

SPECIFICATIONS AND BID MATERIALS
FOR
PUBLIC BEACH ICE CREAM VENDING CONCESSION

CITY OF NORTH WILDWOOD
CAPE MAY COUNTY
NEW JERSEY
MAYOR AND COUNCIL - 2024

FOR ADDITIONAL INFORMATION CONTACT:

W. Scott Jett, R.M.C., City Clerk
North Wildwood City Hall
901 Atlantic Ave.
North Wildwood, NJ 08260
(609) 522-2030

TABLE OF CONTENTS

Notice to BiddersNB-1

General Information for Bidders..... GI-1

Ownership Disclosure Statement.....OD-1

Non-Collusion Affidavit.....NCA-1

Russia-Belarus-Iran Disclosure.....IA-1

Contract..... CON-1

Ordinance 1891 Appendix A

Ordinance 1925.....Appendix B

NOTICE TO BIDDERS

CITY OF NORTH WILDWOOD
901 Atlantic Avenue
North Wildwood, New Jersey 08260
(609) 522-2030

PLEASE TAKE NOTICE that on **Wednesday, March 13, 2024 at 2:00 PM** prevailing time, in the Council Chambers of the North Wildwood City Hall, 901 Atlantic Avenue, North Wildwood, NJ 08260, the City of North Wildwood will receive, by public auction, oral bids for the following: Public Beach Ice Cream Vending Concession for a 1-year concession contract at a minimum bid of \$60,000 for the 2024 summer season. The concession contract for the 2024 summer season shall consist of six (6) vending licenses.

Upon conclusion of the auction, the successful bidder shall pay 20% of the (first year) concession contract amount, or \$20,000.00 whichever is less. Payment shall be in the form of a certified check, cashier's check or cash.

At the time of the auction the highest bidder shall submit to the City an Ownership Disclosure Statement as well as a Non-Collusion Affidavit on a form established and provided by the City. The required forms, the General Information for Bidders and all other bidding and contract documents, forms and materials, can be obtained by contacting the City Clerk at the City of North Wildwood Municipal Building which is located at 901 Atlantic Avenue, North Wildwood, NJ 08260 and whose telephone number is (609) 522-2030 or via www.northwildwood.com.

At the time of the auction no individual, corporation, limited liability company or partnership shall be permitted to participate in the auction unless, prior to commencement of the auction, such individual, corporation, limited liability company or partnership meets the following requirement:

- A. In the case of an individual, he or she shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.
- B. In the case of a corporation, limited liability company or partnership, the principal owner or shareholder, managing member or partner shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either

the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.

Prospective contractors are required to comply with the requirements of P.L. 2012, c.25, P.L. 2022, c.3 and N.J.S.A. 40A:11-2.1 which require that any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract with a local contracting unit must complete a certification attesting, under penalty of perjury, that the person or entity, or one of the person or entity's parents, subsidiaries or affiliates is not identified on a list created or maintained by the New Jersey Department of the Treasury as a person or entity engaging in investment activities in Russia, Belarus or Iran.

Bidders are required to comply with the requirements of N.J.S.A. 10:5-31, *et seq.* and N.J.A.C. 17:27 (Contract Compliance and Affirmative Action for Public Contracts). The statutory and regulatory language of those statutes and administrative regulations are incorporated into the specifications and the contract with the successful bidder by reference.

The concession shall be awarded to the responsible bidder bidding the highest bid therefor.

City Council reserves the right to reject any and all bids or to waive any irregularities or informalities as may be permitted by law.

BY ORDER OF THE MAYOR AND
COUNCIL

W. Scott Jett, City Clerk

GENERAL INFORMATION FOR BIDDERS

Invitation to Bid. PLEASE TAKE NOTICE that oral auction bids will be received by the City Clerk of the City of North Wildwood on **Wednesday, March 13, 2024 at 2:00 PM**, prevailing time, in the Council Chambers, North Wildwood City Hall, 901 Atlantic Avenue, North Wildwood, NJ 08260 for a concession to sell ice cream on the public beaches of the City of North Wildwood for a 1-year concession contract, in accordance with Ordinance #1891 and Ordinance #1925. The concession will be for all areas designated by City Council, by resolution adopted in accordance with §138-31 of the Code of the City of North Wildwood, as being subject to protection by the North Wildwood Beach Patrol. The minimum bid for the 2024 summer season is **Sixty Thousand (\$60,000) Dollars**. The concession contract for the 2024 summer season shall consist of six (6) vending licenses.

- I. Submitting or Delivery of Bids.** Bids must be submitted at the time designated in the Notice to Bidders and in Paragraph I above in person by the bidder.

The City of North Wildwood reserves the right to reject any or all bids in whole or in part and to waive such informalities as may be permitted by law.

- II. Time and Place for Acceptance of Bids.** The City has designated the City Clerk as the person authorized to receive all bids for the City of North Wildwood. Oral auction bids will be received by the City Clerk on March 13, 2024 at 2:00 PM, prevailing time, in the City Council Chambers in North Wildwood City Hall located at 901 Atlantic Avenue, North Wildwood, NJ 08260.

- III. Bid Form.** All bids must be orally submitted.

