

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CONSERVATION AND RECREATION
REQUEST FOR PROPOSALS FOR
NON-MOTORIZED BOATING, STATEWIDE
RFP # DCR 2023 300

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I. INTRODUCTION

The Massachusetts Department of Conservation and Recreation (hereinafter “DCR”), in accordance with Mass. Gen. Laws c. 132A §§ 2D and 7, c. 92, §§ 33, 37; the rules and regulations promulgated thereunder, including those under Titles 302, 304 and 350 of the Code of Massachusetts Regulations, as amended, and all other applicable and enabling powers, is offering the opportunity to, and seeking proposals from, qualified individuals or business entities (hereinafter “Proposer(s)”) to **Non-Motorized Boating Activity and Equipment Rental Concession(s)** at one or more of the indicated locations, as set forth in this Request for Proposals (“RFP”) and in any subsequent permits. In accordance with this RFP, Proposers may submit proposals for one or more of the following locations:

- Location 1: Upper Charles River Reservation, Moody Street Landing, Waltham, MA, 02453 - (\$14,000.00 minimum annual fee proposal)
- Location 2: Charles River Basin, 1071 Soldiers Field Road, Upstream from the Eliot Bridge, between two public parking lots, near Herter Park and Artesani Playground, Brighton, MA - (\$70,000.00 minimum annual fee proposal)
- Location 3: Medford Condon Shell, Medford, MA (\$12,000.00 minimum annual fee proposal)
- Location 4: Historic Boathouse on the Charles River, 2401 Commonwealth Avenue, Newton, MA - (\$60,000.00 minimum annual fee proposal)
- Location 5: Hopkinton State Park, 164 Cedar Street, Hopkinton, MA 01748, (\$75,000.00 minimum annual fee proposal)

- Location 6: Cochituate State Park, 93 Commonwealth Road, Wayland, MA 01778 - (\$38,000.00 minimum annual fee proposal)
- Location 7: Nickerson State Park, 3488 Main Street, Brewster, MA (\$10,000.00 minimum annual fee proposal)
- Location 8: Spot Pond Reservoir, Middlesex Fells Reservation, Stoneham, MA, (\$10,000.00 minimum annual fee proposal)
- Location 9: Otis Reservoir at Tolland State Forest
(No minimum annual fee proposal)
(Boat Ramp by the State Campground)
GPS Lat 42.14479 Long -73.04348
- Location 10: North Pond at Savoy Mountain State Forest
(No minimum annual fee proposal)
GPS 42.653294, -73.053055
Central Shaft Road, Florida MA 01247
- Location 11: Benedict Pond Canoe Launch at Beartown State Forest
(No minimum annual fee proposal)
GPS: 42.202600, -73.288900
Benedict Pond Road, Monterey, MA 01245

The terms for the use authorized herein shall be for a period of five (5) consecutive seasons, commencing in 2024. The successful Proposer(s) shall be required to execute a revocable license in the form of a permit attached as Attachment B. Permits issued by the Commissioner of DCR to Permittees are not leases or commercial rental agreements.

The selected Proposer shall provide to the public an organized, accountable, efficient, safe, clean and professionally staffed and maintained operation offering a non-motorized boating recreational concession for the public, during the minimum operating season from Memorial Day through Labor Day during each season or year of the agreed upon term. Operation may commence upon receipt of a fully executed Permit listed as Attachment B and submission of all required items to DCR (proof of insurance and first year permit fee). Additional sales or services to the public within DCR property may require additional written approvals from DCR and such other licensing authorities as may be required by law. Renovation and installation of necessary equipment will be subject to additional approvals from DCR and other applicable authorities (e.g., state and local building authorities) and will be the responsibility of the Permittee to design, fund and complete. The Location is offered "as is." Permittee may not always be the exclusive provider for park users or for DCR special events held at the nearest park. Any special events hosted by the Permittee under this RFP for third party groups shall be additionally permitted through DCR's Special Event Permitting Unit.

General Information

All questions concerning this RFP, shall be addressed to dcr.permits@mass.gov. The various locations will be hereinafter referred to as the “Location” or the “Premises.” Minimum fee proposal information, if any, for the Location is listed above.

Proposers are required to assess their need for equipment, as well as the proper maintenance, storage and removal of such equipment, considering other uses and users of the park and buildings. Proposers should consider the security of such equipment and stored items. DCR will not be responsible for damaged or stolen merchandise or equipment. DCR provides only the location and does not guarantee the status or usability of any existing building or storage areas. No equipment (e.g., cash registers, counters, screens, signs) is provided by DCR.

Permittee shall comply with all reasonable requests of authorized DCR staff concerning concession operations, including, but not limited to, access by delivery or other vehicles, onsite storage, and trash receptacle placement. All proposals shall be deemed to have been made with full knowledge and understanding of the existing Premises conditions. Proposers are required to obtain their own market and valuation information and should not only rely on prior sales information.

Customer Service Expectations

The minimum Concession operating season is Memorial Day through Labor Day with reliable, knowledgeable staff members who will serve a diverse clientele with unfailing courtesy at all times. If the proposal includes a food concession on site, food safety and health compliance is the responsibility of the Permittee at all times. Local food, state building and other authorized inspectors must be allowed to inspect concession operations at all times.

II. PROPOSAL PROCESS

Proposals must be submitted to DCR by November 1, 2023. Proposers seeking multiple locations must include an operations plan and proposed compensation for each location. DCR will award one permit per location based upon the results of its evaluation of proposals.

Questions During the Proposal Period

All Proposer questions must be submitted in writing. Written questions must be received by the date listed in the RFP Schedule and sent:

By E-mail: dcr.permits@mass.gov

To ensure fair public notice to all prospective Proposers, DCR staff will reply to all questions and inquiries in writing on the DCR e-mail list. Please provide you e-mail to dcr.permits@mass.gov [to receive updates](#). No answers to procedural or substantive questions will be provided in person or by telephone.

RFP Proposal Schedule – SUBJECT TO CHANGE

Written questions must be received (No more than 4 per proposer)	By 4 p.m. September 18, 2023
Answers to questions will be posted	September 25, 2023
Proposal packages due at DCR Office	By 4 p.m. November 1, 2023
Proposal Evaluation Period ends and Recommendation to Commissioner	By November 8, 2023
Award Notification	TBD

Correcting, Modifying or Withdrawing Proposals

Proposal documents may be corrected, modified or withdrawn at any time prior to the proposal due date, when the proposal packages will be opened at DCR. Modifications must be submitted in writing, sealed and marked in the same manner as the original proposal package.

