Delaware's Division of Parks and Recreation and the Secretary of the Department of Natural Resources and Environmental Control who shall have final authority subject to the provisions of this RFP and 29 Del. C. § 6982 and 7 Del. C. § 4701 to award a contract to the successful vendor in the best interests of the State of Delaware.

GG. Proposal Selection Criteria:

The Team shall assign up to the maximum number of points for each evaluation item to each of the vendor's proposals. All assignments of points shall be at the sole discretion of the Team.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the State of Delaware to be essential for use by the Team in the bid evaluation and award process. Therefore, all

instructions contained in this RFP shall be met in order to qualify as a responsive and responsible vendor and participate in the Team’s consideration for award. Proposals which do not meet or comply with the instructions in this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or negotiate a proposal other than that with the highest price.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modifications to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.

1. Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Team to evaluate proposals:

Criteria	Weight
Background and experience (e.g. past performance on similar ventures, financial strength, qualifications and experience of personnel, etc.)	30
Response to the RFP (e.g. quality and value of products and services, including pricing, etc.)	20
Benefits of the proposal to Delaware State Parks (e.g. percentage of gross receipts from services, etc.)	25
Capacity to meet financial conditions and payment obligations.	25
Total	100 points

HH. Proposal Clarification:

The Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

II. References:

The Team may contact any customer of the vendor, whether or not included in the vendor’s reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay for travel costs only for State of Delaware personnel for these visits.

JJ. Oral Presentations

Selected vendors may be invited to make oral presentations to the Evaluation Team. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor’s responsibility.

KK. Award of Contract:

The State of Delaware has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive to award a contract to other than the highest priced proposal or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the State of Delaware and the subsequent full execution of a written contract will constitute a contract and no vendor shall acquire any legal or equitable rights or privileges until the occurrence of both such events.

A. RFP Award Notifications

- After reviews of the evaluation committee report and its recommendation and once the contract terms and conditions have been finalized, the State of Delaware shall award the contract.
- The contract shall be awarded to the vendor whose proposal is most advantageous taking into consideration the evaluation factors set forth in the RFP.
- It should be explicitly noted that the State of Delaware is not obligated to award the contract to the vendor who submits the highest bid or the vendor who receives the highest total point score rather the contract shall be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate State of Delaware approvals.
- After final selection is made, the winning vendor shall be invited to negotiate a contract with the State of Delaware and the remaining vendors not selected shall be notified in writing of their selection process.

LL. RFP Miscellaneous Information:

No Press Releases or Public Disclosure:

Vendor(s) may not release any information about this RFP. The State of Delaware reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of the State of Delaware.

MM. Definitions of Requirements:

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words, *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

NN. Additional Documents:

The following documents are attached to this Request for Proposal and shall be considered as part of the RFP.

- Attachment 1 – No Proposal Reply Form (p.25)
- Attachment 2 – Non-Collusion Statement (p.26-27)
- Attachment 3 – Exceptions to RFP (p. 28)
- Attachment 4 – Confidential and Proprietary Information (p. 29)
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SECTION IV – SCOPE OF SERVICES AND REQUIREMENTS

A. Products and Services:

The successful applicant (CONCESSIONAIRE) will be granted a contract for the provision to operate a café at the Indian River Marina located in Delaware Seashore State Park. The CONCESSIONAIRE's café shall incorporate full menu fare including but not limited to fully prepared seafood dishes (excluding off premise raw seafood sales), alcoholic beverages, non-alcoholic beverages, and any other refreshments necessary to carry on the business in accordance with the terms and conditions set forth in the contract. Additional food items that may be sold are grocery staples such as fresh fruit, milk and eggs with advance written approval by the Department.

The public health and wellbeing of our visitors is important to the Division and State of Delaware. Bids should recognize the importance of a sound business model that proposes a balanced diet and foods not containing harmful biological and chemical contaminants; reflects regional cultural traditions, supports the local farming community, uses recyclable products and service ware; reduces waste and energy; and educates the visitor about the foods served and where it comes from.

