



December 2021

Request for Proposal

Shipyard Park

Activation

at the Charlestown Navy Yard

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Boston Redevelopment Authority (D/B/A
Boston Planning & Development Agency)
One City Hall Square | Boston, MA 02201

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Advertisement

Request for Proposals for the Activation of Shipyard Park at the Charlestown Navy Yard

The Boston Redevelopment Authority (“BRA”) d/b/a Boston Planning & Development Agency (“BPDA”) is pleased to issue this Request for Proposals, (hereinafter, the “RFP”) from qualified parties to enter into a license agreement to activate Shipyard Park in the Charlestown Navy Yard, otherwise known as the Shipyard Park Activation program at the Charlestown Navy Yard (hereinafter, the “Program”). The awarded license will be for three (3) annual terms running from approximately March 1, 2022 – February 28, 2023, approximately March 1, 2023 – February 29, 2024, and approximately March 1, 2024 – February 28, 2025 (the “Initial Term”), with two (2) one-year options to extend that may be exercised at the BPDA’s sole discretion. The monthly license fee payable to BPDA shall be a flat monthly license payment plus a monthly percentage of gross receipts less allowable deductions. The BPDA’s preference is to award one license to a single respondent for the entire season; however, the BPDA may award multiple licenses to multiple respondents or may choose to not award a license for the location.

Request for Proposal Availability

The RFP, including site maps and requirements for this Program, will be available to all interested respondents beginning on December 13, 2021, 9:00 A.M. The RFP package will be available in digital and print form.

The RFP is available for download free-of charge from the BPDA website. Plan holders shall register by entering the information requested and then follow the prompt to start file download. The RFP can be found at the following link: bostonplans.org/work-with-us/procurement.

Proposal Deadline

All responses to the RFP must be returned, in person or by mail, no later than 12:00 P.M. on January 28, 2022 to:

Boston Redevelopment Authority
d/b/a Boston Planning & Development Agency

Teresa Polhemus
Executive Director/Secretary
Boston Planning & Development Agency
One City Hall Square, Room 910
Boston, MA 02201-1007

Absolutely no responses will be accepted after the due date and time.

The RFP is issued by BPDA in accordance with its policies, procedures, provisions and applicable regulations. The BPDA reserves the right to waive any and all informalities in the RFP process, select any, all or no proposals, reject any and all proposals, or cancel the RFP if it is in the public interest to do so. This RFP and all proposals accepted as a result are deemed non-binding in nature. The BPDA makes no representations or guarantees with respect to title.

Rule for Award

The resulting license agreement(s) will be awarded to the responsive and responsible respondent(s) meeting the quality requirements, satisfying the minimum threshold criteria and submitting the most advantageous proposal, taking into consideration the comparative evaluation criteria, and the fee proposal. The award of any license agreement(s) resulting from this RFP is subject to the approval of the BPDA Board.

01

01 Overview and Introduction

Introduction

Consistent with the City of Boston’s Imagine Boston 2030: Waterfront Assessment and Vision, the BPDA is requesting proposals for the activation of the Charlestown Navy Yard waterfront, specifically located at Shipyard Park. Shipyard Park is located within the historic and vibrant Charlestown neighborhood of Boston, as represented in the general location map included in Section 02. The BPDA is most interested in activities that: (i) promote the public’s use of the waterfront –especially in unique and creative ways and during off-peak hours; and (ii) –and attract a diverse audience to engage and interact with the water. Uses should be consistent with the spirit of Chapter 91: the Public Waterfront Act and the Land and Water Conservation Act (P. L. 88-578) and advance the visions of the BPDA’s 2007 Waterfront Activation Network Plan and Imagine Boston 2030. The BPDA’s goals are to:

- Provide a benefit to the community in the form of the promotion, use, and enjoyment of the waterfront;
- Create a welcoming and accessible destination for a diverse cross-section of the City’s residents and neighbors;
- Educate the public about the history of the Charlestown Navy Yard and Boston Harbor, the marine science of the local waterways, and the impacts of climate change; and
- Support local artists and entrepreneurs.