III. SUBMISSION REQUIREMENTS FOR PROPOSAL

All proposers must submit a Proposal Submission Form attached to this RFP as Attachment D, along with all other required proposal documents and information. All proposals shall be in writing, in a legible format and shall present in clear and sufficient detail the information requested in the following sections of this RFP:

- a. Description of Entity and Related Experience; (who)
- b. Operations Plan (what and how)
- c. Financial and Budget Information; and
- d. Compensation to DCR.

a. Description of Entity and Related Experience

- 1. A complete written description and history of the Proposer including resumes or other documentation demonstrating that managers of the specific site have the experience necessary to operate a non-motorized boating concession.
- 2. Proposer must show it has sufficient equipment and/or contracts to obtain and maintain all the equipment and run the proposed concession on the Premises.
- 3. Proposer must list any lawsuits, administrative hearings, or other legal proceedings for or related to its business or its property management of similar properties in which proposer has been either a party or participant within the last two (2) years. Please include resolution information. Failure to disclose may result in a disqualification of Proposer’s Proposal.
- 4. Proposer may not have any unresolved outstanding payments due to DCR.

b. Operations Plan

A thorough and comprehensive description of the proposed activity, including the days and hours of operation and associated staffing levels, including the following:

- A Waterfront Safety and Emergency Action Plan including:
 - safety and security plans for the Premises, patrons and staff, other park visitors, and the general public, emergency and daily operations protocols, etc.
- A schematic plan with its proposed uses of the Premises including any docks, tents, platforms, parking lots, and related buildings and grounds, as well as interior use of space in any existing buildings. Said plans will be subject to DCR Planning and Engineering approval.
- Complete written description of maintenance, general operations, and staffing, plans including:
 - The proposed use of the Premises using sketches or diagrams or photos and including any structural additions, layout changes, signage, and cleaning plans, including any parking area uses or improvements, as well as proposed season of operation, proposed hours of operation, and number and types of non-motorized boats.
 - A detailed price list for all services to be offered on the Premises; and
 - A description of equipment or contracts for any food and/or beverage related services (dispensers, refrigerators, etc.) to be operated on the Premises and any proposed operational system, including repair or service contracts for Proposer's equipment, if any.
- Hourly/daily staffing coverage plans, including emergency plans for handling customer safety, accidents, other incidents, damage claims, communications, etc.

c. Financial and Budget Information

A pro forma statement of operation revenue estimates, expenses and costs, and profit. Proposers shall prepare and submit a pro forma statement for operation of the Premises that includes:

- i. Projected revenues estimated yearly for up to five (5) seasons, commencing in 2024.
- ii. A statement of projected expenses and costs
- iii. Demonstrate the financial ability to operate the proposed boating concession by providing documentation such as financial return, line of credit, etc.

d. Compensation to DCR

Proposals which do not meet any specified minimum fee requirements will automatically be disqualified and rejected. Proposers should not overestimate the amount of Compensation to the DCR in their Proposal. Proposers who only meet the minimum fee requirements shall only be given 15 points for this criterion. Additional points up to 30 are given for Proposals above the minimum fee requirement threshold.

IV. EVALUATION CRITERIA AND RULE FOR AWARD

DCR will award one permit per location to the Proposal deemed the most advantageous to the DCR following an evaluation of proposals. The numerical point system described below will be used by DCR evaluators in reviewing comparative criteria among the proposals.

Criteria	Range of Point
Description of Entity and Experience	0-10
Operations Plan (description of services)	0-50
Financial and Budget Information	0-10
Compensation	0-30
Possible Points	100

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Submission Checklist

1) Proposal (Containing the information in Attachments A-E)

Proposals must be forwarded to:

dcr.permits@mass.gov

Proposals must be received at the above e-mail address no later than:

4:00 p.m. on November 1, 2023

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ATTACHMENTS TO THE RFP:

- **Attachment A** – Premises Information and Required Minimum Fees
- **Attachment B** – Draft Permit Agreement
- **Attachment C** -- Construction Guide
- **Attachment D** – Proposal Submission Form
- **Attachment E** -- Disclosures

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ATTACHMENT A – PREMISES INFORMATION AND REQUIRED MINIMUM FEES

LOCATION 1: Upper Charles River Reservation, Moody Street Landing, Waltham, MA, 02453 (\$14,000.00 minimum annual fee proposal)

This Location includes non-exclusive use of the DCR launch dock/float in the Charles River. The most recent permittee has used additional floating, non-anchored docks/floats at this Location. Room must be made available for the public to launch their own vessels from this area. This Location is also used by the public for fishing.

LOCATION 2: Charles River Basin, 1071 Soldiers Field Road, Upstream from the Eliot Bridge, between two public parking lots, near Herter Park and Artesani Playground, Brighton, MA (\$70,000.00 minimum annual fee proposal)

Location 2 is set on a parcel of land located at approximately 1071 Soldier's Field Road upstream from the Eliot Bridge in between the two public parking lots on the Allston/Brighton side of the river in the City of Boston (Allston/Brighton section).

The Concessionaire may use an approximately one hundred foot (100') long section of the bank of the Charles River in Allston/Brighton extending back to the northerly edge of the bicycle /pedestrian path off of Soldiers Field Road, upstream from the Eliot Street Bridge, between the two public parking lots near Christian A Herter Park. This Location is subject to an Order of Conditions imposed by the City of Boston Conservation Commission, in response to a Notice of Intent filed by the prior permittee at this site and DCR. Continued and updated compliance with the Conservation Commissioner orders is required.

There is a fifty foot (50') long by six foot (6') wide public boardwalk installed by the previous permittee that shall be maintained by the ultimate permittee for this Location. The prior permittee used eight (8) temporary and removable stepping stools (18"x18"). Stepping stools shall be removed daily and shall not interfere with public access to the river.

The Concessionaire may use a removable float and gangway for the safe loading of boats. Said float is approximately eight feet (8') wide by thirty-two feet (32') long and said gangway is six feet (6') by sixteen foot (16'). The float and gangway shall not interfere with other boating in the river and must adjust to variations in the rivers water level. This float and gangway must be completely removable.

The Concessionaire may use racks during the hours of operation that are moveable (i.e., on trailers). Any such racks shall be located along the boardwalk in such a manner as not to interrupt the normal flow of bicycle or pedestrian traffic in or around the area. A maximum of two (2) storage racks will be permitted along the boardwalk at any given time. Additional boats shall be transported from the overnight storage location to the site as necessary and empty trailers must be removed to the parking area. DCR does not offer or guarantee storage.

The prior permittee had installed as personal property a removable kiosk-type building that was used for sign-up and office. Electricity to the kiosk is supplied by Eversource and the prior permittee was the electric customer directly responsible for the billing and any repair.

Concessionaire shall provide portable toilets for its patrons and the public and at least one (1) self-contained accessible portable toilet for use by its patrons and the public.

The general public shall have continued access to all the grounds adjacent to Location 2 at all times during the operating hours of the concession. The Operating Season must end at Location 2, by October 20th each season to accommodate other special event permittees. The seasonal opening date will be determined at the discretion of DCR Staff.

Any other uses, structures, events, whether temporary or permanent must be pre-reviewed and pre-approved by the DCR in writing.

