

## CONCESSION LICENSE AGREEMENT

**THIS AGREEMENT** is made and entered into by and between, LEE COUNTY, a political subdivision of the State of Florida, hereinafter called "COUNTY," and Calusa Blueway Outfitters, LLC, a Florida Company, hereinafter called "LICENSEE" and collectively referred to herein as "PARTIES."

**WHEREAS**, COUNTY owns and operates Manatee Park, located at 10901 Palm Beach Blvd, Fort Myers, FL 33905, (herein after "FACILITY") for the use and enjoyment of Lee County residents and visitors; and

**WHEREAS**, LICENSEE is in the business of providing concession services to the general public; and

**WHEREAS**, the PARTIES desire that LICENSEE provide the concession services described in Exhibit "A" at FACILITY for the use and enjoyment of FACILITY patrons;

**NOW, THEREFORE**, in consideration of the terms and conditions set forth herein, the PARTIES agree as follows:

1. **RECITALS AND EXHIBITS:** The above recitals and attached Exhibits are true and correct and incorporated herein as though fully set forth below.

2. **PREMISES:** COUNTY hereby agrees to permit LICENSEE the use of the facilities, equipment, and agreed upon property located at Manatee Park, hereinafter referred to as "LICENSED PROPERTY," a description of which is incorporated in Exhibit A, for the sole purpose of providing concession services to FACILITY patrons in accordance with this Agreement.

3. **TERM:**

A. The term of this Agreement commences on July 1, 2019 and expires on May 1, 2020.

4. **VENDOR RESPONSIBILITIES:**

A. LICENSEE agrees to purchase, install, operate and maintain, at no expense to COUNTY, any and all equipment, fixtures, and other property necessary to provide the concession services described in Exhibit "A."

B. LICENSEE agrees to provide trained, professional staff to assure the quality of the operation and the safety of the public.

C. LICENSEE shall submit plans for any expansion or change to the LICENSED PROPERTY, with specifications, to COUNTY for prior approval and permitting. No such expansions or changes are permitted without the express written approval of the COUNTY.

- D. LICENSEE shall perform the concession services hereunder during the FACILITY's regular business hours at the FACILITY. For special events, LICENSEE must obtain prior written approval by COUNTY to operate beyond regular FACILITY business hours.
- E. LICENSEE acknowledges that its use of the LICENSED PROPERTY is not exclusive, and that COUNTY may require use of the LICENSED PROPERTY on an as needed basis, as long as such use does not unreasonably interfere with LICENSEE's performance under this Agreement.
- F. Any inspection, permits, or approvals required for performance of the concession services hereunder shall be the responsibility of LICENSEE.
- G. Unless otherwise specified in Exhibit A, LICENSEE will be responsible for fuel and utilities required at the LICENSED PROPERTY. Fuel may only be stored in a storage facility approved by COUNTY.
- H. LICENSEE will retain title to all personal property purchased by LICENSEE and placed at the LICENSED PROPERTY, unless otherwise agreed to in writing by the PARTIES. LICENSEE will mark all personal property or equipment at the LICENSED PROPERTY belonging to LICENSEE and furnish to COUNTY an inventory of all personal property belonging to LICENSEE that is located at the LICENSED PROPERTY.
- I. LICENSEE agrees that COUNTY or its agents may at any time access the LICENSED PROPERTY for the purpose of inspection or performing such other duties as may be required by the terms of this Agreement and the rules, regulations, ordinances and laws of any governmental body.
- J. LICENSEE agrees that all of its officers, employees and representatives shall conduct themselves in a professional manner and shall communicate with COUNTY employees and members of the public in a civil manner whenever conducting COUNTY business. All aspects of LICENSEE'S performance, including complaints received from the public, may impact the COUNTY'S decision to renew or terminate this Agreement in accordance with the provision contained here. LICENSEE shall remove or suspend, or further investigate, their employees for any act of violence, sexual harassment, substance abuse, or act of bigotry/prejudice.

5. **COUNTY RESPONSIBILITIES:**

- A. COUNTY agrees to allow LICENSEE access to and the use of the LICENSED PROPERTY for the purpose of providing the concession services hereunder, including the use of public restrooms and other public facilities at the FACILITY.
- B. COUNTY agrees not to assess taxes for the property, its user or

improvements to the LICENSED PROPERTY.

- C. COUNTY agrees not to charge a parking fee to LICENSEE and its staff during hours of operation.

