TOWN OF WEBSTER
DEPARTMENT OF PUBLIC WORKS
PARKS DIVISION

CONTRACT

FOR

LEASE OF THE

MEMORIAL BEACH CONCESSION STAND

MAY 2012

TOWN ADMINISTRATOR
John F. McAuliffe

DPW DIRECTOR
J.T. Gaucher, PE

HIGHWAY SUPERINTENDENT
Kenneth L. Pizzetti

TOWN OF WEBSTER
REQUEST FOR PROPOSALS

The Town of Webster is hereby requesting proposals pursuant to M.G.L. Chapter 30B, §16 for the three (3) month lease of a portion of a Town owned property and building known as the Memorial Beach Concession Stand and consisting of approximately 700 square feet more or less. Use of the property to be leased is restricted to the sale of food, non-alcoholic beverages, and appurtenant beach concessions.

All proposals submitted in response to this advertisement must meet minimum specifications. Copies of specifications, questions or requests for information may be directed to the Highway Superintendent, Kenneth Pizzetti at the Highway Garage, 23 Cudworth Road, Webster, MA 01570 or via email to kpizzetti@webster-ma.gov. Sealed proposals must be received at or before 10:00 a.m. on Monday, April 9, 2012 at the Webster Highway Department 23 Cudworth Road Webster, MA 01570.

The Town reserves the right to cancel this RFP prior to the due date for submission of proposals, to reject any or all proposals submitted, to select a proposal other than that offering the highest price, and to award the lease to the proposer offering the most advantageous proposal taking into consideration both price and non-price evaluation, if it is deemed to be in the best interests of the Town.

TOWN OF WEBSTER
REQUEST FOR PROPOSALS
TO
LEASE PROPERTY

The Town of Webster is hereby requesting proposals pursuant to M.G.L. Chapter 30B, §16 for the lease of a portion of a Town owned property and building known as the Memorial Beach Concession Stand and consisting of approximately 700 square feet more or less.

INSTRUCTIONS TO PROPOSERS

Proposals offered in response to this request shall be submitted to the Webster Highway Department, 23 Cudworth Road, Webster, MA 01570 at or before 10:00 a.m. on Monday, April 9, 2012 and each proposal shall be submitted in a sealed envelope clearly marked **"Memorial Beach Concession Stand - Proposal".**

If a prospective proposer has any questions concerning the terms of this request for proposals (RFP), said questions must be submitted to the Highway Superintendent, Kenneth Pizzetti, in writing, at the Highway Garage, 23 Cudworth Road, Webster, MA 01570 no later than one (1) week prior to the due date for submission of proposals. Any additional information provided by the Highway Superintendent shall be provided to all parties who have obtained a copy of the RFP at the address each has specified for such purpose.

Prior to the date and time specified for submission of proposals, proposers may correct, modify, or withdraw a previously submitted proposal. Notice of withdrawal of a proposal shall be in writing addressed to the Highway Superintendent. Any correction or modification shall be submitted in a sealed envelope clearly marked **"Memorial Beach Concession Stand - Modification"** and must be delivered to the Highway Department as specified above prior to the submission deadline. Proposers wishing to inspect the premises shall contact the Highway Superintendent at 23 Cudworth Road, Webster, MA 01570 to make arrangements for such inspection.

The Town reserves the right to cancel this RFP prior to the due date for submission of proposals, to reject any or all proposals submitted, to select a proposal other than that offering the highest price, and to award the lease to the proposer offering the most advantageous proposal taking into consideration both price and non-price evaluation criteria set forth herein, if it is deemed to be in the best interests of the Town to do so. The Town shall waive or disregard any minor informalities in any proposal as required by M.G.L. Chapter 30B.

The selection of the Lessee shall be made no later than five (5) days after the date for submission specified herein. The selected party shall execute the documents required to complete the transaction within five (5) days of notification of selection.

SPECIFICATIONS

This RFP is for the lease of Town owned real property. Future use of the property is to be restricted to the sale of food, non-alcoholic beverages and appurtenant beach concessions. All proposals that are to be considered must meet the following minimum specifications (See attached Lease Agreement for additional specifications).