**LOCATION 3: Historic Boathouse Charles River, 2401 Commonwealth Ave.,
Newton, MA (\$12,000.00 minimum annual fee proposal)**

Location 4 includes existing adjacent docks and four (4) parking spaces in the shared parking lot. Public parking for concession visitors is also available at the Norumbega Duck Feeding area in Weston, Massachusetts, directly across the river from the Historic Boathouse;

1. The general public shall have access to the grounds adjacent to the Historic Boathouse at all times of operation. Members of the public may launch their own boats from the dock at this Location.
2. Proposer will be responsible for maintaining the public rest stations (toilets) including cleaning, maintenance and stocking appropriately with a sufficient amount of paper and soap supplies on a daily basis.
3. Boats may be stored during the hours of operation on trailers that should be convertible to moveable trailers. These racks/trailers shall be placed in such a manner as not to: 1) interrupt the normal flow of bicycle or pedestrian traffic in or around the area; and 2) not impact the bank i.e. further compact soil, damage tree roots, wear down grassy areas.
4. Although boating activities will only occur during the approved Operating Season the concessionaire may have some ability to store equipment in the off-season provided permission is granted by the DCR District Manager and Park Supervisor.
- 5.

**LOCATION 4: Medford Condon Shell, Medford, MA 02155- (\$60,000.00 minimum
annual fee proposal)**

The Medford Condon Shell Location is located along the scenic Mystic River. The site currently does not have an active boating concession. The Condon Shell is operated by the Town of Medford under an agreement with DCR. Proposer will be responsible for any additional permitting required to operate at this Location including but not limited to the local conservation commission.

**LOCATION 5: Hopkinton State Park, 164 Cedar Street, Hopkinton, MA 01748
(\$75,000.00 minimum annual fee proposal)**

Hopkinton State Park is located in the towns of Hopkinton and Ashland and includes the picturesque Hopkinton Reservoir. The park offers a variety of year round recreational activities including 2 life guarded swimming beaches, stocked fishing, a group picnic site, 12 tree shaded picnic areas with picnic tables and charcoal cooking grills, 10 miles of marked trails, open field space and a concrete boat launching ramp for non-motorized watercraft. Members of the public with their own boats may launch from the concrete ramp.

LOCATION 6: Cochituate State Park, 43 Commonwealth Road, Natick, MA (\$38,000.00 minimum annual fee proposal)

Cochituate State Park is a popular regional day use park featuring water based recreational opportunities including boating, swimming, windsurfing, and fishing on its three large lakes. Picnicking, swimming, and boat launching are limited to the main area of the park on the middle lake and boaters can gain access to the other lakes through channels under roadways.

LOCATION 7: Nickerson State Park, 3488 Main Street, Brewster, MA (\$10,000.00 minimum annual fee proposal)

The Nickerson State Park is surrounded by woods that slope down to the banks of eight crystal clear fresh water ponds. This concession opportunity is located on Flax Pond. The ponds of Nickerson State Park are completely dependent on groundwater and precipitation, the water level in the ponds fluctuates from season to season and year to year.

LOCATION 8: Spot Pond Reservoir, Middlesex Fells Reservation, Stoneham MA (\$10,000.00 minimum annual fee proposal)

The Middlesex Fells Reservation's 2,575 acres offer a welcome retreat for city dwellers and a suitable terrain for hikers, mountain bikers, horseback riders, rock climbers, cross-country skiers and picnickers as well as natural and cultural history buffs. In past years, the boating concession at Spot Pond has offered kayak and canoe rentals, sailing, and boating summer camp programs.

**Location 9: Otis Reservoir at Tolland State Forest
(Boat Ramp by the State Campground)
GPS Lat 42.14479 Long -73.04348
(No minimum annual fee proposal)**

**Location 10: North Pond at Savoy Mountain State Forest
GPS 42.653294, -73.053055
Central Shaft Road, Florida MA 01247
(No minimum annual fee proposal)**

**Location 11: Benedict Pond Canoe Launch at Beartown State Forest
GPS: 42.202600, -73.288900
Benedict Pond Road, Monterey, MA 01245
(No minimum annual fee proposal)**

Attachment B - Draft Permit Agreement

(subject to change by DCR)

Permit

PERMITTEE

a. Official Name of Permittee:

b. Permittee Address:

c. Permittee Type: Corporation LLC Sole Proprietor; Individual

Other: _____

For Profit

Non-Profit

d. Facility Name:

Facility Address: _____

TERM

a. Start Date:

b. End Date:

FEE

a. Permittee shall pay _____ (\$ _____) each season by April 1st.

b. DCR shall endeavor to bill the Permittee by invoice for each payment and each invoice shall be paid within thirty (30) days of the invoice date. However, **whether or not an invoice is issued, the Permittee is liable for the payment of the fee.**

c. Payments shall be sent directly to the address on the invoice or, if no invoice is received, to:

Commonwealth of MA/DCR

Department of Conservation and Recreation

RE: Operation

PO Box 411108

Boston, MA 02241-9187

Please direct any questions or concerns regarding payment to Revenue Director: Office: 617-626-1250; E-Mail: dcrrevenue@mass.gov.

d. Any nonpayment shall be a material breach and cause for termination of this Permit, pursuit of remedies by the Commonwealth of Massachusetts and DCR consistent with the Termination provisions herein.

This Permit is hereby issued by the Commonwealth of Massachusetts, acting by and through its Department of Conservation and Recreation (hereinafter “DCR”), having a principal place of business at 10 Park Plaza 6620, Boston, Massachusetts 02116, to the Permittee above. The DCR and the Permittee are each referred to as a Party to this Permit and are collectively referred to as the Parties to this Permit.

WHEREAS the DCR has the authority to issue a Permit pursuant to Massachusetts General Laws Chapter 92 §§ 33 and 37, Chapter 132A §§ 2D & 7, and the rules and regulations promulgated thereunder, including Titles 302, 304 and 350 of the Code of Massachusetts Regulations and all other powers enabling, as applicable; and

WHEREAS, the Facility listed above and as described in Exhibit A, attached hereto and incorporated by reference (hereinafter the “Premises”), is in the care, custody and control of the Commonwealth of Massachusetts, Department of Conservation and Recreation, and

WHEREAS the Permittee desires to use the Premises for the concession purposes described in Exhibit ____, attached hereto and incorporated by reference, and

NOW, THEREFORE, DCR hereby grants to the Permittee, non-exclusive use of the Premises subject to the conditions herein, for such concession purposes within this Permit.

1. OPERATING SEASON

The Permittee shall operate the Premises

2. CONDITION OF PREMISES

a. The Permittee acknowledges that it has made an inspection of the Premises and that the Premises is in a satisfactory condition, suitable for the purposes of this Permit in its existing condition, and that it has not relied upon representations or statements of the DCR, its officers, employees or agents with respect to these conditions. The Permittee expressly agrees that the DCR has no obligation to make any alterations, repairs, additions, or improvements to the Premises, unless otherwise specified herein.

b. Other than required major repairs for occupancy (i.e., repairs to flooring, stairs, walls, roofs, other major and/or essential equipment) by the Massachusetts Department of Public Safety or local building inspectors, the Permittee expressly agrees that the DCR has no obligation to make any ordinary and everyday maintenance, alterations or repairs.

c. The Permittee shall be responsible for all cleaning, litter pick up, off-site trash removal within a reasonable radius of the Premises determined by the Facility Supervisor, housekeeping and sanitation, related to its use and shall maintain high standards for these tasks at all times in all areas of the Premises, in accordance with all applicable laws and regulations, and to the satisfaction of the Facility Supervisor. The Permittee shall provide appropriately sized recycling bins for its staff and customers. DCR shall have the right to inspect the level, frequency and competency of housekeeping and sanitation being performed at, on and within the Premises any time without prior notice.