6. **REPAIRS AND MAINTENANCE:**

- A. LICENSEE shall be responsible for repairing and maintaining the LICENSED PROPERTY throughout the term of this Agreement. LICENSEE shall use reasonable efforts to protect the LICENSED PROPERTY from damage, and shall surrender it in the same condition (except for normal wear and tear) as received.
- B. LICENSEE agrees to clean and maintain the LICENSED PROPERTY, excluding public restrooms. COUNTY agrees to clean and maintain public restrooms.
- C. COUNTY will be responsible for all repairs from normal wear and tear. COUNTY will be responsible for major repairs, except for those major repairs necessary due to the negligent acts or omissions of the LICENSEE. COUNTY will be responsible for all exterior maintenance, air conditioning, plumbing and roofing.
- D. COUNTY may make improvements to FACILITY at its discretion and such improvements shall remain part of FACILITY upon expiration of this Agreement.
- E. LICENSEE may make improvements to the LICENSED PROPERTY, subject to approval by COUNTY. Any improvements, whether permanent or non-permanent, must be requested in writing to the Director of Lee County Parks and Recreation, or designee and approved in writing prior to making any improvements to the LICENSED PROPERTY.
  - i. PERMANENT IMPROVEMENTS: LICENSEE understands and acknowledges that permanent improvements will remain with the LICENSED PROPERTY upon expiration of this Agreement or any term amendments or extension to this Agreement. All improvements must meet current building, ADA, safety regulations and codes, and must be approved by the Director of Lee County Facilities and Construction Management prior to execution of the project. Further, any necessary permits must be obtained by LICENSEE.
  - ii. NON-PERMANENT IMPROVEMENTS: LICENSEE may make non-permanent improvements to the LICENSED PROPERTY. LICENSEE agrees that any non-permanent improvements must be removed from the LICENSED PROPERTY upon expiration of this Agreement or they will remain part of FACILITY, unless

otherwise agreed to by both PARTIES in writing.

F. All LICENSEE signage and promotional materials intended for display within the FACILITY are subject to approval by the COUNTY with respect to placement, use of FACILITY name, and COUNTY logo. COUNTY retains the right to require LICENSEE to remove any sign displayed within the FACILITY at any time and for any reason whatsoever. No right, title, license or other interest in any of COUNTY'S trademarks, trade names, slogans or logos is conveyed under this Agreement.

7. **BACKGROUND CHECKS OF LICENSEE EMPLOYEES:**

A. LICENSEE, at its expense, must conduct a background check for each of its employees, as well as for the employees of its subcontractors, who will provide services on COUNTY property or who will otherwise have access to the FACILITY. The minimum background check process for all LICENSEE personnel shall meet all screening standards required by law and include, but not be limited to, the following checks:

1. Social Security Number (SSN) validation and address history
2. State criminal and sex offender registry search
3. National Crime Information Center search
4. FBI fingerprint check using Integrated Automated Fingerprint Identification System
5. County Felony and Misdemeanor
6. National Sexual Offender Registry Search

B. The background check must be conducted prior to initial access by LICENSEE personnel. The LICENSEE shall provide proof of a satisfactory background check to the County's Director of Procurement Management prior to assignment of any LICENSEE personnel. The County retains the right to reject assignment of any LICENSEE personnel based on the results of a background check.

C. LICENSEE personnel who separate from employment by the LICENSEE for any reason whatsoever, and for any length of time, must undergo another background check prior to renewed access to the County. Background checks must be repeated not less than every year of this Agreement, and it is the responsibility of the LICENSEE to submit proof of satisfactory background checks for all LICENSEE personnel working on COUNTY property to the COUNTY'S Director of Procurement Management prior to the start of each contract year. At the COUNTY'S discretion, background checks for LICENSEE personnel holding sensitive positions (e.g., working with or around children, or within high-security areas) may be required more frequently. The COUNTY shall have the ability to audit the LICENSEE'S background check process to ensure compliance with COUNTY standards, at any time. Additionally, LICENSEE shall require all personnel to self-disclose any

misdemeanor or felony convictions that occur while assigned to the COUNTY within three (3) business days of the conviction or upon return to a COUNTY assignment. The conviction must be reported to the LICENSEE, who shall then notify the Director of Procurement Management.

- D. If at any time it is discovered that any LICENSEE personnel has a criminal record that includes a felony or misdemeanor, the LICENSEE is required to inform the COUNTY and the COUNTY will assess the circumstances surrounding the conviction, time frame, nature, gravity, and relevancy of the conviction to the job duties to determine whether that LICENSEE employee will be placed or remain on a COUNTY assignment. The COUNTY may withhold consent at its sole discretion. Failure of the LICENSEE to comply with the terms of this paragraph may result in the termination of its Agreement with the COUNTY.