- IV. Highest Qualified Bidder.** At the time of the auction no individual, corporation, limited liability company or partnership shall be permitted to participate in the auction unless, prior to commencement of the auction, such individual, corporation, limited liability company or partnership meets the following requirement:

- A. In the case of an individual, he or she shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.

- B. In the case of a corporation, limited liability company or partnership, the principal owner or shareholder, managing member or partner shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.

The concession will be awarded to the responsible bidder whose bid is the highest number of dollars and who satisfies all of the other requirements that are prescribed by Ordinance 1891.

- V. **Awarding of Concession.** The qualifications of bidders will be reviewed and the award of the concession shall be contingent upon adoption of a resolution by the City Council confirming the award of the concession to the high bidder. The successful bidder will be required to execute the concession contract, a copy of which is attached to this bid package. The concession contract for the 2024 summer season will include six (6) licenses to sell ice cream products on the public beaches of the City of North Wildwood.
- VI. **Obligation of Bidder.** Bidders should review North Wildwood Ordinance #1891 and Ordinance #1925, (copies of which is annexed hereto and, by this reference, is deemed to be a part of this General Information for Bidders) in order to familiarize themselves with the ordinance to which this concession in part will be subject. At the time of the receipt of bids, each bidder will be presumed to have read and to be thoroughly familiar with the contents of the Notice to Bidders, this General Information for Bidders, Ordinance #1891 and Ordinance #1925 and the concession contract which is included with this bid package. Bidders should, in particular, note that under the provisions of Ordinance #1891 this concession is limited to the sale of ice cream products on the public beaches of North Wildwood. The sale of any other food items, beverages or merchandise of any type whatsoever by the concessionaire shall be deemed a material breach of the concession resulting in a termination of the concession. The failure or omission of any bidder to receive or examine any form, instrument, or document, shall in no way relieve any bidder from any obligation with respect to his bid.

- VII. Investigation of Qualifications.** The City of North Wildwood will make such investigations as it deems necessary to determine the responsibility of the prospective concessionaire and the prospective concessionaire shall furnish the City of North Wildwood all such information as may be requested by the City of North Wildwood notwithstanding the fact that the release of such information to the City of North Wildwood may result in the disqualification of the prospective concessionaire and the proposal submitted.

The City of North Wildwood reserves the right to reject any bid if the evidence submitted by, or the investigation of, such prospective concessionaire fails to satisfy the City of North Wildwood that such prospective concessionaire properly is qualified to carry out the obligations of the concession contract as described in this document.

VIII. Ownership Disclosure Statement; Non-Collusion Affidavit; Disclosure of Investment Activities in Russia, Belarus and Iran.

- a. **Ownership Disclosure Statement.** Prospective contractors are required to comply with the requirements of the Public Law, 1975, C.127 N.J.S.A. 34:11-56, 25 et. seq. as amended in Chapter 64 of the Laws of 1974 and P.L. 1977 Ch. 33, N.J.S.A. 52:25-24.2 which requires a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class, or of all individual partners in the partnership who own 10% or greater interest therein, as the case may be. An Ownership Disclosure Statement is annexed.
- b. **Non-Collusion Affidavit.** At the time of the auction the highest bidder shall complete and submit a Non-Collusion Affidavit on a form provided by the City of North Wildwood.
- c. **Disclosure of Investment Activities in Russia, Belarus and Iran.** Prospective contractors are required to comply with the requirements of P.L. 2012, c.25, P.L. 2022 c.3 and N.J.S.A. 40A:11-2.1 which require that any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract with a local contracting unit must complete a certification attesting, under penalty of perjury, that the person or entity, or one of the person or entity's parents, subsidiaries or affiliates is not identified on a list created or maintained by the New Jersey Department of the Treasury as a person or entity engaging in investment activities in Russia, Belarus or

Iran. A Certification is annexed.

IX. Termination of Concession Contract. Failure on the part of the Concessionaire to comply with any of the provisions of Ordinance #1891 or Ordinance #1925 or the documents attached hereto or with any other law that is applicable to operation of the concession, shall be sufficient cause for the termination of the concession. In the event of death of the concessionaire or bankruptcy, insolvency, or appointment of a receiver, the City of North Wildwood may declare the concession is terminated.

X. For additional information contact:

W. Scott Jett, R.M.C., City Clerk
North Wildwood City Hall
901 Atlantic Avenue,
North Wildwood, New Jersey, 08260
Telephone: 609-522-2030
Email: sjett@northwildwood.com

OWNERSHIP DISCLOSURE STATEMENT

In accordance with P.L. 1977, c. 33 ((N.J.S.A. 52:25-24.2), corporate and partnership bidders on this Contract must submit a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class, or of all individual partners in the partnership who own a 10% or greater interest therein, as the case may be. If one of more such stockholder or partner is itself a corporation or partnership, the names and addresses of stockholders holding 10% or more of that corporation's stock, or of the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every known corporate stockholder, and individual partner, exceeding the 10% ownership criterion, has been listed. If the bidder is neither a corporation nor a partnership, he shall so attest in the spaces provided below. For the purpose of responding to this Ownership Disclosure Statement, a Limited Liability Company shall be considered equivalent to a partnership and as such, bidders must provide the information requested herein regarding ownership.