3. COMPLIANCE WITH LAWS
 - a. The Permittee shall comply with all federal, state, local and other governmental statutes, regulations and ordinances affecting the Premises and the Permittee's activities thereon and shall cause its employees, contractors and agents to do the same, including, but not limited to, ensuring that all such employees, contractors and agents that shall be serving food to the public be "Serve Safe" certified and trained in allergen awareness.
 - b. The Permittee shall arrange for inspections by local health officials, utilities engineers, building inspectors and others as may be required.
 - c. If the Permittee is notified by any regulatory agency having authority over the Premises that the Permittee's operations are in violation of an applicable rule, regulation or statute, the Permittee shall take immediate action to cure said violations. If the Permittee fails to take prompt remedial measures, the DCR may suspend or terminate the Permittee's operations on all or any part of the Premises.
4. PROGRAMMING, PRODUCTS & SERVICES; PRICING
 - a. The Permittee shall provide, to DCR Long Term Permits and Leases, a full list of products and programs to be offered to the general public on the Premises, including but not limited to: food, beverages and other regularly scheduled offerings.
 - b. The DCR shall have the right to object to products or the character of service or particular scope of deliverance. If the Permittee wishes to provide any new product, service or new particular scope or type of deliverance, it shall submit a non-electronic written request for prior approval from the DCR Commissioner. In approving or denying said request, the DCR shall take into consideration the public's best interest. Rate sheets and pricing changes should be furnished to DCR Long Term Permits and Leases prior to the beginning of each fiscal year.
 - c. The Permittee shall recognize the interest of the DCR in assuring that consistently high-quality services and merchandise are available to the public at reasonable prices. Pricing shall not exceed average prices for like goods and services and is subject to the approval and oversight of the DCR.
 - d. Fees, rates, additional charges and discount details must be made clear to patrons in all signage. Any discount rate and validation agreements with third parties should be submitted to DCR for prior approval. Permittee shall post notice of any changes to fees, rates, charges and discounts for patrons and provide DCR with such information prior to instituting new fees, rates, or charges.
5. EQUIPMENT MAINTENANCE AND REPAIR; LEASED EQUIPMENT
 - a. Any and all equipment and structures on the Premises used by the Permittee to perform the activities authorized by this Permit shall be maintained in good operable condition by the Permittee. All such equipment shall be cleaned, tested and repaired by the Permittee, at its sole expense.
 - b. Any damage to any structure on the Premises or surrounding area caused by the installation or removal of equipment by the Permittee shall be repaired to a condition satisfactory to the DCR at the Permittee's sole expense.
 - c. The Permittee shall identify and notify DCR of any leased equipment to be used on the Premises prior to the execution of the Permit or whenever acquired by Permittee. The Permittee shall be solely responsible for any obligations under any leases. Equipment shall be described in detail that includes brand name, type of

equipment and serial number, if applicable. At the termination of this Permit, it will be Permittee's responsibility to fulfill any remaining obligations under the lease arrangement.

d. Vending machines shall not be allowed on the property without written approval from DCR and any and all agreements between the Permittee and any vending machine operator shall be provided to DCR Long Term Permits and Leases. If allowed, they shall be operable whenever the Premises are open to the public. The Permittee shall be solely responsible for the installation and maintenance (cleaning, filling, repairs, etc.) of the machines.

e. Any equipment that is affixed in a permanent manner to a wall, ceiling, or in or on the grounds of the Premises (e.g. plumbing fixtures, sinks, hard-wired appliances, built-in refrigeration equipment, or exhaust, fume, and fire suppression systems, poles, awnings, fences, etc.) shall become the property of the Commonwealth unless otherwise agreed in writing by the Parties.

6. PERMITTEE'S STAFF

a. The Permittee shall staff the Premises with qualified, competent staff and/or volunteers, in sufficient numbers to provide an efficient service to the public. The Permittee's employees shall be able to communicate clearly and effectively with the public. Permittee shall be responsible for ensuring that its employees are authorized to work in the Commonwealth. The Permittee shall be responsible for performing any background checks such as Criminal Offender Record Information and Sex Offender Registry Information checks for its employees. DCR will not collect this information.

b. The Permittee shall ensure that its employees are aware of and comply with Permittee's standard operating procedures and risk management guidelines. Said operating procedures shall include, but not be limited to, requiring that at least one senior management employee is physically present at the Premises during Permittee's operations.

7. CONSTRUCTION ON THE PREMISES

a. Any proposed improvements, modifications, or build-out of the Premises shall be subject to written pre-approval by the DCR Commissioner. Prior to the commencement of any renovation, rehabilitation or construction work on or to the Premises, including improvements, modifications or build-outs, the Permittee shall apply for and obtain an approved DCR Construction and Access Permit (hereinafter "CAP"), submitting with the application all relevant plans, specifications, etc. about the proposed work and any additional information requested by DCR Planning and Engineering staff.

b. All design and construction costs incurred (including but not limited to local, state and federal permit application fees, actual construction work, labor, materials, landscaping, architectural fees, etc.) are the sole responsibility of the Permittee. Note that prevailing wages and contractors insurance may be required depending on the nature of the work. Ordinary and everyday maintenance, such as minor repairs to the wiring, plumbing and structure, may be performed by the Permittee utilizing properly licensed and insured contractors, after notice to, and confirmation in writing from DCR Parks and Long Term Permits and Leases departments.

c. All improvements to the Premises shall immediately become the property of the DCR with the exception of personal property or equipment of the Permittee which can be removed without damage to any structure on the Premises.