8. **USE AND FEES:**

- A. In consideration for the use of the LICENSED PROPERTY, VENDOR agrees to pay COUNTY in accordance with Exhibit "B."
- B. LICENSEE may establish its own rates, fees, and charges for concession services provided to FACILITY patrons, as long as such rates, fees, and charges are reasonable and not applied in a manner that discriminates against persons on the basis of race, color, religion, sex, national origin, or any other protected class.

9. **GENERAL COOPERATION AND UNDERSTANDING:**

- A. LICENSEE and COUNTY agree to cooperate in the promotion of the concession services hereunder to the general public.
- B. The PARTIES acknowledge that COUNTY retains ownership of the LICENSED PROPERTY.
- C. This Agreement cannot be transferred or assigned by LICENSEE, without prior written consent of COUNTY, which may be withheld at the sole discretion of COUNTY. Any attempt to assign or transfer will be in violation of this Agreement, and shall be void and unenforceable.
- D. Waiver by COUNTY of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.
- E. LICENSEE acknowledges that this Agreement and all records pertaining to this Agreement may be subject to public disclosure pursuant to Florida's Public Records law, Ch. 119, Florida Statutes.
- F. This Agreement constitutes the entire agreement of the PARTIES with

respect to the subject matter hereof. Any and all other prior or contemporaneous agreements, discussions, or representations, and understandings of any nature, whether oral or written, with respect to the subject matter of this Agreement are hereby superseded, merged and revoked.

- G. Any written notice required to be given under this Agreement must be in writing and either hand delivered or mailed by certified mail to the other party at the address set forth below or such other address as the party may provide from time to time. Any change in the PARTIES' representatives or contact information will be promptly communicated by the party making the change.

LEE COUNTY PARKS AND RECREATION

Director of Parks and Recreation (or designee)  
3410 Palm Beach Blvd.  
Fort Myers, FL 33916  
(239) 533-7400  
jlavender@leegov.com

With a copy to:

LEE COUNTY PROCUREMENT MANAGEMENT

Director of Procurement Management (or designee)  
PO Box 2238  
Fort Myers, FL 33902-2238

CALUSA BLUEWAY OUTFITTERS, LLC

William Odrey, II  
10901 Palm Beach Blvd.  
Fort Myers, FL 33905  
(239) 481-4600  
billodrey@gmail.com

**10. INSURANCE AND INDEMNIFICATION:**

- A. LICENSEE shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverage (including endorsements) and limits as described in Exhibit "C", as may be amended from time to time. A copy of Exhibit "C" is attached hereto and incorporated herein. These requirements, as well as COUNTY's review or acceptance of insurance maintained by LICENSEE, are not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by LICENSEE under this Agreement. Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of "B or better". No changes are to be made to

these specifications without prior written specific approval by County Risk Management. A Certificate of Insurance, consistent with Exhibit "C" must be provided to COUNTY prior to its execution of this Agreement. Further, the Certificate of Insurance shall name COUNTY - *Lee County Board of County Commissioners* - as a certificate holder and as an additional insured. Should the requirements under Exhibit "C" change, COUNTY will provide the new requirements to LICENSEE. LICENSEE will provide a new Certificate of Insurance to COUNTY's Risk Management within sixty (60) days of receipt of the new requirements or later if approved by County Risk Management.

- B. LICENSEE hereby indemnifies and holds COUNTY harmless from any and all claims, liability, losses, damages, costs, including but not limited to reasonable attorney's fees and causes of action that may arise out of the willful, negligent, reckless, intentional wrongful misconduct or unlawful acts or omissions of LICENSEE, its employees, volunteers and/or participants in its operations under this Agreement. LICENSEE will pay all claims and losses of any nature whatsoever arising from actions under this Agreement; will defend all suits against COUNTY, when applicable, including appellate proceedings; and, pay all costs, judgments, and attorney's fees. COUNTY retains the right to choose its own counsel and LICENSEE will reimburse its legal fees and costs. Nothing herein may be construed to require LICENSEE to indemnify COUNTY against liability resulting from the willful, negligent, or unlawful acts or omissions of COUNTY or its employees or agents acting within the scope of their employment pursuant to the provisions of this Agreement. This section shall survive the termination or expiration of this Agreement.
- C. LICENSEE'S personal property housed or placed at the LICENSED PROPERTY shall be at the risk of LICENSEE and COUNTY will not be liable for any loss or damage to the LICENSEE'S personal property located thereon for any cause whatsoever. LICENSEE understands that COUNTY does not and shall not carry liability, theft or fire insurance on said property to cover LICENSEE'S interest therein.