As part of the DIVISION's healthy choices initiative, all beverages including vending machines, fountain and bottled drinks with the exception of alcoholic beverages must meet standards set by the DIVISION. 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 CONCESSIONAIRE agrees to withdraw from sale or rent any items disapproved by the DIVISION. In accordance with the Department's Smoking in the Workplace Policy No. D-0309(A), **no tobacco products shall be sold on the premises.**

B. Utilities:

Electricity, telephone, gas and/or other utilities used in the operations will be solely at the CONCESSIONAIRE's expense. The CONCESSIONAIRE will be required to make independent arrangements for service with the area's utility companies with the exception of electric, water and waste water disposal which are furnished by the Division. Electrical usage will be sub-metered with the Division paying the utility and the CONCESSIONAIRE reimbursing the Division based on sub-meter readings.

C. Taxes and Permits:

The CONCESSIONAIRE shall pay all State and Federal taxes and/or other contract fees which may be imposed or legally chargeable, and obtain all necessary permits and contracts including but not limited to a Delaware Business License, Operating Permit issued by Division of Public Health license as a result of operating the business conducted hereunder. A liquor license issued by the Delaware Alcohol Beverage Commission to sell full spirits by the glass on the premises has been acquired and can be transferred to CONCESSIONAIRE upon award of contract.

D. Division's Responsibilities:

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

(1) The DIVISION shall provide the following equipment for the café:

1. Shelving
2. Walk-In Cooler
3. Cooler Refrigeration System
4. Reach-In Freezer
5. Microwave Oven
6. Hot Dog Grill
7. Coffee Brewer
8. Cup Dispenser
9. Work Counter
10. Work Table
11. Hand Sink
12. Soap and Towel Dispenser
13. Three-Compartment Sink
14. Mop Sink and Rack

15. Overhead Exhaust with fire suppression system

(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 CONCESSIONAIRE to any reduction or suspension of the Contract fee unless otherwise approved by the DIVISION.

E. Concessionaire's Responsibilities:

The CONCESSIONAIRE will be granted the right to provide a café and at the Indian River Marina that is approved by the DIVISION. The CONCESSIONAIRE's responsibilities under this contract shall include the following:

- (1) The CONCESSIONAIRE will be required to furnish and install the necessary equipment, if not provided, (drink dispensers, grill table etc.) at the concession location for the preparation, display and storage of merchandise sales items in order to provide the specified café and services. The CONCESSIONAIRE must also furnish and use a cash register with accumulating total to record all customer sales and receipts collected or an approved POS system. All of the equipment and fixtures used in the concession operation shall be subject to approval by the Division, the Division of Public Health and the State Fire Marshal, if applicable, as to their workability, appearance, appropriateness, and compliance with codes. All outdoor furniture must be aesthetically designed to fit into the Marina environment.
- (2) The CONCESSIONAIRE shall be responsible for the following:
 - A. Daily cleaning and janitorial service of the sales area, and other building space assigned to the CONCESSIONAIRE.
 - 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 CONCESSIONAIRE into the parks dumpster.
 - D. Repairs and maintenance to interior building fixtures and utilities. (locks, light bulbs, water faucets, etc.)
 - E. Maintain outside area tables and chairs for handicap accessibility.
 - F. Provide new, well-built umbrellas for all tables on the deck of the café.
 - G. Generate and maintain an inviting atmosphere inside and outside the café for customers of the Marina.
- (3) The CONCESSIONAIRE **must** publicly display in a conspicuous place at the concession area a neat and legible sign listing hours of operation, rates, prices and charges for all products and services, i.e. an affixed menu board located on the building and a standing dry erase board outside the café entrance depicting specials for the day.
- (4) The CONCESSIONAIRE shall offer evening entertainment at the café. The DIVISION desires the schedule to include performances on weekends and holidays from Memorial Day through Labor Day. The DIVISION shall approve the entertainment schedule and performances. The CONCESSIONAIRE and the DIVISION shall mutually agree on the dates and times of each performance. All entertainment must end no later than 10 p.m.
- (5) The DIVISION desires the CONCESSIONAIRE to offer food and drink specials for marina customers. The DIVISION shall approve the duration for serving all alcoholic drinks.
- (6) The CONCESSIONAIRE shall be responsible for providing quality products and services at a reasonable price to park visitors.
- (7) The CONCESSIONAIRE 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.
- (8) The CONCESSIONAIRE shall maintain books of account and records of all operations and establish systems of bookkeeping and accounting in a manner satisfactory to the DIVISION.