1. The lease will be for a period of three (3) months running from May 19, 2012 through September 3, 2012.
2. The rental payments shall be made in three (3) equal monthly installments by the 19th of each month starting on or before June 19, 2012. "Historically $150.00 in rent but the Town is willing to negotiate with a successful bidder.
3. The amount of rent will be adjusted if the Board of Health closes the beach.
4. The Concession Stand shall be open at a minimum between the hours of 9:00 a.m. and 5:00 p.m. daily from the start of the lease period through Labor Day.
5. The Town reserves the right to allow other vendors on the premises from time to time as determined by the Town.
6. All beverages and food products must be served in paper or other non-breakable containers.
7. The Town will be responsible for providing adequate waste receptacles and for disposing of all refuse accumulated within the concession and immediate surrounding area in a lawful manner.
8. The Lessee shall be responsible for the payment of any telephone charges.
9. The Lessee shall furnish the Town with Certificate(s) of Insurance in accordance with the Lease Agreement. The certificate shall name the Town of Webster as an additional insured and provide for 30 days notice before cancellation.
10. The Lessee must adhere to all applicable local, state and federal food service establishment regulations.
11. Depending on the use, proposed renovations to the premises and immediate area to meet life safety and public health codes may be required. The cost of such renovations shall be at the Lessee's sole expense.
12. Non-conformance with any of these considerations shall constitute a violation of the Lease Agreement enabling the Town Administrator the right to terminate and void said Lease Agreement.

SUBMISSION REQUIREMENTS

Each proposal submitted in response to this advertisement shall include the following information. Any submission failing to provide all information specified shall be considered non-responsive and shall be rejected without further consideration.

A. Legal information

Each proposal shall clearly and completely state the following information.

1. The correct legal name, address and phone number of the proposer.
2. The type of business entity submitting the proposal (sole proprietorship, partnership, corporation, or non-profit).
3. The name, legal residence and phone number of each owner, partner, principal, corporate officer, and person(s) responsible for on-site management.
4. Name, address and phone numbers for three references who can attest to your Business Performance.

B. Description of Proposed Operation

Each proposal shall clearly and completely state the following information regarding the concession operation.

A detailed written description of the proposer's prior experience with concession operations and any other additional information necessary to insure that the operation will satisfy the specified restrictions. The description must include a list of the location of all concession operations managed within the past three (3) years, and include the name, address, phone number and contact person for the property owner (if any) at each concession location.

C. Financial Information

Each proposal shall clearly and completely state the following information:

1. Bank Reference.
2. List of outstanding liabilities.
3. Identity of insurers.
4. A statement that the business is not currently bankrupt or considering filing for bankruptcy.

D. Required Documentation

Each proposal shall contain the following documents.

1. An executed Certificate of Non-Collusion as required pursuant to M.G.L. Chapter 30B, §10.
2. A Tax Compliance Certificate as required pursuant to M.G.L. Chapter 62C, §49A.
3. A Disclosure of Beneficial Interest form as required pursuant to M.G.L. Chapter 7, §40J.
4. If the proposer is a corporation, evidence of a vote of the corporation authorizing the officer or employee signing on behalf of the corporation to submit said proposal and to execute the required documents if award is made.
5. The Price Proposal Form.
6. The proposal shall be accompanied by a deposit in the form of a certified or cashier's check payable to the Town of Webster in the amount of one hundred dollars ($100.00). Should the selected proposer fail to enter into a lease agreement within fifteen (15) days after notification the deposit shall be forfeited to the Town of Webster. Upon final execution of the lease with the successful proposer, the deposit submitted by each unsuccessful proposer shall be returned.

EVALUATION CRITERIA
MINIMUM CRITERIA

The specifications and documentation specified above shall constitute the minimum evaluation criteria. Any proposal which complies with all of the specifications and includes all of the required documentation will be considered to be responsive.