NAME

ADDRESS

Note: Add additional pages if necessary.

Note: Submit Statement for each member if a Joint Venture.

Signature of Disclosure Statement on behalf of Partnership or Limited Liability Company:

Name of Partnership or Limited Liability
Company

Witness Signature

By _____
General Partner or Authorized Member
Date: _____

Signature of Disclosure Statement on behalf of Corporation (President and Secretary must sign or corporate resolution authorizing others to sign must be affixed). Affix corporate seals to all resolutions and to the Statement.

Attest:

Name of Corporation:

By _____

Corporate Seal

Date: _____

Signature of Disclosure Statement by Individual Proprietor.

The Bidder is Neither a Corporation Nor a Partnership.

Witnessed:

(Signature of Individual Proprietor)

Date: _____

NON-COLLUSION AFFIDAVIT

STATE OF NEW JERSEY :
 : SS.
COUNTY OF CAPE MAY :

I, _____, being duly sworn, depose and say:
(Name of Affiant)

1. I am the bidder submitting the bid proposal for the: **North Wildwood Beach Ice Cream Vending Concession.**
2. I have not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the aforementioned bid proposal.
3. All statements contained in said bid proposal and in this affidavit are true and correct and made with full knowledge that the City of North Wildwood will rely upon the truth of the statements contained in this affidavit and in said bid proposal in awarding the concession contract.
4. I further warrant that no person or selling agency has been employed or retained to solicit or secure such concession upon an agreement or understanding for a commission, percentage brokerage or contingent fee.

Name: _____

Signature: _____

Date: _____

Subscribed and sworn to before me this _____
day of _____, _____.

Notary Public of
My Commission expires _____, _____.

Prohibited Russia-Belarus Activities & Iran Investment Activities

Person or Entity

Part 1: Certification

COMPLETE PART 1 BY CHECKING ONE OF THE THREE BOXES BELOW

Pursuant to law, any person or entity that is a successful bidder or proposer, or otherwise proposes to enter into or renew a contract, for goods or services must complete the certification below prior to contract award to attest, under penalty of perjury, that neither the person or entity, nor any parent entity, subsidiary, or affiliate, is identified on the Department of Treasury's Russia-Belarus list or Chapter 25 list as a person or entity engaging in prohibited activities in Russia, Belarus or Iran. Before a contract for goods or services can be amended or extended, a person or entity must certify that neither the person or entity, nor any parent entity, subsidiary, or affiliate, is identified on the Department of Treasury's Russia-Belarus list. Both lists are found on Treasury's website at the following web addresses:

<https://www.nj.gov/treasury/administration/pdf/RussiaBelarusEntityList.pdf>
www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf.

As applicable to the type of contract, the above-referenced lists must be reviewed prior to completing the below certification.

A person or entity unable to make the certification must provide a detailed, accurate, and precise description of the activities of the person or entity, or of a parent entity, subsidiary, or affiliate, engaging in prohibited activities in Russia or Belarus and/or investment activities in Iran. The person or entity must cease engaging in any prohibited activities and provide an updated certification before the contract can be entered into.

If a vendor or contractor is found to be in violation of law, action may be taken as appropriate and as may be provided by law, rule, or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring the party in default, and seeking debarment or suspension of the party.

CONTRACT AWARDS AND RENEWALS



I certify, pursuant to law, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate appears on the N.J. Department of Treasury's lists of entities engaged in prohibited activities in Russia or Belarus pursuant to P.L. 2022, c. 3 or in investment activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. (Skip Part 2 and sign and complete the Certification below.)

CONTRACT AMENDMENTS AND EXTENSIONS



I certify, pursuant to law, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate is listed on the N.J. Department of the Treasury's lists of entities determined to be engaged in prohibited activities in Russia or Belarus pursuant to P.L. 2022, c. 3. I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. (Skip Part 2 and sign and complete the Certification below.)

IF UNABLE TO CERTIFY



I am unable to certify as above because the person or entity and/or a parent entity, subsidiary, or affiliate is listed on the Department's Russia-Belarus list and/or Chapter 25 Iran list. I will provide a detailed, accurate, and precise description of the activities as directed in Part 2 below, and sign and complete the Certification below. Failure to provide such will prevent the award of the contract to the person or entity, and appropriate penalties, fines, and/or sanctions will be assessed as provided by law.

Part 2: Additional Information

PLEASE PROVIDE FURTHER INFORMATION RELATED TO PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS AND/OR INVESTMENT ACTIVITIES IN IRAN.

You must provide a detailed, accurate, and precise description of the activities of the person or entity, or of a parent entity, subsidiary, or affiliate, engaging in prohibited activities in Russia or Belarus and/or investment activities in Iran in the space below and, if needed, on additional sheets provided by you.

Part 3: Certification of True and Complete Information

I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments there, to the best of my knowledge, are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity.

I acknowledge that the City of North Wildwood is relying on the information contained herein and hereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the City of North Wildwood to notify the City of North Wildwood in writing of any changes to the answers of information contained herein.