- d. Any damage to any structure on the Premises or surrounding area caused by the installation or removal of an improvement by the Permittee shall be repaired to a condition satisfactory to the DCR at the Permittee's sole expense.
8. ADVERTISING; MARKETING
- a. All on-site signage is subject to prior written approval of DCR Office of External Affairs.
- b. Permittee's advertising and marketing (signs, circulars, brochures, letterhead, print, radio, television and internet and oral (e.g. voice mail recordings) representations) shall:
- i. Refer to the Premises as the "Fixed Food Concession-Constitution Beach"; and
 - ii. Acknowledge that the Premises are Commonwealth of Massachusetts parklands under the care and control of the DCR regarding use and management of the area and facilities; and
 - iii. Not misrepresent in any respect the facilities provided or the status or condition of the Premises.
 - iv. Use approved graphics provided by DCR External Affairs.
- c. The Permittee shall withdraw any advertising or desist from any promotional activity, upon request from the DCR, should the DCR determine that such advertising or promotional activity is inappropriate.
- d. The DCR retains the right to refer to the facilities on the Premises in any advertising or promotional activity as its own. At the request of the DCR, the Permittee shall provide a bulletin board or other area for DCR information.
- e. Advertising on vending machines or other leased equipment shall be kept to a minimum and require pre-approval by DCR's External Affairs Department.
- f. The Permittee shall post the names and prices of products sold on the Premises on printed signs or within the machines. Handwritten signs shall be kept to a minimum and used for specials or daily changeable notices.
9. ACCOUNTING REPORTING
- a. All income of any nature related to the business of the Permittee at the Premises should be immediately and properly recorded using an auditable sales system (paper or electronic) provided by the Permittee. Permittee shall also maintain a journal or log which records the daily sales of all types taking place on the Premises and volume of patronage. Such reports shall be made available to DCR upon request.
- b. Permittee acknowledges that such information may become a public record and subject to public disclosure as well as subject to review by DCR and Commonwealth agencies authorized to review DCR activities. The Permittee shall make all of the accounting books and supporting records of its business activities, relating to the management, operation and maintenance of the Premises, available for analysis and duplication by representatives of the DCR, or Commonwealth agencies authorized to review DCR activities upon request by DCR's Chief Financial Officer or Director of Contracts and Administration. Permittee shall comply with all audit-related requests and requirements of DCR, the Offices of the Inspector General, the State Auditor, the Attorney General, Commonwealth Administration and Finance, or any other authorized Commonwealth of Massachusetts agency.
- c. The Permittee shall pay all expenses incurred in providing the above described reports.

10. TAXES

The Permittee shall be responsible for prompt payment of any and all applicable federal, state and local taxes, including but not limited to the Massachusetts state meals tax, personal property taxes, as levied on the operations conducted or equipment used under the exercise of this Permit. Failure to make timely payment of taxes or other amounts due for which Permittee is responsible shall be considered a material breach of this Permit.

11. OWNERSHIP; CORPORATE STATUS

The Permittee shall promptly notify the DCR of any changes in ownership or corporate status, corporate name or any significant change in its officers, managers or partners. Permittee shall maintain its corporate status with all applicable state and local authorities and agencies.

12. INDEMNIFICATION

a. The Permittee shall assume all risk in connection with any and all activities that it engages in on the Premises, and shall be solely responsible and answerable in damages and any other equitable remedies for all accidents or injuries to all persons or property caused by Permittee's activities. The Permittee shall at no time be considered an agent or representative of the DCR or the Commonwealth. The Commonwealth shall not be liable for any costs incurred by the Permittee arising under the Permit

b. The Permittee shall be responsible for the protection of its own assets and property and those of the DCR. The Commonwealth shall not be responsible for property of the Permittee or of the Permittee's contractors, agents, representatives, employees, guests and invitees.

c. The Permittee shall be responsible for its actions and the actions of its contractors, agents, representatives, employees, licensees, guests, and invitees. The Permittee shall indemnify, defend, and hold harmless the Commonwealth, including the DCR, its agents, officers, and employees, for any and all injuries, losses, claims, actions, damages, liabilities, costs, or expenses, including without limitation attorneys' fees and costs (collectively, "claims") to the extent such claims arise out of any act, failure to act, or occupancy of the Premises and its appurtenances by the Permittee, its contractors, agents, representatives, employees, licensees, guests and invitees, unless said claims arise solely out of or are solely the result of the gross negligence or willful, wanton, or reckless conduct of the DCR or its employees.

d. The Permittee further expressly agrees not to make any claims against the Commonwealth or DCR for any injury, loss, or damage to persons, including bodily injury or death, or damage to property or in connection with compliance with any existing law arising out of the Permit or the occupancy or use of the Premises by the Permittee, its contractors, agents, representatives, employees, licensees, guests and invitees, unless said claim solely arises out of or is the result of the willful, wanton, or reckless conduct of the DCR and its employees.

e. The indemnification obligations set forth in this Permit shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Permittee, its officers, employees, representatives, agents, contractors, subcontractors, servants, permittees, and invitees, or by any other person acting for or by permission of the Permittee. DCR shall have the right to review and approve how any claims against DCR in relation to this Permit are defended, including settlement thereof.

f. The obligations of the Permittee under this section shall survive the revocation, expiration, or termination of this Permit with respect to claims which arose prior to such revocation, expiration or termination.

13. INSURANCE

a. The Permittee shall carry insurance at a minimum in the types and amounts as described in this section of the Permit at its own expense:

i. General Commercial/Public /Products Liability Insurance. The Permittee shall carry appropriate public liability insurance as to third persons and claims based upon the services provided with limits not less than One Million Dollars (\$1,000,000.00) per occurrence and a minimum of Two Million Dollars (\$2,000,000.00) in the aggregate, or such higher amounts of liability insurance coverage as DCR shall reasonably require from time to time. DCR does not carry insurance.

ii. Insurance for Commonwealth/DCR Property. The Permittee shall furnish proof of property damage (e.g., fire, vandalism, structure, etc.) insurance for the Premises and Commonwealth and DCR equipment in the minimum amount of Five Hundred Thousand (\$500,000.00) or such higher amounts of liability insurance coverage as DCR shall reasonably require from time to time. This insurance must be primary and noncontributory. DCR does not carry insurance

iii. Fire and Casualty Insurance. The Permittee shall carry fire and casualty liability insurance for its own equipment and inventory in the minimum amount of Fifty Thousand Dollars (\$50,000.00) or such higher amounts of liability insurance coverage as DCR shall reasonably require from time to time

iv. Additional insurance. The Permittee should carry any additional insurance that is prudent considering the operation and obligations of the Permittee (e.g. Motor Vehicle, Officers and Directors, Business Loss, Fraud, Vandalism, Molestation, Comprehensive Crime, Garage Keepers, Maintenance and Cure, Flood, Wind, Hail, etc.)

v. The Permittee shall if necessary purchase and provide proof of additional endorsements that: 1) name the Commonwealth of Massachusetts, Department of Conservation and Recreation as an additional named insured for liability on the commercial and all risk policies; and 2) provide 30 days' written notice to DCR prior to cancellation (10 days for non-payment).

b. Certificates of Insurance issued by an insurer or insurers qualified to do business in the Commonwealth with a current A.M. Best's rating of no less than A, Class VI or higher or an equivalent Standard & Poor's rating of AA+/- or higher shall be provided to the following DCR offices prior to the execution of this Permit:

E-mail: dcr.permits@mass.gov

Certificates of Insurance must include a site reference. Failure to maintain said policies of insurance for the entire Term shall be deemed a material breach of the Permittee's duties under this Permit.