- (9) The CONCESSIONAIRE also agrees to submit an annual financial statement, which includes listing of all gross receipts/sales ending December 31 of each year. This annual statement shall be submitted to the DIVISION on or before April 15 of each year.
- (10) The CONCESSIONAIRE 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.

F. Inspection:

The CONCESSIONAIRE 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 CONCESSIONAIRE shall further agree that if notified in writing by the DIVISION of its authorized representatives that any part of the contracted premises or the facilities thereof for which the CONCESSIONAIRE is responsible for services rendered are not in conformance with the contract granted then the CONCESSIONAIRE shall remedy the same within five (5) working days, or a reasonable time period agreed upon between the DIVISION and the CONCESSIONAIRE.

G. Accounting System and Reports:

The CONCESSIONAIRE shall keep proper and complete books and records of accounts of its operation under this contract. Internal control procedures implemented by the CONCESSIONAIRE shall be adequate to ensure that all revenue is accounted for and recorded. All receipts of any nature from café provided by the CONCESSIONAIRE shall be immediately and properly recorded.

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

H. Operating Schedule:

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

In Season: Seven (7) days per week, from Memorial Day weekend through Labor Day, including holidays, from 7:00 a.m. to 7:00 p.m. on weekdays and 7:00 a.m. to 9:00 p.m. on weekends

Off Season: 8:00 a.m. to 5:00 p.m. Concession may open as early as April 1 or earlier and remain in operation through November contingent upon weather conditions and business to be determined by the Marina Manager.

CONCESSIONAIRE will contact the Marina Manager prior to canceling service for the day and receive his or her permission to cancel service. The DIVISION reserves the right to revoke the contract of the CONCESSIONAIRE if they do not adhere to the schedule of operations.

I. Emergencies:

The CONCESSIONAIRE 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 contract. Information on how to contact the CONCESSIONAIRE or their designee is to be provided to the Park Superintendent.

J. Trash Removal and Use of Recyclable Products:

The CONCESSIONAIRE is required to serve all food and beverages in recyclable containers. The CONCESSIONAIRE shall provide trash cans inside the concession area and will be responsible for depositing the trash in the park's dumpster at the end of each day of operation and for maintaining the concession areas in a clean and presentable condition. The CONCESSIONAIRE 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.

K. Parking:

Parking spaces for the concession operator and their employees will be assigned by the Marina Manager.

L. Marketing and Promotion Plans; Signs and Advertising:

(a) The CONCESSIONAIRE is encouraged to work with the DIVISION on a marketing and promotion plan for each calendar year, beginning calendar year 2013. 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.) The CONCESSIONAIRE shall make every effort to provide the Marina Manager with flyers, discount promotions, coupons, cross promotions with campers and cottage tenants, etc. for marina customers.

(b) The CONCESSIONAIRE agrees not to use signs or any other means of soliciting business, without the approval of the DIVISION, and agrees not to advertise said contract in any manner or form on or about the premises contracted 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. Indian River Marina, Delaware Seashore State Park. The CONCESSIONAIRE agrees that a copy of the advertisement will be sent to the DIVISION prior to advertising.

(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 CONCESSIONAIRE.

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

M. Modifications to Premises:

This contract may be modified or cancelled by agreement in writing, executed by the DIVISION and the CONCESSIONAIRE 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.

If any alterations, modifications, additions or improvements of the contracted premises and facilities are desired by the successful applicant, a request first must be submitted to the Division for approval and work shall not commence until receiving the DIVISION’S approval and consent. All costs for any approved alterations, modifications, additions, or improvements shall be the responsibility of the CONCESSIONAIRE unless the DIVISION consents to share a portion of said costs or provide necessary materials and/or labor. All applicants shall submit a proposed layout of the operation and a description of any alterations or modifications which are contemplated to set up the operation.

N. 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 CONCESSIONAIRE or its employees, the CONCESSIONAIRE shall repair at its own cost and expense the facility or property so damaged. Upon the failure of the CONCESSIONAIRE to make such repairs within five (5) working days or a reasonable time period agreed upon by the DIVISION and the CONCESSIONAIRE, the DIVISION will repair such damage at the cost and expense of the CONCESSIONAIRE and deliver a detailed invoice to CONCESSIONAIRE due and payable within thirty (30) days of the date of the invoice.