The BPDA is looking for a partner with experience attracting diverse community audiences. The most advantageous proposal would be from a single operator, who

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would host varied programming throughout the season, in collaboration with local partners and in support of the goals above.

The awarded license will be for three (3) annual terms running from approximately March 1, 2022 – February 28, 2023, approximately March 1, 2023 – February 29, 2024, and approximately March 1, 2024 – February 28, 2025 (the “Initial Term”), with two (2) one-year options to extend that may be exercised at the BPDA’s sole discretion.

The BPDA’s preference is to award one license to a single respondent (an entity submitting a proposal in response to this RFP) for the entire season for the area indicated in the site map in Section 02. However, the BPDA may award multiple licenses to multiple respondents; or may choose to not award a license.

The proposed activities should generate enough revenue to be self-supporting without additional public subsidy, and, accordingly, should not assume that the BPDA will make significant improvements to the existing Shipyard Park infrastructure.

The monthly license fee payable to the BPDA shall be the total of a flat monthly license payment of \$3,000 plus a minimum of 15% of monthly gross receipts. For any funds expended for BPDA-approved public activation, which is free and open to the public, the BPDA may, at its sole and absolute discretion, award a credit up to 100% of the monthly percentage of gross receipts fee; however, the monthly \$3,000 fee will not be waived. Any credits shall be subject to the guidelines detailed below, as well as the final terms of the license agreement.

The resulting license agreement(s) for each location will be awarded to the responsive and responsible respondent(s) meeting the quality requirements, satisfying the minimum threshold criteria, and submitting the most advantageous proposal, taking into consideration the comparative evaluation criteria, and the fee proposal.

A key objective of this RFP is to allow successful respondent(s) the opportunity to generate reasonable revenue while providing a vibrant public destination for outdoor recreation for participants from diverse backgrounds. Proposals shall include a plan to attract users from Boston neighborhoods and adjacent

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communities and provide opportunities for local businesses and artists to participate in the proposed activation. Proposals that include public education to increase awareness and appreciation of local history and resiliency will be considered advantageous.

02

02 Subject Area

The BPDA owns land totaling 16.22 acres, obtained by the BPDA from the United States of America (hereinafter referred to as the “USA”) as surplus property, that includes Shipyard Park in the Charlestown Navy Yard (“CNY”), and deeded to the Boston Redevelopment Authority now d/b/a BPDA on May 25, 1979. Any license with the BPDA resulting from this RFP for the reactivation of Shipyard Park will include a copy of the quitclaim deed.

Any license resulting from this RFP will further note that a covenant of the deed states “[t]he property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes as they are described herein, subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.” Finally, the license resulting from this RFP will state that the National Park Service, Federal Lands to Parks Program is the designated representative of the Secretary of the Interior for the approval of concession agreements, and that the property is improved with funding from the Land and Water Conservation Fund and will comply with all terms and conditions of the LWCF Manual and LWCF Grant No. 25-00221 and all subsequent amendments.

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Before executing any license agreement, the BPDA will provide a copy of the proposed license agreement to the NPS and the Commonwealth's Executive Office of Energy and Environmental Affairs.

The CNY is a 135-acre former U.S. Navy base in the Charlestown neighborhood of Boston which is bounded by the Charlestown Navy Yard –Boston National Historic Park to the south, Boston Harbor to the east, the Little Mystic Channel to the north, and Chelsea Street to the west. It is less than one mile from downtown Boston, which is accessible via direct bus and ferry routes. There are approximately three miles of Harborwalk along the CNY waterfront, which connects pedestrians and bicyclists to the rest of the 38-mile-long system. The CNY is an active hub of historic and modern uses, both water-dependent and land-based, for thousands of residents, employees, and visitors. Public and private investments have revitalized the area, while historic preservation, where possible, has maintained the original form and character of the Navy Yard. In addition to a mix of residential and commercial uses, the Navy Yard also features a section of the Freedom Trail and a National Historical Park. A cohesive public realm ensures connections within the Navy Yard, especially to the water, and beyond. The area continues to respect the past while transitioning to the present, creating opportunities for short-to mid-term improvements, including public amenities, programming, neighborhood enhancements, and more.