I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the City of North Wildwood and that the City of North Wildwood at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print)		Title	
Signature		Date	

CONCESSION CONTRACT

CITY OF NORTH WILDWOOD CAPE MAY COUNTY, NEW JERSEY FOR

SALE OF ICE CREAM PRODUCTS ON NORTH WILDWOOD PUBLIC BEACHES

THIS AGREEMENT made and entered into this ____ day of _____, 2024 by and between the City of North Wildwood, a New Jersey municipality with its offices located at 901 Atlantic Avenue, North Wildwood, NJ 08260, party of the first part, hereinafter designated as the "North Wildwood", and _____ having his/her principal place of business at _____, hereinafter designated as the "Concessionaire".

WITNESSETH:

WHEREAS, City Council has authorized the execution of a Concession Contract with Concessionaire pursuant to Resolution No. ____-24 adopted on the 19th day of March, 2024;

NOW, THEREFORE, for and in exchange of the covenants and conditions set forth herein and for such monetary consideration as set forth herein, North Wildwood and Concessionaire agree as follows:

ARTICLE I –DEFINITIONS

Wherever the words defined in this Agreement or pronouns used in their stead, occur in this Agreement and the Specifications they shall have the following meanings:

The term "**North Wildwood**" shall mean the party of the first part above designated or any agency or officer or representative duly authorized to act in its place.

The word "**Concessionaire**" shall mean the party of the second part above designated entering into this Agreement and the legal representatives of the said party or agents appointed to act for the said party in the operation of the concession.

The word "**Agreement**" shall mean, collectively, all of the covenants, terms and stipulations in this Concession Contract and in the supplementary documents which constitute essential parts of this Agreement and are hereby made such parts thereof, to wit:

- Notice to Bidders published on February 21, 2024
- Resolution #____-24 dated March 19, 2024
- General Information for Bidders

- Ownership Disclosure Statement
- Non-Collusion Affidavit
- Disclosure of Investment Activities in Russia, Belarus and Iran

The word "**Specifications**" shall mean, collectively, all of the terms and stipulations contained in the "General Information to Bidders" and in City of North Wildwood, Ordinance #1891, annexed hereto as Exhibit "A" and Ordinance #1925, annexed hereto as Exhibit "B."

Wherever in the Specifications or this Agreement the words "directed", "required", "permitted", "ordered", "instructed", "designated", "considered necessary", or words of like import are used, it shall be understood that the direction, requirement, permission, order, instruction, designation, or decision of North Wildwood is intended and, similarly, the words "approved", "acceptable" or satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to, North Wildwood unless another meaning is plainly intended.

ARTICLE II – GRANT OF CONCESSION

The Concessionaire shall be and hereby is given the sole and exclusive privilege to operate a concession for the sale of ice cream products upon the portions of the North Wildwood beach that City Council, pursuant to resolution adopted in accordance with §138-31 of the Code of the City of North Wildwood, has designated as being subject to protection by the North Wildwood Beach Patrol, all to be in the manner, within the time and for the consideration herein stipulated and agreed upon. As set forth in Ordinance 1891, this concession is for the sale of ice cream products only. No other items of food, drinks, beverages or merchandise of any nature whatsoever are permitted to be sold under the terms and conditions of this concession. A Concessionaire found to have sold anything other than ice cream products will have materially breached this concession contract. Such material breach of this concession contract shall constitute grounds for immediate termination of this concession contract by resolution of City Council. In the event that it reasonably is believed that the Concessionaire has breached this concession contract by reason of selling any item other than ice cream products, then the concession may be suspended by written notice from the Mayor, Chief of Police, City Administrator or Beach Patrol Chief, served upon the Concessionaire. Such suspension of the concession shall remain in effect until further action is taken by City Council to terminate the concession by resolution.

ARTICLE III – SERVICES PROVIDED SHALL BE IN ACCORDANCE WITH SPECIFICATIONS

The intent of the Specifications and this Agreement is that the Concessionaire shall furnish all products, services, labor, materials, equipment and transportation necessary for the proper operation of the concession unless specifically noted otherwise.

a. Discrepancies: Any discrepancies found between the Specifications and work conditions or any inconsistencies or ambiguities in the Specifications shall be immediately reported to North Wildwood, who, if warranted, shall promptly correct such inconsistencies or ambiguities in writing.

b. Adequacy: The complete requirements of the services to be performed under this Agreement shall be set forth in the Specifications as supplied by the North Wildwood. The Specifications shall be considered inseparable documents and in considering them the Concessionaire shall rely upon this instrument in order to provide the services in accordance with

their combined intent.

c. Conformance: The services to be performed must conform with the Specifications and other directions of North Wildwood as to the quality of the services specified as given from time to time under the terms of this Agreement.

ARTICLE IV - RIGHTS AND RESPONSIBILITIES OF CONCESSIONAIRE

All services performed under this Agreement shall be done in strict accordance with the Specifications and the terms and conditions of this Agreement. All services performed shall be performed by the Concessionaire and by no other person. The Concessionaire shall be responsible for the means, methods, techniques and procedures for operating the concession.