O. Waiver of Damages:

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

P. Concession Franchise Limitations:

So long as the CONCESSIONAIRE shall faithfully conform to all the provisions herein, they may provide the café service as heretofore described at Indian River Marina at Delaware Seashore State Park, 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 Contract to more than one CONCESSIONAIRE.

SECTION V – CONTRACT TERMS AND CONDITIONS

A. General Information:

1. The selected vendor will be expected to enter negotiations when applicable with the Department, which will result in a formal contract between parties. Procurement will be in accordance with a subsequent contract. **This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.**
2. After negotiations, the selected vendor shall enter into a written agreement with the Department. The State of Delaware reserves the right to incorporate standard State contractual and contract provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the Department. Vendors will be required to sign the contract for all services and may be required to sign additional agreements.
3. The successful vendor shall promptly execute a contract incorporating the terms of this RFP within twenty (20) days after award of the contract.
4. If the vendor to whom the award is made fails to enter into the contract as herein provided, the award will be annulled and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

B. Notice:

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

**Kerri Bennett
Department of Natural Resources and Environmental Control
Delaware Division of Parks and Recreation
89 Kings Highway
Dover, Delaware 19901**

C. Contract Term and Extension:

The term of the café and concession contract for Indian River Marina, Delaware Seashore State Park shall be for two (2) summer seasons, commencing on and ending on. The Division reserves the right to renegotiate and renew the contract for an additional three (3) seasons, commencing on and ending on. The Division reserves the right to renegotiate and renew the contract for an additional five (5) seasons, not to exceed ten (10) seasons, based upon the successful completion of the terms and conditions contained herein by the CONCESSIONAIRE.

D. Contract Fee:

The CONCESSIONAIRE, as a fee for the contract 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 contract fee of \$5,000 for the first two (2) seasons, \$7,500 for the next three (3) seasons and \$10,000 for the final five (5) seasons or a negotiated % of gross receipts, whichever is greater.

The annual contract fee shall be due in two (2) installments on July 15 and September 15 during the term of this contract. If the percentage of total gross receipts is greater than the annual contract fee, the

CONCESSIONAIRE 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 CONCESSIONAIRE 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.

E. Interest Payments:

Any payments which become due from the CONCESSIONAIRE 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 CONCESSIONAIRE shall be billed the amount of interest owed. This provision is in no way a waiver of the CONCESSIONAIRE's obligation to make payments when they are due.

F. Performance Guarantee:

The CONCESSIONAIRE shall furnish and keep in full force and effect, during the term of the Contract, a performance guarantee made payable to the DIVISION, in the amount of the concessionaire's annual contract fee conditioned upon the full performance of all terms and conditions contained in the Contract. The performance guarantee shall be in the form of either 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 Contract.

G. Licenses and Permits:

In performance of the contract, Concessionaire shall be required to comply with all applicable federal, state and local laws, ordinances, codes and regulations. The cost of permits and other relevant costs required in the performance of the Contract shall be borne by the Concessionaire. Concessionaire shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 Del. C. § 2502.

Upon execution of the contract, Concessionaire shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to:

**Division of Revenue
Caravel State Building
P.O. Box 8750
820 N. French Street
Wilmington, Delaware 19899
Public Service (302) 577-8200
Licensing Department: (302) 577-8205
<https://onestop.delaware.gov/osbr/public/Home.jsp>**

Information regarding the award of the contract shall be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject Concessionaire to applicable fines and/or interest penalties.

H. Personnel:

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

Concessionaire shall check all prospective employees they intend to hire at the contracted area against the Delaware or any other applicable sex offender registry. Concessionaire shall notify the Division if they desire to hire an individual who is on a registry. Written approval by the Division shall be required before the Concessionaire can employ said individual to work at the contracted area.

I. Quality and Pricing:

(a) The CONCESSIONAIRE 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 CONCESSIONAIRE pursuant to this section. The CONCESSIONAIRE 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 CONCESSIONAIRE 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 CONCESSIONAIRE 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 CONCESSIONAIRE are inconsistent with the image or reputation of the DIVISION or the State of Delaware, or are otherwise deemed unsuitable for sale on the contracted premises, the DIVISION shall request the CONCESSIONAIRE to cease selling such goods or services and the CONCESSIONAIRE shall cease doing so immediately upon receipt of such a written request from the DIVISION.