**11. AMENDMENT AND TERMINATION:** Amendments or changes to this Agreement must be made in writing and be executed with the same formality as this Agreement unless provided otherwise in the Agreement. The PARTIES may terminate this Agreement upon ninety (90) days written notice to the other party. Notice is to be provided in accordance with Section 9(G) above.

**12. DISPUTE RESOLUTION:**

- A. In the event of a dispute or claim arising out of this Agreement, the PARTIES agree first to try in good faith to settle the dispute by direct discussion. If this is unsuccessful, the PARTIES may enter into mediation in Lee County, Florida, with the parties sharing equally in the cost of such

mediation.

- B. In the event mediation, if attempted, is unsuccessful in resolving a dispute, the PARTIES may proceed to litigation as set forth below.
- C. Any dispute, action or proceeding arising out of or related to this Agreement will be exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens.
- D. This Agreement and the rights and obligations of the PARTIES shall be governed by the laws of the State of Florida without regard to its conflict of laws principles.

**13. COMPLIANCE WITH APPLICABLE LAW:** This Agreement shall be governed by the laws of the State of Florida. LICENSEE shall promptly comply with all applicable federal, state, county and municipal laws, ordinances, regulations, and rules relating to the services to be performed hereunder and in effect at the time of performance. LICENSEE shall conduct no activity or provide any service that is unlawful or offensive.

**14. INCORPORATION OF COUNTY SOLICITATION DOCUMENTS:** LICENSEE shall strictly comply with the terms and conditions of COUNTY Informal Quote No. IW090221 KAYAK CONCESSION AT MANATEE PARK (the "Solicitation"). The Solicitation and LICENSEE'S response to the Solicitation ("LICENSEE'S Proposal") are made a part of this Agreement as if attached hereto. In the event of conflicts or inconsistencies, the documents shall be given precedence in the following order:

1. Agreement
2. County's Purchase Order
3. Solicitation
4. LICENSEE'S Proposal

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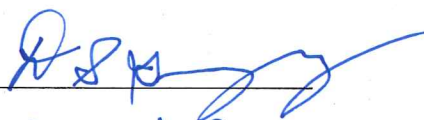


IN WITNESS WHEREOF, LEE COUNTY and LICENSEE have caused this Agreement to be executed by their respective and duly authorized officers on the day and year first written above.

WITNESS:

CALUSA BLUEWAY OUTFITTERS,  
LLC

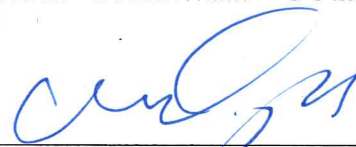
Signed by:



Print Name:

Daniel Goggin

BY:



Authorized Representative

Bill Odrey

Date:

June 28, 2019

LEE COUNTY

BY:



Alise Flanck  
Deputy Dir of Lee County Parks &  
Recreation on behalf of the Board of  
County Commissioners

Date:

June 28, 2019

Approved as to form for the reliance of  
Lee County only:

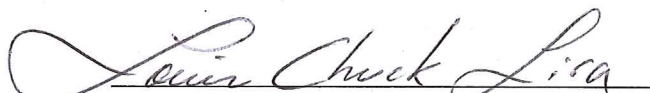
  
Lee County Attorney's Office

EXHIBIT A  
SCOPE OF CONCESSION SERVICES

**LEE COUNTY, FLORIDA  
DETAILED SPECIFICATIONS  
FOR A KAYAK/CANOE OUTFITTER & GIFT SHOP/FOOD CONCESSION  
FOR MANATEE PARK**

SCOPE

The Lee County Board of County Commissioners is accepting qualifications from companies interested in establishing and operating a kayak/canoe outfitter offering guided tours as well as watercraft rentals and gift shop/food concession at Manatee Park, 10901 State Road 80 (Palm Beach Blvd.), Fort Myers, FL 33905.

The park allows for picnicking; therefore, the park visitors are allowed to carry in their own food and beverages.

While the goal of this solicitation is to give exclusive rights to the awarded vendor; the park is, and shall remain, a public facility. There shall be no charge to the general public to launch their personal watercraft; and Parks & Recreation reserves the right to use the launch at no charge for department trips/training, etc. as needed. However, the awarded vendor will be allowed to charge other outfitters a reasonable fee to launch their equipment (see below).