From the commencement of Term, as set forth below, the Concessionaire shall be solely responsible for the operation of the concession during the Term of the Concession, for equipment used and intended to be used in the operation of the concession and for protection to private or public property. Any injury or damage to the same shall be repaired at the Concessionaire's expense.

The Concessionaire shall be responsible for any loss or damage to his equipment and shall carry such insurance covering said loss or damage as may be required by the Specifications and this Agreement.

ARTICLE V – TERM; PAYMENT; LATE FEES

The Term of the concession contract begins with the 2024 summer season which is deemed to begin upon execution of this Agreement and is deemed to end on September 30, 2024.

a. In consideration of the award of this concession by North Wildwood to the Concessionaire, the Concessionaire shall pay North Wildwood the sum of \$ _____ for the initial 2024 summer season payable as follows: 20% at the close of bidding; balance on or before April 15, 2024.

Any amount due under this Agreement, which are made (10) or more days after the due date, shall be subject to a late charge of five (5%) percent of the amount of the payment, with a minimum late charge of \$100.00.

ARTICLE VI - LAWS AND REGULATIONS

The Concessionaire shall keep himself informed of all laws, ordinances and regulations in any manner affecting operation of the concession, the materials used in the concession or in any way affecting the operation of the concession, and all orders or decrees of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency shall be discovered in this Agreement or in the Specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same in writing to North Wildwood. He shall at all times himself observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees; and shall protect and indemnify North Wildwood, its officers and agents against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree.

ARTICLE VII - ASSIGNMENT AND SUBLETTING

The Concessionaire shall keep the work under his personal control and shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or his right, title or interest in or to the same or any part thereof.

ARTICLE VIII - NORTH WILDWOOD'S RIGHT TO TERMINATE AGREEMENT AND COMPLETE WORK

North Wildwood shall have the right to terminate this Agreement with the Concessionaire after giving five (5) days written notice of termination to the Concessionaire in the event of any default by the Concessionaire.

- a. Default by the Concessionaire: It shall be considered default by the Concessionaire whenever he shall:
 - (i) Declare bankruptcy, become insolvent, or assign his assets for the benefit of his creditors; or
 - (ii) Disregard or violate any provision of the Specifications or this Agreement or fail to operate the concession according to the agreed schedules and specifications; or
 - (iii) Fail to comply with North Wildwood Ordinance #1891 or Ordinance #1925 or any other law applicable to operation of the concession.
- b. Completion by the North Wildwood: In the event of termination of this Agreement by North Wildwood because of the default by the Concessionaire, North Wildwood may take any action authorized by North Wildwood Ordinance 1891 or by any other applicable law.

ARTICLE IX - INDEMNIFICATION AND HOLD HARMLESS

Concessionaire shall indemnify, save harmless and defend the City of North Wildwood, its elected and appointed officials, its employees, agents, volunteers and others working on behalf of the City of North Wildwood, from and against any and all claims, losses, costs, attorney's fees, damages, or injury, including death and/or property loss, expense claims or demands arising out of or caused or alleged to have been caused in any manner by the operation of the concession under this Agreement, including all suits or actions of every kind or description brought against the City of North Wildwood, either individually or jointly with Concessionaire, for or on account of any damage or injury to any person or persons or property, caused or occasioned or alleged to have been caused by, or on account of, the operation of the concession by the Concessionaire pursuant to or in connection with this Agreement, or through any negligence or alleged negligence in safeguarding the work area, or through any act, omission or fault or alleged act, omission or fault of the Concessionaire. This indemnification and hold harmless agreement shall apply in all instances whether the City of North Wildwood, as well as its agents and employees,

is made a direct party to the initial action or claim or subsequently is made a party to an action by third-party in-pleading or is made a party to a collateral action arising, in whole or in part, from any of the issues emanating from the original cause of action or claim.

ARTICLE X - ORAL AGREEMENTS

No oral order, objection, claim or notice by any party to the other shall affect or modify any of the terms or obligations contained in any of the Specifications or this Agreement, and none of the provisions of the Specifications or this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a specifically agreed upon waiver or modification thereof in writing, and in the absence of thereof no evidence shall be introduced in any proceeding of any other waiver or modification.

ARTICLE XI - LEGAL ADDRESS AND WRITTEN NOTICES

All notices to be given shall be given in writing and shall be delivered personally or by registered or certified mail, return receipt requested as follows:

- a. If to North Wildwood, address to City of North Wildwood, 901 Atlantic Ave., North Wildwood, New Jersey 08260; attention: City Clerk.
- b. If to Concessionaire, address as listed upon page one of this Agreement.

ARTICLE XII - INSURANCE

As a condition precedent to North Wildwood's obligation to execute this Agreement, the Concessionaire is required to submit evidence (consisting of Certificates of Insurance and/or copies of the insurance policies with all endorsements) satisfactory to North Wildwood showing that the Concessionaire has obtained all insurance coverage required herein. The Concessionaire is not permitted to operate the concession unless all of the insurance required by this Agreement is in effect.

Nothing contained in this Article entitled "Insurance" or in the Specifications shall be construed as limiting the extent of the Concessionaire's liability for claims or damages resulting from or related to the Concessionaire's operations under this Agreement.