14. HAZARDS, HAZARDOUS SUBSTANCES; REPORTING SYSTEM

a. The Permittee shall periodically inspect all areas used by the public in and around the Premises for the presence of unsafe or hazardous conditions (including but not limited to dangerous trees and hanging limbs) and shall promptly remedy such conditions when found and shall promptly report the conditions to the DCR. The

Permittee shall develop an accident reporting system and shall ensure that all employees understand and comply with said system. A description of this accident emergency system shall be submitted for review and approval by the DCR. The Permittee shall make and preserve records of all accidents, emergencies and administration of medical aid on Premises.

b. The Permittee shall provide proper signage identifying the company name, address, and contact information for inquiries and emergencies. Permittee shall provide updated company emergency contact information to DCR's Office of Long-Term Permits and Leases, the DCR Regional Director and District Manager.

c. The Permittee shall not use, release, discharge or spill hazardous substances or chemicals or materials that cause undue harm to persons or the environment, including but not limited to oil, cleansers, pesticides, and contaminated food related items.

d. Only those materials approved and registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on the Premises. Material Safety Data Sheets and other label instructions shall be strictly followed in the preparation and application of pesticides and other hazardous substances and disposal of excess materials and containers. Any and all applications shall be duly licensed by the Commonwealth and any other applicable local, state or federal agency or entity. The burden of compliance and knowledge of all applicable laws lies with the Permittee as an operator of a business requiring such compliance.

15. ACCESS AND INSPECTION

The Commonwealth, its agents, employees, permittees, licensees, guests and invitees shall be given full and unrestricted access to and upon the Premises at all times during the Term of this Permit to inspect the Premises and to inspect the operations and equipment of the Permittee.

16. MARKERS, MONUMENTS AND BARRIERS

The Permittee shall take reasonable precautions to protect any public land survey monuments, public land boundary markers, and private property barriers or corners, where marked. In the event that any such markers or monuments are disturbed or destroyed, the Permittee shall give notice to DCR immediately and take appropriate action to re-establish them in accordance with specifications of the town or county surveyor, or the DCR, or any other authorized entity (e.g., Massachusetts Historical Commission).

17. TERMINATION

a. In the event the Permittee fails to comply with any term of this Permit, such failure shall constitute a material breach, and shall automatically suspend any further duty of performance on the part of the DCR. This Permit may then be terminated by DCR upon Seven (7) calendar days' notice in writing to the Permittee.

b. The Permittee may be granted the right to cure any condition causing a material breach by commencing efforts to cure such condition within Five (5) business days of receipt of notice. If the condition cannot be cured within Five (5) business days, the Permittee must provide written notice to DCR requesting additional time. The grant of additional time is within the sole discretion of the DCR Commissioner.

c. Upon termination of this Permit, the Permittee shall cease all activities associated with this Permit, and shall promptly remove its property from the Premises. The Permittee shall return the Premises to its clean and undamaged conditions to the satisfaction of DCR.

18. PERMITTEE IS A LICENSEE

a. The relationship of the Permittee to the Commonwealth of Massachusetts and the DCR is that of a licensee to a licensor. Nothing herein contained shall create or be construed or implied as an agency relationship or legal partnership between the Permittee and the DCR.

b. The Permittee covenants that it will conduct itself consistent with such status, that the Permittee shall not hold itself out as nor claim to be an officer or employee of the Commonwealth or the DCR and shall not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Commonwealth including but not limited to, workers compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit.

c. As a licensee, the Permittee may enter and use the Premises solely for those purposes herein contained. Any use of the Premises by the Permittee that is inconsistent with the terms herein shall be deemed a material breach of the Permittee's rights and obligations under this Permit and shall constitute grounds for termination of this Permit. The Permittee acknowledges that this Permit does not confer any rights in real property (i.e., leasehold or easement) to the Permittee.

19. ASSIGNMENT AND SUBLETTING

a. The Permittee shall not assign, sublicense, transfer or otherwise dispose of its responsibilities or of any right, interest or use of the Premises covered by this Permit without the prior non-electronic written consent of the Commissioner of DCR. Any such disposition without the written consent of the DCR shall constitute a material breach of this Permit.

b. The DCR shall not be obligated to recognize any right of any person or entity to any interest in this Permit or to any rights, equipment, structures, or property of the Permittee at the Premises. Any unapproved transfers or assignments of rights under this Permit are void *ab initio*. There are no third-party beneficiaries to this Permit.

c. The Permittee may not enter into any agreement with any entity or person except employees of the Permittee to exercise substantial management responsibilities for operation of the Premises without the prior non-electronic written consent of the Commissioner of DCR.

d. In the event of any unapproved or prohibited assignment, sub-license, transfer or encumbrance by the Permittee, or in the event of any default of its obligations to persons or entities which are not a Party to the Permit, such person or entity shall not be deemed to have acquired operating rights, privileges to operate at the Premises or to any real property of the DCR.

20. WAIVER

No waiver of any term, condition or covenant of this Permit, by either Party at any time, shall be deemed a waiver at any time thereafter of the same provision or of any other provision contained herein or of the strict and prompt performance thereof.

21. FORCE MAJEUR

Neither Party shall be liable to perform its responsibilities under this Permit when such failure is due to war, riot, insurrection, and/or other catastrophe (excluding financial hardships) beyond the control of the Parties.

22. MERGER CLAUSE

The provisions of this Permit and any attachments shall collectively constitute the entire agreement between the parties for the use of the Premises. Any prior or contemporaneous oral

or written statements that alter, contradict, or are in addition to the terms of this Permit or any attachment are void and without effect.

23. FORUM

Any actions arising pursuant to or arising out of this Permit shall be governed by the laws of Massachusetts without regard to its conflict of laws principles. Should it become necessary to enforce the terms of this Permit in an administrative proceeding or in a court of competent jurisdiction, the Permittee shall pay all reasonable attorneys' fees of DCR.

24. SEVERABILITY

If any provision of this Permit, or portion of such provision, is deemed invalid or unenforceable, the remainder of this Permit shall continue in full effect.

25. EXHIBITS

All exhibits attached to this Permit are incorporated herein by reference and become part of this Permit. The exhibits are intended to be used to clarify the terms of this Permit. In the event there is an irreconcilable conflict between the terms of this Permit and those contained in any exhibits, the terms contained in this Permit shall supersede.

26. MODIFICATION OR AMENDMENTS

Modifications or amendments to this Permit shall be in non-electronic writing and duly executed by both Parties hereto to be effective.

27. NOTICE

Any notice given pertaining to this Permit shall be sent in writing, by hand-delivery or first class mail, to the following representatives of the Parties:

If to DCR:

DCR General Counsel, and
DCR Long Term Permits and Leases
10 Park Plaza, Room 6620
Boston, MA 02116
Tel: 617-626-1250
E-Mail: dcr.permits@mass.gov

PERMITTEE:

28. SIGNATORIES

By signing below, the signatories each acknowledge that they have read the foregoing conditions and provisions and that each is duly authorized to sign on behalf of and bind the respective entities set forth below.