Shipyards Park is a nearly 12-acre community park featuring gardens, a playground, paved walkways, a granite amphitheater, public seating, and the Massachusetts Korean War Veterans Memorial. The Charlestown Navy Yard Ferry Terminal connects to the south side of Shipyards Park and goes to Long Wharf in the Downtown Waterfront. Respondents are encouraged to provide activation opportunities throughout the entirety of Shipyards Park; however, an authorized point of sale location will be limited to the area indicated in the site plan.

Please see the general location and site plans included in this RFP for additional site information. The BPDA will not host an organized tour and encourages respondents to visit the CNY and Shipyards Park at their convenience. For activities with specific requirements for infrastructure/utilities, please submit a complete list with your proposal. Questions regarding the availability and use of

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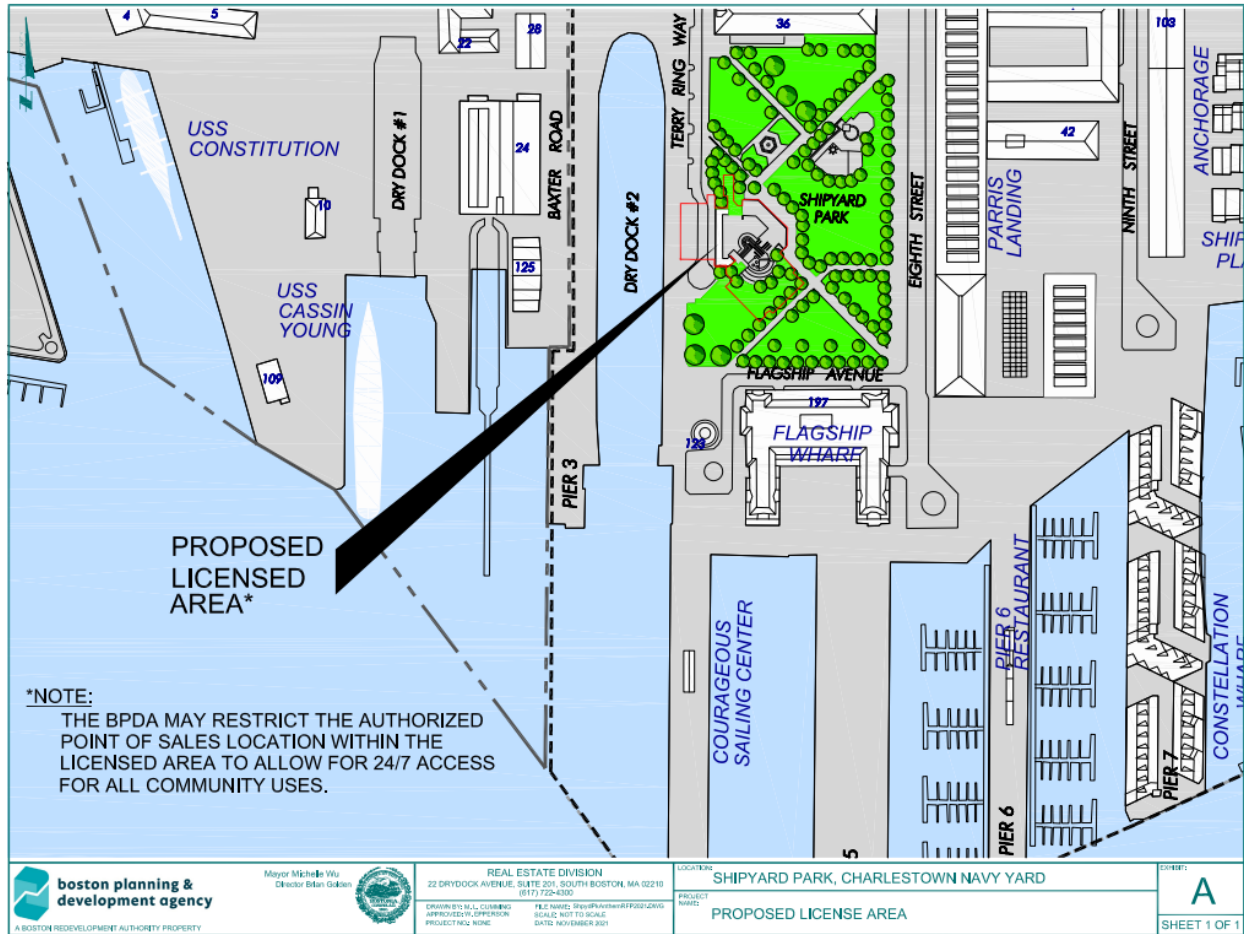
infrastructure/utilities should be submitted in writing to the BPDA by January 7, 2022.