Vendors should attempt to be as creative as possible in their responses to Step One of this solicitation; while taking into consideration the best interest of Lee County, the public and themselves.

TERM OF QUOTE

This quotation shall be in effect for five (5) years, or until new quotations are taken and awarded. This quotation has the option of being renewed for one (1) additional five (5) year period, upon mutual agreement of both parties, under the same terms and conditions.

REGULATIONS

The awarded vendor shall secure all Federal, State and County permits necessary to operate the concessions. This shall include, but not be limited to, Health Department Permits and Occupational Licenses. The awarded vendor shall abide by all applicable laws, ordinances and regulations; Federal, State and County, and shall not use, or permit, County facilities to be used for any unlawful, improper, or offensive purposes whatsoever.

The awarded vendor shall be capable of furnishing, upon request, all state and local licenses required for the specified work to be performed.

UTILITIES

Lee County will provide and pay for the following utilities: pest control, water and trash service.

The awarded vendor shall provide and pay for the following utilities: electricity, telephone (vendor shall get either a local landline or cell phone number specific to their business for operations in the Park), and L.P. gas service (if required).

INSPECTION

Lee County's designated representative will have the right to inspect the premises at reasonable hours, and without prior notice.

ACCESS

The awarded vendor will be given free access and the County will provide the awarded vendor with adequate parking space(s) for business and operation hours only.

EQUIPMENT INFORMATION – GIFT SHOP/FOOD CONCESSION

The Gift Shop is approximately 418 square feet in size.

One (1) mobile food unit will be allowed. The unit may not exceed 10' x 20' in size and meet all applicable County and City health department requirements. It will be placed in a County-approved location.

It will be the awarded vendor's responsibility to provide all of the equipment necessary to stock and offer for sale the items as detailed elsewhere in these specifications.

Installation and maintenance of this equipment will be the responsibility of the awarded vendor, who will also maintain ownership of the equipment and be responsible for its removal either at the end of this quotation or at any time at the request of Parks.

Lee County will be responsible to provide adequate space for the requested equipment. Space will be limited to designated area within the existing structure.

The awarded vendor will be responsible for providing the required electricity to run the equipment.

**NOTE: The County will not be responsible for the replacement of any product that may be ruined as the result of a power outage, theft, and/or vandalism.**

Lee County Parks reserves the right to inspect the equipment at any time; and close the vendor's operation down if sanitation or operational problems are found.

Lee County reserves the right to approve items such as, but not limited to, equipment appearance, signage, item choices, and other issues as they relate to the gift shop/concession operation.

EQUIPMENT INFORMATION – KAYAKS & CANOES

The awarded vendor shall have a minimum of twenty (20) total vessels – included in this total shall be a minimum of ten (10) kayaks with the remaining ten (10) being either canoes or kayaks – with the required ancillary equipment such as paddles, life preservers, etc. – dedicated at all times to Manatee Park.

The kayaks and canoes – and ancillary equipment - used under this contract shall either be new or less than three (3) years old.

NOTE: The life preservers or personal flotation devices (PFD's) used under this quote shall be the vest style with adjustable straps. The orange "horseshoe" type is NOT acceptable.

All watercraft and ancillary equipment shall be kept clean in and in good repair by the awarded vendor at all times. Parks reserves the right to conduct inspections at any time and request repair and/or replacement of any item at its sole discretion. It is a requirement of these specifications that the awarded vendor be capable of replacing any watercraft or ancillary equipment required herein within one (1) week after request by Parks personnel to do so.

DESIGNATED CONTACT

The awarded vendor shall appoint a person or persons to act as a primary contact with Lee County. This person or back-up shall be readily available during normal work hours by phone or in person, and shall be knowledgeable of the terms and procedures involved in this quotation.

EMERGENCY CONTACT

A representative of the awarded vendor shall be available by telephone 24 hours a day, 7 days a week for emergencies during the entire term, and any renewals, of this quotation. Information on how to contact the representative shall be provided to Parks after award.

QUALITY OF FOOD & BEVERAGE ITEMS

Food and beverage items offered for sale in both the gift shop and mobile food unit shall be of superior quality (see below) as determined by the County. In the event the quality of items is considered to be below standards, the County may at its sole option, require the awarded vendor to modify the item. In the event the awarded vendor fails to meet these standards, the County may deem the awarded vendor to be in violation of the specifications and proceed to terminate the quote.