Additionally, proposals will be evaluated to identify responsible proposers. Minimum evaluation criteria shall consist of the following:

1. The business entity submitting the proposal must have been in food service industry for a minimum of three (3) years and rated by the following criteria:

More than 10 years experience	Highly advantageous
From 5 to 10 years experience	Advantageous
From 3 to 5 years experience	Somewhat advantageous
Less than 3 years experience	Not advantageous

2. Cost of renovations to the premises and immediate area including renovations required to meet life safety and public health codes. Proposals shall be ranked on the basis of the present value of the total cost offered, with the proposer offering the highest renovation costs ranked first, and the remaining proposers ranked in descending order thereafter.

3. Business entity is not currently bankrupt or considering filing bankruptcy.
4. References will be contacted to ascertain whether the proposers have a documentable record of nonperformance regarding contractual obligations.

PRICE PROPOSAL

Price proposals shall be ranked on the basis of the present value of the total lease price offered, with the proposer offering the highest lease price ranked first, and the remaining proposers ranked in descending order thereafter. The Town expressly reserves the right to consider non-price elements of proposals and to make the award to a proposer other than the one offering the highest price.

SELECTION OF THE MOST ADVANTAGEOUS PROPOSAL

The proposal that meets the specifications and minimum criteria and offers the highest price will be selected.

CERTIFICATE OF NON-COLLUSION

TOWN OF WEBSTER
REQUEST FOR PROPOSALS
TO LEASE PROPERTY
MEMORIAL BEACH CONCESSION STAND

The undersigned certifies under the penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. 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.

_____
Name of person signing proposal

_____
Name of Business

_____
Date

DISCLOSURE STATEMENT
LEASE OF REAL PROPERTY

TOWN OF WEBSTER
REQUEST FOR PROPOSALS
TO LEASE PROPERTY
MEMORIAL BEACH CONCESSION STAND

For the lease of real property by the Town of Webster, the undersigned does hereby state, for the purpose of disclosure pursuant to M.G.L. Chapter 7, §40J, of a transaction relating to real property as follows (attach sheets if necessary):

1. Real Property: MEMORIAL BEACH CONCESSION STAND

2. Term: 3 MONTH LEASE

3. Seller or Lessor: TOWN OF WEBSTER

4. Buyer or Lessee:

5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the property as Lessee.

Name	Residence

6. None of the above mentioned person(s) is an employee of the Town of Webster or an official elected to public office in the Commonwealth of Massachusetts except as listed below.

Signed under the penalties of perjury.

_____ _____
Name Date

_____
Title

TAX AFFIDAVIT FORM

TOWN OF WEBSTER
REQUEST FOR PROPOSALS
TO LEASE PROPERTY
MEMORIAL BEACH CONCESSION STAND

Date: _____ - _____ - _____

Firm Name: _____

Address: _____

City (Town): _____

Telephone: (_____) _____ - _____

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

_____
*Signature of Individual or Corporate Name

_____
By: Corporate Officer (if applicable)

_____
Social Security Number
or Federal Identification Number

*Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

PRICE PROPOSAL FORM

TOWN OF WEBSTER
REQUEST FOR PROPOSALS
TO LEASE PROPERTY
MEMORIAL BEACH CONCESSION STAND

The undersigned proposes to enter into a three (3) month Lease Agreement commencing May 19, 2012 and ending September 3, 2012, in accordance with the terms and conditions of the Specifications and to pay to the Town of Webster "Historically $150.00 in rent but the Town is willing to negotiate with a successful bidder."

In the amount of $_____ per month for three (3) months. "

Submitted this _____ day of June 2012.