J. Insurance:

(a) The CONCESSIONAIRE 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 contract as will protect the CONCESSIONAIRE from claims under the Workman's Compensation Act, and shall also take out and maintain such public liability insurance as will protect the CONCESSIONAIRE, 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 contract by the CONCESSIONAIRE or anyone directly or indirectly employed by the CONCESSIONAIRE while on the job, by agents of the CONCESSIONAIRE, or otherwise arising out of this contract. 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 contract 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 CONCESSIONAIRE 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 CONCESSIONAIRE 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 CONCESSIONAIRE 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 CONCESSIONAIRE'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 CONCESSIONAIRE 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 CONCESSIONAIRE to furnish, deliver and maintain such insurance as above provided, this contract may, at the election of the DIVISION, be forthwith declared suspended, discontinued or terminated and any and all payments made by CONCESSIONAIRE on account of this contract shall thereupon be retained by the DIVISION.

K. Indemnification and Hold Harmless:

The CONCESSIONAIRE 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 CONCESSIONAIRE 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 contract by the CONCESSIONAIRE, or from the negligence or carelessness of employees, agents or invitees of CONCESSIONAIRE while on the job.

L. Violations:

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

M. Revocation of Contract:

In addition to the rights of revocation otherwise specifically provided in this contract agreement, the DIVISION shall have the right to revoke this contract at any time on thirty (30) days written notice to the CONCESSIONAIRE if: (1) the CONCESSIONAIRE 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 CONCESSIONAIRE fails to observe or perform all of the terms, conditions and agreements on its part to be observed or performed pursuant to this contract after notice specifying the details of such breach shall have been given to the CONCESSIONAIRE by the DIVISION, provided, however, that if such breach cannot be remedied within such 30 day period, the CONCESSIONAIRE 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.

N. Termination for Cause:

If for any reasons, or through any cause, Concessionaire fails to fulfill in timely and proper manner his obligations under the contract, or if the Concessionaire violates any of the covenants, agreements or stipulations of the contract, the State of Delaware shall thereupon have the right to terminate the contract by giving written notice to the Concessionaire of such termination and specifying the effective date thereof at least twenty (20) days before the effective date of such termination.

O. Termination for Convenience:

The State of Delaware may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. If the contract is terminated by the State of Delaware as so provided, the Concessionaire will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Concessionaire as covered by the contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, Concessionaire shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket expenses (not otherwise reimbursed under the contract) incurred by the Concessionaire during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

P. Non-Discrimination:

In performing the services subject to this RFP, the Concessionaire will agree that it will not discriminate against any employee or applicant because of race, creed, color, sex or national origin. The Concessionaire shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of the contract.

Q. Covenant against Contingent Fees:

The Concessionaire warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee, accepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Concessionaire for the purpose of securing business.

For breach or violation of this warranty, the State of Delaware shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

R. Applicable Law:

The laws of the State of Delaware shall apply, except where Federal Law has precedence. Concessionaire consents to jurisdiction and venue in the State of Delaware.

Concessionaire certifies that they comply with all federal, state and local laws applicable to its activities and obligations including:

1. The laws of the State of Delaware;
2. The applicable portion of the Federal Civil Rights Act of 1964;
3. The Equal Employment Opportunity Act and the regulations issued there under by the federal government;
4. A condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. That programs, services and activities provided to the general public under resulting contract conform to the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If Concessionaire fails to comply with 1) through 5) of this paragraph, the State of Delaware reserves the right to disregard the proposal, terminate the contract, or consider the Concessionaire in default.

Concessionaire shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

S. Scope of Agreement:

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

T. Other General Conditions:

Changes - No alterations in any terms, conditions, delivery, price, quality or specifications of items ordered shall be effective without the written consent of the State of Delaware.

Additional Terms and Conditions – The State of Delaware reserves the right to add terms and conditions during the contract negotiations.

U. Contract Documents:

The RFP, the executed contract and any supplemental documents between the State of Delaware and Concessionaire shall constitute the contract between the State of Delaware, the Department of Natural Resources and Environmental Control, the Division of Parks and Recreation and Concessionaire. In the event there is any discrepancy between any of these documents, the following order of documents governs so that the former prevails over the latter: contract, State of Delaware's RFP and Concessionaire response to the RFP. No other document shall be considered. These documents will constitute the entire agreement between the State of Delaware, the Department of Natural Resources and Environmental Control, the Division of Parks and Recreation and the Concessionaire.