All items offered for sale shall be fresh and be nationally known brands.

Please see Attachment A for a list of suggested items/brands to be stocked in the gift shop and mobile food unit; as well as space for you to list a sampling of the items/brands you will use in the gift shop and food unit covered under this quotation. This is also the area where you should list the sundries and gift shop items you will offer for sale. Suggested sundry inventory could include T-shirts, hats, sunscreen, picnic supplies, ice, etc.

NOTE: Under no circumstances shall alcoholic beverages of any type be offered for sale at any time.

NOTE: It is preferred that some "Heart Healthy" choices be included in the food and beverage mix. Please denote on Attachment A which food and beverage items you consider to be "Heart Healthy".

At anytime the vendor may request permission from Lee County to add or delete items as demand dictates. Lee County desires that adequate inventory levels of merchandise and equipment be maintained to satisfy the basic needs of the public.

#### PRICING – FOOD & BEVERAGES

Lee County desires that the awarded vendor offer quality food and beverages (as well as sundries, etc. in the gift shop) at "reasonable" prices. It will be up to the awarded vendor to set the food, sundry, and beverage prices. Prices may be increased at any time; but only with the prior approval of Parks which may only be obtained after giving 30 calendar days written notice. Requests for price increases must be accompanied by supporting documentation – such as notification from a supplier of a price increase – in order for the request to be considered. The County reserves the right to approve or deny all such requests at its sole discretion.

#### PRICING – WATERCRAFT RENTALS & TOURS

Watercraft rental rates – as well as guided tour rates – are to be competitive with those of other outfitters currently operating within Lee County (see below). Any requests for price increases over the term of the contract must remain competitive with those charged by other outfitters at the time of the request. Prices may be increased at any time, but only with the prior approval of Parks which may only be obtained after giving 30 calendar days written notice. The County reserves the right to approve or deny all such requests at its sole discretion.

#### FEES CHARGED TO OTHER OPERATORS

As stated above, the awarded vendor will be allowed to charge other outfitters a reasonable fee to launch their equipment. The awarded vendor will be allowed to set this fee; however, it will be subject to approval by County personnel. Further, the County

reserves the right to set a "reasonable" fee and make the final decision on the amount that may be charged – as well as how it will be charged.

NOTE: No parking fee increases – to either other operators or the public - will be permitted. Further, the awarded vendor will not be allowed to charge any parking fees; and all parking fees and collection of same are the sole responsibility of Lee County.

PERSONNEL & SUPERVISION

The awarded vendor and his employees shall be identified by a County approved uniform and name tag; and shall maintain appropriate personal hygiene and appearance; and maintain a professional demeanor at all times. Staffing shall be sufficient to service demand.

In the event the awarded vendor him/herself, or any person in their employ who, by his or her acts, engages in a course of conduct detrimental to the best interest of the County; or their actions tend to reflect negatively on the rendering of services to the general public; the awarded vendor shall remove him/herself or that employee from the property until proper control is restored to the situation.

Adequate staffing shall be the responsibility of the awarded vendor. Persons employed by the vendor in the performance of the services pursuant to this quotation shall not be considered employees of the County, shall be independent thereof, and shall have no claim against the County as to pension, worker's compensation, unemployment compensation, insurance, salary, wages, or other employee's rights.

The awarded vendor shall adequately train his employees in the work which they are to perform and shall continually supervise the ongoing operation to ensure an appropriate level of proficiency.

COUNTY RESERVES THE RIGHT

The County reserves the right, before recommending any award, to inspect the vendor's facilities and organization; or to take any other action necessary to determine ability to perform in accordance with the specifications, terms and conditions. Lee County will determine whether the evidence of ability to perform is satisfactory. The County will make awards only when such evidence is deemed satisfactory and reserves the right to reject quotes where evidence submitted, or investigation and evaluation indicated inability of the vendor to perform.

The County also reserves the right to control/operate a single drink vending machine in the Park.

The County further reserves the right to approve all external signs and all other enhancements of any type the vendor may request to make under this quote in Manatee Park.

FACILITIES

The gift shop and the Park meet all ADA standards. No changes, additions, etc. to the gift shop – or any other facility or structure within the Park - may be made without prior written approval of the County representative.

The County will maintain the exterior and the basic structure of the building; the awarded vendor shall be responsible for all interior maintenance.