All insurance required hereunder shall include the interests of North Wildwood as an additional insured on such policies. Concessionaire waives all rights against North Wildwood in such policies for all losses and damages caused by any of the perils covered by such policies and all such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any of the parties named as an additional insured.

The Concessionaire acknowledges that North Wildwood has insurable interests in the concession under the Concessionaire's insurance policies.

The Concessionaire shall purchase and maintain, at his/her sole expense, insurance as will provide protection from claims and liabilities which may arise out of or result from Concessionaire's operation of the concession and Concessionaire's other obligations under the Specifications and this Agreement, whether it is to be performed or furnished by Concessionaire or by anyone for whose acts the Concessionaire may be liable, with companies satisfactory to North Wildwood, as follows:

- a. Commercial General Liability Insurance – Comprehensive broad-form general public liability insurance for all known risks and hazards, including, but not limited to general liability, recreational liability and such other risks and hazards in an amount of at least \$1,000,000.00 per person and \$2,000,000.00 per occurrence for bodily injury coverage and at least \$50,000.00 for property damage coverage arising from the Concessionaire's activities and operations under the terms of this Agreement.
- b. Comprehensive Automobile Liability Insurance Coverage – Covering the Concessionaire for claims arising from all owned, hired and non-owned vehicles with a \$1,000,000.00 combined single limit.
- c. Policy Limits - Specified above are minimum, and wherever the law requires higher limits, the higher limits shall govern.
- d. Periods of Coverage - All other policies required under this Agreement shall remain in full force and effect throughout the term of this Agreement.
- e. Certificates - Certificates of the insurance required above must be filed with North Wildwood before this Agreement is signed on behalf of North Wildwood. The Certificate(s) must expressly stated that, "All insurance

coverage required by the provisions of the North Wildwood Beach Ice Cream Concession with the City of North Wildwood have been provided.” All Certificates of Insurance must provide for a minimum fifteen (15) days prior written notice to North Wildwood of any policy cancellation, material change, or non-renewal.

- f. Forms of Policies - All liability insurance shall be on an occurrence basis.

ARTICLE XIII - MISCELLANEOUS

- a. Damage to Property - Any damage that is done to any private property (real, personal or otherwise) or to any City of North Wildwood property (real, personal or otherwise) must be reported to the City of North Wildwood Director of Public Works and to the City of North Wildwood City Administrator within eight (8) hours of the occurrence of the incident resulting in said damage. As to any such damage caused by the Concessionaire, it is the sole responsibility of the Concessionaire to provide for repair or replacement, as the case may be, of the damaged property.
- b. Governing Law and Litigation - This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Jersey and any litigation arising out of the performance or non-performance of the terms and conditions of this Agreement shall be conducted in the Superior Court of New Jersey, Cape May County.
- c. Headings - The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- d. Attorney Review - North Wildwood and Concessionaire acknowledge that they have had adequate opportunity to review the contents of this Agreement with their respective legal counsel and have executed this Agreement with full and complete understanding of its terms. North Wildwood and Concessionaire further agree that no inference concerning the meaning or interpretation of this Agreement shall be drawn based upon the fact that it has been drafted by North Wildwood’s legal counsel.

ARTICLE XIV - EXECUTION OF CONTRACT

IN WITNESS WHEREOF, the parties have set their hands and seals the day, month and year first written above.

Attest:

CITY OF NORTH WILDWOOD

W. Scott Jett, City Clerk

By: _____
Patrick Rosenello, Mayor

Witness:

NORTH WILDWOOD ACKNOWLEDGMENT

STATE OF NEW JERSEY :
 : ss.
COUNTY OF CAPE MAY :

I CERTIFY, that on this _____ day of _____, 20____ before me personally appeared W. Scott Jett and acknowledged under oath to my satisfaction that:

- a. He is the City Clerk of the City of North Wildwood;
- b. He well knows the seal of the City of North Wildwood and that the seal affixed to this document is such seal and was affixed to this document by the proper official, Patrick Rosenello, who is the Mayor of the City of North Wildwood;
- c. He is the attesting witness to the signing of this contract by the said Mayor of the City of North Wildwood;
- d. This document was signed and delivered by the City of North Wildwood as its voluntary act duly authorized by a resolution of the governing body of the City of North Wildwood.

Sworn to and subscribed before me
the date aforesaid

PERSONAL ACKNOWLEDGMENT

STATE OF NEW JERSEY :
 : ss.
COUNTY OF CAPE MAY :

BE IT REMEMBERED, that on this ____ day of _____, 20____ before me, the subscriber, personally appeared _____ who, I am satisfied, is the person named in and who executed the within instrument, and thereupon acknowledged that the instrument was signed, sealed and delivered as his/her Act and Deed, for the uses and purposes therein expressed.