PROPOSAL REPLY SECTION

Please fill out the attached forms fully and completely and return with your proposal in a sealed envelope clearly displaying the contract number and contract name to Department of Natural Resources and Environmental Control, Division of Parks and Recreation on **January 14, 2013 by 3:00 p.m.** at which time proposals will be opened.

**Proposals shall be submitted to:
State of Delaware
Department of Natural Resources and Environmental Control
Division of Parks and Recreation
Richardson & Robbins Building
89 Kings Highway
Dover, DE 19901**

PUBLIC PROPOSAL OPENINGS

The public proposal opening insures the citizens of Delaware that contracts are being proposed fairly on a competitive basis and comply with Delaware procurement laws. The agency conducting the opening is required by law to publicly open the proposals at the time and place specified and the contract shall be awarded within ninety (90) days thereafter. The main purpose of the proposal opening is to reveal the name(s) of the vendor(s), not to serve as a forum for determining the apparent low vendors. The disclosure of additional information, including prices, shall be at the discretion of the contracting agency until such time that the responsiveness of each proposal has been determined.

NOTE: ONLY THE VENDOR'S NAME AND ADDRESS WILL BE READ AT THE OPENING

Attachment 1

NO PROPOSAL REPLY FORM

To assist us in obtaining good competition on our Request for Proposals, we ask that each vendor that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal. Unfortunately, we must offer a "No Proposal" at this time because:

- _____ 1. We do not wish to participate in the proposal process.
- _____ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are:

- _____ 3. We do not feel we can be competitive.
- _____ 4. We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company.
- _____ 5. We do not wish to sell to the State. Our objections are:

- _____ 6. We do not sell the items/services on which Proposals are requested.
- _____ 7. Other: _____

_____ FIRM NAME _____ SIGNATURE
_____ We wish to remain on the Vendor's List **for these goods or services.**
_____ We wish to be deleted from the Vendor's List **for these goods or services.**

TITLE: IRM CAFÉ
 OPENING DATE: by 3:00 p.m.

Attachment 2

NON-COLLUSION STATEMENT

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal, **and further certifies that it is not a sub-contractor to another Vendor who also submitted a proposal as a primary Vendor in response to this solicitation** submitted this date to the State of Delaware, Department of Natural Resources and Environmental Control, Division of Parks and Recreation.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents the Vendor's acceptance of the terms and conditions of this Request for Proposal including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Natural Resources and Environmental Control, Division of Parks and Recreation.

COMPANY NAME _____ (Check one)

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

NAME OF AUTHORIZED REPRESENTATIVE
 (Please type or print) _____

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

STATE OF DELAWARE
 FEDERAL E.I. NUMBER _____

LICENSE NUMBER _____
 (Circle one)

COMPANY CLASSIFICATION S CERT. NO. _____	Women Business Enterprise (WBE)	Yes	No	Minority Business Enterprise (MBE)	Yes	No	Disadvantaged Business Enterprise (DBE)	Yes	No

[The above table is for information and statistical use only.]

Continued on next page...

PURCHASE ORDERS SHOULD BE SENT TO:
(COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED WITH YOUR PROPOSAL TO BE CONSIDERED

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____

Attachment 4

Confidential and Proprietary Information

By checking this box, the Vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. Ch. 100, Delaware Freedom of Information Act.

Confidentiality and Proprietary Information

Note: Add additional pages as needed.

Attachment 5

Business References

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

1.

Contact Name:
Contact Title:
Business Name:
Address:
Phone#:
Fax #:
E-Mail Address:
Current Vendor (YES or NO):
Years Associated:

Continued on next page...

2.

Contact Name:
Contact Title:
Business Name:
Address:
Phone#:
Fax #:
E-Mail Address:
Current Vendor (YES or NO):
Years Associated:

3.

Contact Name:
Contact Title:
Business Name:
Address:
Phone#:
Fax #:
E-Mail Address:
Current Vendor (YES or NO):
Years Associated:

Attachment 6

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	_____

Continued on next page...