The awarded vendor will be responsible for furnishing all of the equipment and fixtures necessary to operate a gift shop and mobile food unit as specified herein. This equipment and fixtures shall remain the property of the awarded vendor who will also be responsible for its maintenance and repair. As it becomes necessary to replace such equipment, it shall be the responsibility of the awarded vendor to do so.

Several outside picnic tables for patrons will be provided by the County. Any other seating arrangements will be the awarded vendor's responsibility and must be approved by the County representative.

Should the awarded vendor desire a burglar alarm; the installation, monitoring, maintenance, repair, responses to calls, etc. of same shall be the awarded vendor's responsibility. Removal of the system at the end of this contract shall be the awarded vendor's responsibility and at his expense.

EQUIPMENT STORAGE

The Park must be kept neat and orderly at all times. Therefore, the awarded vendor will need to make arrangements for on-site storage of watercraft and ancillary equipment when it is not in use – for example, a shed or rack, etc. All storage structures must be pre-approved by the County representative. The County will not be responsible for any losses due to theft, fire or any other cause.

INSPECTIONS & PUBLIC COMPLAINT PROCESS

It is expected that the awarded vendor will maintain a certain level of service to County standards and expectations. All equipment, merchandise displays, and other items are to be in good repair at all times. Lee County reserves the right to inspect the cleanliness of the surrounding areas on a regular basis.

The awarded vendor shall be open and responsive to suggestions identified by Parks for improvements.



PURCHASING AGREEMENT

The Purchasing Agreement to be executed between Lee County and the awarded vendor is attached. If your firm will require Lee County to sign any type of contract and/or lease agreement, please include a copy of these documents with Step One of your quotation. Lee County reserves the right to reject any and all documents that may be submitted.

ASSIGNMENT OF THIS CONTRACT

The awarded vendor shall not assign, transfer or sub-contract any portion of this agreement unless prior permission is granted by County Representative.

AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

The attached document, Affidavit Certification Immigration Laws, is required and should be submitted with your quotation package. It must be signed and notarized. Failure to include this affidavit with your quote will delay the consideration and review of your submission; and could result in your quote response being disqualified.

BACKGROUND CHECKS

The awarded vendor will be required to perform background checks on all employees that will be working on this contract, in the County's facilities. The results of the background checks will be provided to the County Representative within thirty (30) days of award of the contract. Background checks on any new employees hired during the term of the contract must be performed immediately and provided to the County's Representative before the employee will be allowed to work in the County's facility.

Based on these background checks, the County reserves the right to ask the awarded vendor remove an employee from working in the County's facility.

If the awarded vendor does not comply at all times with the security check procedure, it may be grounds for termination of this contract.

Any charges incurred for these background checks are the sole responsibility of the Vendor.

Because of higher security requirements at some County facilities, it may be necessary to require a Crime Information Background Check. Checks are to be performed by the Florida Department of Law Enforcement at the following address:

Florida Department of Law Enforcement  
P.O. Box 1489  
Tallahassee, FL 32302

Please provide the name, date of birth, race, sex, and last known address of each of your employees to FDLE. A copy of the background check from the Florida Department of Law Enforcement must be provided to Lee County's Representative within a thirty (30) day period.

The awarded vendor will be responsible for his employees, and those of the vendors he may hire, for acting in accordance with security guidelines, during entering, exiting, and cleaning, etc.

#### VENDOR REQUIREMENTS

The awarded vendor shall be responsible for remitting all appropriate taxes (please include a copy of your "Rental Tax Pay Permit" with Step One of your submission).

The collection/removal of trash and litter from within a ten foot (10') radius of the gift shop, mobile food unit and eating areas where applicable, resulting in a safe and attractive condition, will be the responsibility of the awarded vendor. All trash shall be disposed of in accordance with applicable laws. (The County will pay for the disposal of the bagged trash.)

The awarded vendor shall agree to diligently maintain and protect Lee County's property and surrender it at the end of the agreed term in the same condition, normal wear expected.

The awarded vendor shall meet with a Lee County representative at the end of each contract year to discuss and evaluate the previous year's service. Continuation of the contract will depend on a favorable review by Lee County.

Any alteration, addition to, or remodeling – temporary or permanent – of any Lee County property will not be allowed, unless prior written approval is obtained from Lee County.

#### OPERATING HOURS

The operating hours for the kayak/canoe outfitter and gift shop/food concession shall be, at a minimum, as follows:

\*During "Season" (defined as November 1<sup>st</sup> through Easter): Seven (7) days a week – 9:00 a.m. to 4:00 p.m.