Sworn to and subscribed before me
the date aforesaid

**CITY OF NORTH WILDWOOD
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1891

**AUTHORIZING A CONCESSION FOR THE SALE OF ICE CREAM
PRODUCTS UPON THE PUBLIC BEACHES OF THE CITY OF NORTH
WILDWOOD**

WHEREAS, Ordinance No. 568, adopted June 29, 1971, as amended, has been codified in the Code of the City of North Wildwood in Chapter 330, Peddling and Soliciting; and

WHEREAS, Ordinance No. 568, as amended, provided for the issuance of 10 vendor licenses for the sale of ice cream products on the beaches of the City of North Wildwood; and

WHEREAS, as of the end 2022, only four of those licenses are being used, as previous license holders have retired; and

WHEREAS, City Council is of the opinion that some or all of the remaining six licenses should be offered through a public bid process to holders of a valid license issued pursuant to the provisions of N.J.S.A. 45:24-9 *et seq.*, while allowing the four licensees holding vendor licenses at the end of 2022 to continue utilizing those licenses until retirement.

THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of North Wildwood, in the County of Cape May and State of New Jersey as follows:

Section One. The portion of Ordinance No. 568, as amended, which has been codified at §330-1 of the Code of the City of North Wildwood is amended to the extent that §330-1 shall read as follows:

No person shall hawk, pedal or vend any food products, beverages, confections, goods, wares, merchandise or commodities of any type or description upon the public beaches and the City of North Wildwood, except for the sale of ice cream products pursuant to a concession therefore awarded by City Council as hereinafter provided and except for the sale of coffee and iced coffee beverages pursuant to a concession therefore awarded by City Council as hereinafter provided.

Section Two. A concession contract may be made available for the sale of ice cream products upon the public beaches of the City of North Wildwood. The area of the beach, as defined by §138-1 of the Code of the City of North Wildwood, which may be made available for operation of such a concession will be those areas of the beach which, pursuant to resolution adopted in accordance with §138-31 of the Code of the City of North Wildwood, Council designates as being subject to protection by the North Wildwood Beach Patrol.

Section Three.

- A. A concession contract periodically may be let out for public bid by auction pursuant to N.J.S.A. 40:61-1h. and N.J.S.A. 40:61-36 *et. seq.*, all as amended from time to time. The award of the concession contract will be made to the highest responsible bidder therefor, after advertisement of the time and place of such auction, at least 10 days prior to receipt of bids, in such newspaper as has been designated as the City's official newspaper, and upon such terms and conditions as the Mayor and Council may prescribe. Such terms and conditions may include, but not necessarily be limited to, insurance and hold-harmless requirements and the establishment of a minimum bid price.
- B. Upon the advertisement as aforesaid, the City Clerk will make available for inspection by prospective bidders copies of the concession contract and all related contract documents.
- C. No concession contract may be let for a term exceeding five years.
- D. Any concession contract auction conducted pursuant to this article shall be conducted between January 1 and June 30 of the year in which the concession contract is to take effect; however, upon award of the concession contract, the effective date of that contract will be deemed to be January 1 of the year in which the contract is awarded.

Section Four.

- A. Any concession contract awarded pursuant to this article will be awarded to the responsible bidder bidding the highest amount in excess of any minimum bid amount that may be established by the Mayor and Council for the first year of the contract. The contract amount for each succeeding year of the contract shall be not less than 105% of the contract amount of the prior year. The successful bidder shall pay 20% of the first year contract amount or \$20,000.00, whichever is less, at the time of the auction and shall pay the balance of the first year contract amount by March 1 in the year of the auction or upon signing of the contract, whichever is later. Thereafter, during the term of the concession contract, 10% of the amount due for each year of the contract shall be paid on or before January 1 of the year due and the balance due that year shall be on or before March 1 of the year due.
- B. Failure to make timely payments in accordance with this article may be grounds for the imposition of such late fees as may be set forth in the contract documents. If default in the payment of rent occurs and is not cured within seven (7) calendar days, Council, by resolution, may declare the contract terminated and the remaining term of the contract may be rebid. Upon rebid, no bid of the defaulting concessionaire will be accepted. Upon rebid, the Mayor and Council may establish a minimum bid amount. If, upon rebid, the sum of money to be received by the City is less than the total amount of money that was due for the entire remaining term of the contract which has been defaulted upon, the defaulting concessionaire shall pay the difference to the City together with the expenses of advertising the rebid. The defaulting concessionaire shall have no claim to any higher sum of the money received

upon the rebid. If an action is instituted by the City for the collection of the amounts due from the defaulting concessionaire, the City shall be entitled to collect, in addition to any amount owed under the terms of the contract, its attorney's fees and costs.

- C. In addition to the contract price, the operator of the concession also shall be responsible for obtaining a mercantile license and paying the fee therefor all in accordance with the provisions of §292-1, *et. seq.* of the Code of the City of North Wildwood, as amended from time to time. The concessionaire also shall be responsible for the payment of a tourism development fee in accordance with the provisions of §270-1, *et. seq.*, of the Code of the City of North Wildwood, as amended from time to time.