OTHER ASSETS

13.	Investments	_____
14.	.....	_____
15.	.....	_____
17.	Total other assets	_____
18.	TOTAL CURRENT, FIXED, and OTHER ASSET.....	\$ _____

LIABILITIES AND NET WORTH

CURRENT LIABILITIES

19.	Notes and accounts payable	\$ _____
20.	Accrued liabilities	_____
21.	.....	_____
22.	.....	_____
23.	.....	_____
24.	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	\$ _____

Attachment 7

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 Food Services _____

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:

7. Total personnel for this operation: _____

List by discipline or job description:

Continued on next page...

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 alternate business/personal references (additional references not listed in Attachment 5):

a.) _____ c.) _____

b.) _____ d.) _____

Attachment 8

BID BOND TO ACCOMPANY PROPOSAL
(NOT NECESSARY IF CERTIFIED CHECK IS USED)

KNOW ALL MEN BY THESE PRESENTS That: _____
_____ of _____ in the County of _____
_____ and State of _____ as **Principal**, and _____
_____ of _____ in the County of _____
and State of _____ as **Surety**, legally authorized to do business in the State of
Delaware ("**State**"), are held and firmly unto the **State** in the sum of _____
_____ Dollars (\$_____), or _____ percent not to
exceed _____
Dollars (\$_____) of amount of bid on Contract No. _____, to be
paid to the **State** for the use and benefit of _____ (*insert State
agency name*) for which payment well and truly to be made, we do bind ourselves, our and
each of our heirs, executors, administrators, and successors, jointly and severally for and in the
whole firmly by these presents.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH That if the above bounden
Principal who has submitted to the _____ (*insert State agency
name*) a certain proposal to enter into this contract for the furnishing of certain material and/or
services within the **State**, shall be awarded this Contract, and if said **Principal** shall well and
truly enter into and execute this Contract as may be required by the terms of this Contract and
approved by the _____ (*insert State agency name*)
this Contract to be entered into within twenty days after the date of official notice of the award
thereof in accordance with the terms of said proposal, then this obligation shall be void or else
to be and remain in full force and virtue.
Sealed with _____ seal and dated this _____ day of _____ in the year of our
Lord two thousand and _____ (20__).
SEALED, AND DELIVERED IN THE PRESENCE OF:

Name of Vendor (Organization)
Corporate Seal
By: _____
Authorized Signature

Attest _____
Title

Witness: _____ By: _____
Name of Surety

Title

Attachment 9

**DIVISION OF PARKS AND RECREATION
BACKGROUND INVESTIGATION**

As a condition for the contract to operate a concession within the Division of Parks and Recreation in positions that involve the handling of sensitive data and contact with the general public, children or vulnerable populations, use of equipment or machinery, or who serve in a supervisory or independent capacity, will be subject to a background investigation, including a criminal history check conducted by the Division of Parks & Recreation Office of Business Services through an internet service . You will be notified of the search and status of your background screening. You have the option of submitting a copy, at your expense, of your background check obtainable from the State Bureau of Identification - Delaware State Police Headquarters, Dover, DE. The final status of your position may depend on the results of this background investigation. This background investigation is required of all officers of the business. All information will be kept confidential.

Signature

Date

Business Name _____

EIN: _____

Park: _____

Name (Print) _____

Address _____

City, State, Zip _____

Date of Birth _____ / _____ / _____

Month Date Year

Driver's License No. _____ State _____

Social Security No. _____ - _____ - _____

___Approved: ___Denied Date: _____ By: _____

Sent To: _____ Date _____

COMMENTS: _____

Contract No. NAT-12-012- FOOD
Contract Name: IRM CAFÉ

Attachment 11

The most recent OMWBE Certification Application can be found at the following site address:

<http://gss.omb.delaware.gov/omwbe/certify.shtml>

State of Delaware

Office of Minority and Women Business Enterprise Certification Application



Complete application and send via email, fax or mail to:

Office of Minority and Women Business Enterprise (OMWBE)

100 Enterprise Place Suite # 4 Dover, DE 19904-8202 Telephone: (302) 857-4554 Fax: (302) 677-7086

Email: deomwbe@state.de.us

Web site: <http://gss.omb.delaware.gov/omwbe/index.shtml>

Link to Certification Application: <http://gss.omb.delaware.gov/omwbe/certify.shtml>