\*During "Off Season" (defined as Easter through October 31<sup>st</sup>): A minimum of 6 hours per week of paddling rental.

NOTE: The hours/days of operation of the gift shop and food concession during the "Off Season" shall be at the discretion of the awarded vendor.

Manatee Park currently operates, 7 days per week, from sunrise to sunset. Vendor's hours should be clearly posted, and the vendor should not vary from the scheduled hours without prior approval from the County.

In your response to Step One of this solicitation, please detail your planned days/hours of operation.

PARK CLOSING

At no time shall the awarded vendor operate the concession if the County closes the park (due to inclement weather, Acts of God, etc.). The vendor shall waive all claims for compensation for loss or damage due to closure of the park for said reasons.

If, in the judgment of Lee County, any portion of the buildings from which the concessions are operating, or any access thereto, is damaged by Acts of God, beyond immediate repair, this agreement will become null and void.

REVENUES

As this is a new concession at the park, past revenue figures are not available. The County makes no representations or warranties as to the potential customer base or revenue/income.

RECEIPTS

The awarded vendor shall have a process to offer receipts and subsequently refunds if necessary.

PAYMENT METHODS

The awarded vendor shall accept cash, credit cards, and debit cards as payment for all products and services covered by this quote. Checks may or may not be accepted at the awarded vendor's discretion.

NOTE: All costs of credit card processing services – such as additional phone lines, etc. – shall be the responsibility of the awarded vendor.

REPORTS

The awarded vendor shall provide Lee County Parks & Recreation with the following reports:

\*Monthly – A monthly report showing the monthly count of all launched craft during the vendor's hours of operation. This craft count shall be divided out between vendor vessels, other outfitter vessels, and personal launches.

\*Quarterly – A quarterly financial statement showing all food, gift, and rental sales.

EXHIBIT B  
FEE SCHEDULE

The LICENSEE shall pay to the COUNTY, subject to the additions and deductions as provided in the Agreement, \$678.00 per month for six (6) months for a total of \$4,068.00.

EXHIBIT C  
LICENSEE INSURANCE REQUIREMENTS

**Minimum Insurance Requirements:** *COUNTY'S Department of Risk Management in no way represents that the insurance required herein is sufficient or adequate to protect the LICENSEE's interest or liabilities. The following are the required minimums the LICENSEE must maintain throughout the duration of this Agreement. The COUNTY reserves the right to request additional documentation regarding insurance provided.*

- a. **Commercial General Liability** - Coverage shall apply to premises and/or operations, products and completed operations, independent contractors, and contractual liability exposures with minimum limits of:

\$500,000 per occurrence

\$1,000,000 general aggregate

\$500,000 products and completed operations

\$500,000 personal and advertising injury

- b. **Business Auto Liability** - The following Automobile Liability will be required and coverage shall apply to all owned, hired and non-owned vehicles use with minimum limits of:

\$500,000 combined single limit (CSL) or

\$300,000 bodily injury per person

\$500,000 bodily injury per accident

\$300,000 property damage per accident

- c. **Workers' Compensation** - Statutory benefits as defined by Chapter 440, Florida Statutes, encompassing all operations contemplated by this Contract or Agreement to apply to all owners, officers, and employees regardless of the number of employees. Workers' Compensation exemptions may be accepted with written proof of the State of Florida's approval of such exemption. Employers' liability will have minimum limits of:

\$100,000 per accident

\$100,000 disease limit

\$500,000 disease – policy limit

*\*The required minimum limit of liability shown in a., b., and c. may be provided in the form of "Excess Insurance" or "Commercial Umbrella Policies," in which case, a "Following Form*

*Endorsement” will be required on the “Excess Insurance Policy” or “Commercial Umbrella Policy.”*

**Verification of Coverage:**

1. Coverage shall be in place prior to the commencement of any work and throughout the duration of the Agreement. LICENSEE shall provide a certificate of insurance to the COUNTY’S Risk Manager for review and approval. The certificate shall provide for the following:

- a. The certificate holder shall read as follows:

Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, Florida 33902

- b. *“Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials” will be named as an "Additional Insured" on the General Liability policy, including Products and Completed Operations coverage.*

**Special Requirements:**

1. If applicable, it is the responsibility of the LICENSEE to ensure that all subcontractors comply with all insurance requirements.
2. Place the project name and number in the Description of Operations box on the certificate of insurance.
3. Insurance carriers providing coverage required herein shall be licensed to conduct business in the State of Florida and shall possess a current A.M. Best’s Financial Strength Rating of “B or better”.