Section Five. In addition to such terms and conditions as the Mayor and Council may prescribe in the Notice to Bidders and other bid documents, a concession for the sale of ice cream products upon the public beaches of the City of North Wildwood only may be awarded to an individual, corporation, limited liability company or partnership who shall meet the following minimum requirement:

- A. In the case of an individual, he or she shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.
- B. In the case of a corporation, limited liability company or partnership, the principal owner or shareholder, managing member or partner shall be a veteran, having been honorably discharged from active military service of the United States for any period of time, or an exempt firefighter having served in either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1. Proof of veteran status shall be shown by providing as evidence a DD-214 issued by the Federal Government. Proof of exempt firefighter status shall be shown by providing as evidence a notarized letter from the President or Secretary of either the Anglesea Fire Company No. 1 or the North Wildwood Fire Company No. 1 stating that the Bidder has been a volunteer firefighter meeting the requirements for an exempt firefighter certificate pursuant to N.J.S.A. 40A:14-56.

Section Six. Sections Two through Five of this Ordinance shall be codified in Chapter 330 of the Code of the City of North Wildwood under “§330-1.2. Ice cream concession on public beaches.”

Section Seven. The portion of Ordinance No. 568, as amended, that has been codified at §330-4 is hereby amended so as to read:

The number of licenses issued hereunder shall not exceed 10. In the event that any of the licenses held by the four remaining license holders at the end of 2022 is not timely renewed it may be let out for public bid by auction pursuant to Section Three of this Ordinance.

Section Eight. The portion of Ordinance No. 568, as amended, that has been codified at §330-5 is hereby amended so as to read:

The six unused licenses at the end of 2022 and any license that becomes available thereafter may be let out for public bid by auction. Subsequent to the adoption of this Ordinance, no license shall be issued by any manner other than public auction. Council may, at its discretion and by resolution, direct that said public auction process be held for licenses individually or as a group.

Section Nine. The portion of Ordinance No. 568, as amended, that has been codified at §330-6 is hereby amended so as to read:

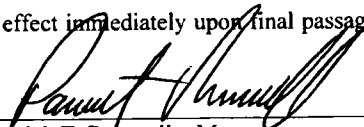
The holders of the four remaining licenses at the end of 2022 shall continue to have the right to renew the same if application is made to the City Clerk on or before June 30 in the year of renewal. In the event that no application for renewal is made, there will be no automatic right of renewal of the license. The City Clerk shall then inform Council of the availability of said license and Council may, at its discretion, direct that the public auction process be initiated for said license.

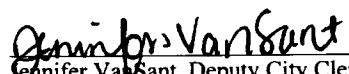
Section Ten. The portion of Ordinance No. 568, as amended, that has been codified at §330-7 is hereby repealed and deleted in its entirety. §330-7 shall be designated as "Reserved" for future use.

Section Eleven. If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section Twelve. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Thirteen. This Ordinance shall take effect immediately upon final passage and publication as provided by law.


Patrick T. Rosenello, Mayor


Jennifer Van Sant, Deputy City Clerk

Introduced: November 15, 2022
Advertised: November 23, 2022
Hearing/Final: December 6, 2022
Advertised: December 14, 2022

**CITY OF NORTH WILDWOOD
COUNTY OF CAPE MAY, NEW JERSEY**

ORDINANCE NO. 1925

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 330,
PEDDLING AND SOLICITING, OF THE CODE OF THE CITY OF NORTH
WILDWOOD**

BE IT ORDAINED by the Mayor and Council of the City of North Wildwood, in the County of Cape May and State of New Jersey as follows:

Section One. The portion of Ordinance No. 1785, adopted June 5, 2019, that has been codified in §330-1.1 of the Code of the City of North Wildwood is hereby supplemented by the addition of a paragraph, which shall be codified as §330-1.1E and which shall read as follows:

E. Regulations for concessionaires.

Any and all concessionaires, or any person or persons employed by said concessionaires, vending coffee and iced coffee products on the beaches of the City of North Wildwood under a contract awarded pursuant to this chapter shall:

1. Shall be clothed in matching uniforms which clearly identify the name of the concessionaire and the name of the individual vendor.
2. Have the prices of its products clearly displayed on his/her vending carts, said prices having been printed computer printout or other technological means. No hand-written signs or labels are permitted.

Section Two. The portion of Ordinance No. 1891, adopted December 6, 2022, that has been codified in §330-1.2 of the Code of the City of North Wildwood is hereby supplemented by the addition of a paragraph, which shall be codified as §330-1.2E and which shall read as follows:

E. Regulations for concessionaires.

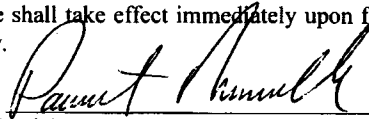
Any and all concessionaires, or any person or persons employed by said concessionaires, vending ice cream products on the beaches of the City of North Wildwood under a contract awarded pursuant to this chapter shall:

1. Shall be clothed in matching uniforms which clearly identify the name of the concessionaire and the name of the individual vendor.
2. Have the prices of its products clearly displayed on his/her vending carts, said prices having been printed computer printout or other technological means. No hand-written signs or labels are permitted.

Section Three. If any portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, that determination shall have no effect upon the remainder of this Ordinance, which shall remain valid and operable.

Section Four. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Five. This Ordinance shall take effect immediately upon final passage and publication as provided by law.


Patrick T. Rosenello, Mayor


W. Scott Jett, City Clerk

Introduced: January 16, 2024
Advertised: January 24, 2024
Hearing/Final: February 6, 2024
Advertised: February 14, 2024