_____
Name of Proposer

_____
Signature

_____
Business Address

_____
Telephone Number

LEASE AGREEMENT

The following provisions shall constitute an Agreement between the Town of Webster, with an address of 350 Main Street, Webster, MA 01570, acting by and through its Town Administrator, hereinafter referred to as the "Town", and _____, with an address of _____, herein referred to as "Lessee", effective as of the date written beneath the Town Administrator's signature. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. The Lessee hereby agrees to lease the property known as the Memorial Beach Concession Stand consisting of approximately 700 square feet more or less, located in Webster, Massachusetts.
2. The lease shall be for a period of three (3) months commencing May 19, 2012 and ending September 3, 2012
3. The Lessee will lease the property at the monthly rate of $_____. Payments shall be made on or before the 19th of each month commencing on or before June 19, 2012.
4. The Lessee shall at the expiration of said term, or before if either party terminates the Lease, peaceable yield up to said Town, the premises in such repair and condition as the same are in at the commencement of said term except for reasonable wear and tear.
5. The Lessee agrees to pay, and to protect, indemnify and save harmless the Town from and against any and all liabilities, losses, damages, costs, expenses including all reasonable attorney's fees, causes of action suits, claims, demands or judgments of any nature whatsoever arising from any injury to, or the death of, any persons or any damage to personal property on the Leased premises, on the immediate grounds of which the Leased Premises are a part or in any manner growing out of or connected with the Lessee's use, non-use, condition or occupation of the Leased Premises or any part thereof, violation by the Lessee of any agreement or condition of the Lease or violation by the Lessee of any law, by-law or regulation affecting the Leased Premises or any part thereof or the ownership, occupancy or use thereof, or the operation of the concession including all public health laws, rules and regulations concerning the sale of food and beverages.
6. The Lessee shall be responsible and pay for any telephone bill. The Town will pay any and all other utilities associated with the use of the premises. Additionally, the Lessee shall be responsible for all other type of custodial and maintenance requirements including the normal cleaning of the leased premises and at all times shall keep such premises in a neat and clean condition. The Town will provide periodic pickup of rubbish.
7. Lessee may make alterations or additions to the Leased Premises provided the Town consents thereto in writing. All such alterations shall be at the Lessee's expense and shall be in quality, at least equal to the present construction. The Lessee shall not permit any mechanics liens, or similar liens, to remain on the property. Any alterations or improvements made by the Lessee shall be come the property of the Town at the termination of occupancy.
8. The Lessee shall maintain, at its expense, insurance on the Leased Premises naming the Town of Webster as an additional insured. The Lessee shall provide Workmen's Compensation Insurance covering all persons employed in connection with any work done on or about the Leased Premises or a comparable program of self-insurance complying with such rules, regulations, and requirements that any appropriate state agency may from time to time enforce. The Lessee shall be responsible to the Town or any third party for any property

damage or bodily injury caused by it, any of its sub-lessees, employees or agents in the performance of, or as a result of, the work under this Agreement. The Lessee and any sub-lessees used hereby certify that they are insured for workers' compensation, property damage, personal and product liability. The Lessee and any sub-lessee it uses shall purchase, furnish copies of, and maintain in full force and effect insurance policies in the amounts here indicated:

General Liability	
Bodily Injury Liability	$1,000,000 per occurrence
Property Damage Liability	$ 500,000 per occurrence
(or combined single limit)	$1,000,000 per occurrence
Automobile Liability	
Bodily Injury Liability	$1,000,000 per occurrence
Property Damage Liability	$ 500,000 per occurrence
(or combined single limit)	$1,000,000 per occurrence

Workers' Compensation Insurance
Coverage for all employees in accordance with Massachusetts General Laws

Prior to commencement of any work under this Agreement, the Contractor shall provide the Town with Certificates of Insurance that include the Town as an additional named insured and which provide for a thirty day notice of cancellation to the Town.

9. The Lessee shall not sublet nor assign the premises without the prior written approval of the Town. No amendment or modification of the terms and conditions of this lease shall be effective unless stated in writing and signed by the parties hereto.
10. The Lessee may terminate this agreement upon sixty (60) days advance written notice to the Town. In the event of a default or failure of the Lessee to comply with any term or condition of this Lease, The Town shall provide written notice of said default. If the Lessee fails to cure said default within ten (10) days, the Town may terminate this Lease by giving written notice to the Lessee stating therein the termination date.
11. This Lease incorporates by reference the Request for Proposals issued by the Town on May 19, 2012 and the Proposal submitted by Lessee in response thereto as if such documents are set out here in full. The operation of the concession shall be as stated in such Proposal, unless the Town has approved in writing any change in such operation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

LESSEE

By:

_____

TOWN

By:

_____.
John F. McAuliffe
Town Administrator
Date: _____