DEPARTMENT OF CONSERVATION AND RECREATION	
Brian Arrigo, Commissioner	
Date: _____	Name of Permittee
	Permittee's Signature
	Date: _____

- EXHIBITS -Not listed here
- Exhibit A – Premises Map and Photos
 - Exhibit B – Description of Specific Services
 - Exhibit C – Additional Compensation
 - Exhibit D – Additional Contact Information
 - Exhibit E – Corporate, LLC or Partnership Approval
 - Exhibit F – Certificate of Insurance (updated yearly)

***Attachment C - Construction Guide* MAJOR CONSTRUCTION ON STATE BUILDINGS AND FACILITIES**

(This is just a guide; other requirements may have to be met depending on several factors)

1. Initial Project Submittal:

a. Contact DCR (Long Term Permits and Leases/Legal) DCAMM (Real Estate/Legal/Office of Planning, Design and Construction) in writing. These are state buildings whether leased or permitted.

b. Send complete information to the Commissioner, cc: Office of Long Term Permits and Leases and DCR Planning and Engineering (Director). Explain the entire project; include any schematics, materials information, and requests for as-built plans from DCR or DCAMM records; including method of prosecuting work and/or a scope of work.

c. If there is no reply from DCR or DCAMM, the project or work should not go forward. If you do have project approval, you may proceed to obtain the following:

2. Additional State Permitting Approvals:

a. Apply for a DCR Construction Access Permit. This can take up to sixty (60) days so apply early. This information will be circulated to DCR Engineering, Planning and Resource Protection, and Park Operations staff to ascertain their input and involvement.

b. State Building Permit. Prepare a state building permit application to the Mass Department of Public Safety (DPS), Building/Engineering Inspectors, if any alteration of a building or structural work is proposed. This process will include approval from local wire and plumbing inspectors (local designee for state boards) if you are working on any electrical or plumbing systems. Please be aware that DPS approval may require additional improvements such as accessibility and fire systems.

c. Wetlands. if you are near a waterway, wetland, pond, lake, etc., contact the local conservation commission (they are the local designees of the Mass Department of Environmental Protection (DEP)).

d. Cultural/Historic/Archeologic. The Massachusetts Historic Commission approval (especially if any excavation is planned, whether it's a fence post or a new wall) is required. DCR may be able to assist with filing of a Project Notification Form to the MHC on your behalf.

e. Natural Heritage and Endangered Species Protection: a filing and approval may be needed if you are near a forest, stream or habitat of any type (turtles, certain insects, birds, fish, etc.).

3. Other Considerations to keep in mind:

- Volunteer construction work should be considered carefully. Prevailing wage, worker's compensation insurance, property insurance and bonds for performance and

payment will usually be required when a state property or building is involved. Consider getting advice from contractors, architects and other professionals. Contractors should be properly licensed and experienced; engineer's plans should contain their stamp; architects should be registered. Consider fair or required procurement methods (for municipalities, M.G.L. c. 30B is required) carefully.

- Consider having a written contract (not just an estimate or proposal) with anyone doing work on the building. Your contractors have to provide insurance certificates that cover risks associated with their work and carry the permittee/lessee, DCR, and the Commonwealth as an additional insured for liability. Contractors should be licensed and qualified to do the work contemplated. Consider performance and payment bonds for large projects. Subcontractor liens will not be valid against the Commonwealth or DCR.
- What's Major? It depends on what you are doing; dollar amount is not the only threshold and may include changes to team/locker rooms, indoor structures if electrical and plumbing or any wall changes are contemplated. For whatever you might consider minor work (e.g., installing shelves on certain types of walls, moving doorways, installing closets or appliances, etc.). Please check with Long Term Permits and Leases staff before you build or modify anything.
- Be sure that you are in compliance with your lease or permit requirements; that is: all payments if any due are paid; all reporting is up to date; updated insurance is on file with DCR; and you have complied with any repair or capital project plans in any lease or permit.

SOME RELEVANT MASSACHUSETTS AGENCY WEB SITES:

Massachusetts Executive Office of Public Safety

-Building Inspector/Building Code, Consumer Protection

<http://www.mass.gov/eopss/agencies/dps/>

<http://www.mass.gov/eopss/consumer-prot-and-bus-lic/license-type/buildings/building-permit-application-forms.html>

<http://www.mass.gov/eopss/agencies/dps/state-inspector-districts.html>

Massachusetts Executive Office of Energy and Environmental Affairs –

-Department of Environmental Protection (DEP), Water Resource Protection

<http://www.mass.gov/eea/waste-mgmt-recycling/water-resources/>

-Department of Conservation and Recreation (DCR) – Construction Access

<http://www.mass.gov/eea/agencies/dcr/>

<http://www.mass.gov/eea/agencies/dcr/massparks/permits-rentals/dcr-permits.html#ConstructionandVehicularAccessPermits>

Massachusetts Natural Heritage and Endangered Species Program (NHESP)

<http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/>

Massachusetts Historical Commission – DCR has a liaison to MHC

<https://www.sec.state.ma.us/mhc/>

LOCAL APPROVALS/TRADE WORK

Wire/Electrical Approvals

-Town and City Wire departments are usually the State Board designee

Plumbing Approvals

-Town and City departments are usually the State Board designee

Wetlands Protection, Outdoor Air Quality, Waterways

-start with DCR Planning and Resource Protection/Engineering Staff and local Conservation Commission

DCR BUREAU OF PLANNING AND RESOURCE PROTECTION AND
ENGINEERING DEPARTMENT

Raul Silva, Deputy Chief Engineer
Department of Conservation and Recreation
10 Park Plaza, Boston, MA 02116
E-Mail: raul.silva@mass.gov

Sean Casey, Director, Construction Access Permitting and Accident Recovery
Massachusetts Department of Conservation and Recreation
10 Park Plaza, Boston, MA 021146
E-mail: sean.casey@mass.gov

DCR Construction Access Permits available here:
<http://www.mass.gov/eea/agencies/dcr/massparks/permits-rentals/dcr-permits.html>
or search for “DCR Construction Access Permits”

Attachment D - Proposal Submission Form

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF CONSERVATION AND RECREATION
REQUEST FOR PROPOSALS FOR
NON-MOTORIZED BOATING STATEWIDE**

PROPOSAL SUBMISSION FORM TO: DCR.Permits@mass.gov
DCR RFP 2023 -300

I, _____ (Proposer) acknowledge receipt of the DCR's Request for Proposals for Request for Proposals for operation of fixed food concessions at the locations listed below and submit the following proposal in response thereto:

A. Compensation

LOCATION:

<i>Operating Year/Season (May to October minimum season)</i>	<i>Proposed fee to DCR</i>	<i>Projected Expenses, costs, profit, etc.</i>
2024		Attach a pro-forma or proposed budget
2025		
2026		
2027		
2028		

Any additional consideration, requirements, improvements during permitted term to be considered? If so attach additional sheet with further detailed information.

B. References

Please fill out the chart below, or attach a separate sheet.

<i>Name/ Company</i>	<i>Contact Person and Title</i>	<i>Contact Info (telephone, e- mail)</i>	<i>Relationship/type of contract</i>	<i>Years</i>	<i>Estimated Contract Value</i>

C. The Proposer acknowledges that it has read, understood, and agrees to be bound by, all of the foregoing terms and conditions set forth in this RFP and any amendments, in its entirety.

Name of Business

Date

Signature of individual submitting proposal

Printed Name and Title:

ATTACHMENT E – DCR DISCLOSURES

Abatements

All Proposers are hereby notified that weather and other events may adversely affect the number of visitors to the Premises.

Consequently, DCR will not issue or allow self-directed abatements for weather-related diminutions in business income or for any event not in the control of the DCR. DCR will not

guarantee numbers of visitors, types or numbers of events, parking, access, or lack of competition at the Location.

Proposers should not rely on past season data (i.e., previously scheduled special events) for projections of any future operating profits or expenses. Security considerations and closures imposed by authorized law enforcement, state or federal emergency management agencies, or the office of the Governor shall not be an accepted basis for abatement.

DCR does not guarantee full use of the entire park at the Location.

DCR will not abate proposed fees to accommodate any washing, painting, cleaning, repairs or other work required to set up the Premises for business. Proposers should take into account the expense of set up, purchase, and cleaning of all operation elements (grease traps, filters, exhaust fans, drains) of the Premises.

Permittee is responsible for maintenance of all fans, grease traps, drains, exhaust fans, sliding or rolling windows, screens, restaurant equipment. Permittee is encouraged to use equipment that is compatible with existing gas, oil, water and electric services. DCR will not expend funds to install new equipment, service lines, fans, alarms, etc.

DCR may consider proposals that take into account startup expenses for new business entities or non-profits, i.e., after meeting the minimum fee required, proposed compensation can increase over time to account for startup expenses.

All proposals shall be deemed to have been made by the Proposer with full knowledge and understanding of the existing Premises conditions.

This Location is being offered on an “as is” basis and unless otherwise indicated, excluding any equipment that is owned or leased by the prior operator and not owned by DCR.

DCR will only make repairs to the infrastructure (roof, floors, and doors) of the Premises if funds are available and to the extent required for safety and security of the Premises.

If Permittee is found to have caused or allowed any damage to go unrepaired leading to an infrastructure repair, Permittee may be held responsible for the cost of such repairs.

Outfitting and Construction

All proposed work to the existing Premises must be pre-approved by DCR’s Engineering Department. Permittee shall propose any work estimates, contracts and drawings or schematics to DCR Engineering for pre-approval. Additional applications and permits may be needed from state building inspectors, DCR, and other state and local authorities. Permittee shall submit copies of the applications to DCR prior to filing with the applicable authority. All approvals will be in writing from DCR’s Boston Engineering Office. Verbal approvals from DCR staff shall not be sufficient and shall have no effect.

Conflict of Interest

Any Proposer that is currently providing goods or services to the Commonwealth or DCR as a vendor, consultant, contractor or subcontractor, employee, or in any other capacity, should disclose such relationship and all such projects or contracts to DCR, along with and the Proposer’s plan to address and resolve such conflicts of interest, if any. The DCR reserves the right, in its sole discretion, to request additional information from a Proposer on potential conflicts of interest and to limit or prohibit the participation of any Proposer due to any conflict of interest. To the extent that M.G.L. c. 268A may be applicable, the Proposers and their officers, agents and employees shall be fully responsible for ensuring their compliance with the requirements of said chapter 268A. Proposers should also disclose whether any of its staff are currently Commonwealth or DCR employees, consultants or contractors.

Mandatory Terms and Conditions; Permit Issuance

To commence operations, the Permittee must receive and sign a duly issued Permit (Attachment B)

No Personal Liability

No staff or employee of the Commonwealth or DCR shall be charged personally by the Proposer with any liability under any term or provision of the RFP.

Acknowledgements and Conditions

- a. The Proposer acknowledges that it has received and read the RFP and other attachments to the RFP, and the terms thereof are incorporated by reference in its Proposal. The Proposer agrees that if its Proposal is accepted, the Proposer will enter into a Permit Agreement with DCR in substantially the same form as the draft Permit Agreement attached to the RFP.
- b. By submission of its response to this RFP, the Proposer authorizes DCR to contact any and all parties having knowledge of the Proposer's operations and financial history, and hereby authorizes all parties to communicate such knowledge or information to DCR.
- c. This Proposal constitutes a firm offer. A certified copy of the Proposer's corporate resolution or other proof of authority to make this Proposal as a firm offer must be attached. This offer shall be held firm and open for a period of one (1) year, effective beginning the date proposals are opened.
- d. Proposers are advised to base their proposal only upon the matters contained in this RFP and in any written clarifications (via addenda or answers to proposers' questions) issued by DCR and disseminated to all Proposers on COMMBUYS. Any questions about the proposal must be submitted in writing prior to the scheduled deadline in the RFP as amended in any notice or on the COMMBUYS website for this RFP. Only questions, which in DCR's sole judgment materially affect the RFP, will be clarified in writing by DCR and posted to COMMBUYS and/or with copies sent to all Proposers. Only such written clarifications to the RFP or the RFP document itself can be relied upon in the preparation and submittal of proposals.
- e. Any costs or expenses incurred in the development of a proposal in response to this RFP will be borne entirely by the Proposer.
- f. The information provided in this RFP and any subsequent addenda or related documents is provided as general information only. DCR makes no representations or warranties that the information contained herein is accurate, complete or timely. The furnishing of such information by DCR shall not create any obligation or liability whatsoever, and the Proposer expressly agrees that it has not relied upon the foregoing information and that it shall not hold DCR liable.
- g. By submission of its proposal, the Proposer acknowledges that from and after the Permit commencement date, the sole basis for the right to operate the Premises as specified in this RFP is by award of a Temporary License and ultimately the full Permit Agreement.
- h. DCR is soliciting competitive proposals pursuant to a determination that such a process best serves the interests of DCR and the general public, and not because of any legal requirement to do so. The Proposer acknowledges DCR's right to accept or to reject any or all proposals, to withdraw or amend this RFP at any time, to initiate negotiations with one or more Proposers, to modify or amend with the consent of the Proposer any proposal prior to acceptance, to waive any informality to effect any agreement otherwise, all as DCR in its sole judgment may deem to be in its best interest.

i. **Non-Collusion Provision.** The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other *unrevealed* person or entity. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Proposal Documents - Confidentiality/Public Records

j. Proposals and records submitted in connection with proposals are public records and will be produced upon request, unless they fall within an exemption to the definition of a “public record” as set forth in G.L. c. 4, section 7(26).

k. In accordance with public safety needs, DCR policy, or with DCR’s determination in its sole discretion as to the best interests of the public, DCR reserves the right to modify and/or completely withdraw, at any time subsequent to the posting of this RFP, the Location specified herein, including changing or eliminating the Location, programming, marketing opportunities, uses, special events, etc., that will be allowed. DCR is soliciting competitive proposals pursuant to a determination that such a process best serves the interests of the Commonwealth, DCR and the general public. DCR has the right to accept or to reject any and all proposals, to withdraw or amend this RFP at any time, to initiate negotiations with one or more Proposers, to modify or amend with the consent of the Proposer any proposal prior to acceptance, and to waive any formality, all as the DCR in its sole judgment may deem to be in its and the public’s best interest. The decision of the Commissioner of DCR is final. No costs of responding to this RFP or any addenda, including, but not limited to, the preparation of other documents or attendance at meetings in connection with this RFP, shall be reimbursed by DCR.