General Location Plan:



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Site Plan:



03

03 Past and Future Waterfront Activation

Charlestown Navy Yard Planning and Past Activation

In 2007, the BPDA completed the Waterfront Activation Network and Water-Dependent Use Management Plans for the CNY, which augmented both the 1991 Municipal Harbor Plan and the Charlestown Navy Yard Master Plan. Together, the Waterfront Activation Network and Water-Dependent Use Management Plans promoted and conceptualized a plan for the public's access to and enjoyment of the waterfront, watersheet, and Navy Yard. They contemplated a variety of uses and programming that would activate the area and augment the public's access to and enjoyment of the waterfront.

Building upon the plans and strong expressions of interest for various types of public activation, in 2018, the BPDA requested proposals from interested, able, and ready proponents to activate the waterfront and watersheet of the Charlestown Navy Yard through temporary, seasonal, and/or recurring uses and programming that would enhance the enjoyment of the CNY. In 2019, a license was awarded to an RFP respondent that used Shipyard Park for community-oriented arts and health/wellness programming, food trucks, beer and wine offerings, and other activation purposes. The proceeds from the beer and wine offerings supported public programming and public realm investments in Shipyard Park. The license was extended through the 2020 and 2021 seasons.

The BPDA is particularly interested in uses and programming that generate year-round interest and visitors. Uses should be consistent with the spirit of Chapter 91: the Public Waterfront Act and the Land and Water Conservation Act (P. L. 88-578) and advance the vision of Imagine Boston 2030.

Future Plan for Activation

The BPDA desires to engage a singular entity to activate Shipyard Park at the CNY in accordance with the objectives and requirements of the Program described in this RFP.

A. Location:

Public activation is permitted throughout the entirety of Shipyard Park with pre-approval required from the BPDA. An authorized point of sale location will be permitted at a specified location within Shipyard Park as shown in the plan in Section 02. The BPDA may restrict the authorized point of sale location within the licensed area to allow for 24/7 access for all community uses.

B. Operational Requirements and Limitations

1. The BPDA reserves the right to adjust or relocate the location of any activation at any time, or to suspend them during emergencies or due to conflict with other needs in the area. Paths of travel along public sidewalks must be kept clear and unobstructed at all times.
2. The initial term of the Program shall be from approximately March 1, 2022– February 28, 2023, approximately March 1, 2023 – February 29, 2024, and approximately March 1, 2024 – February 28, 2025, with hours of operation for each activity to be specified in the resulting license agreement(s).
3. The Program shall offer only activities that are identified in the RFP or approved in advance by the BPDA. The selected respondent is responsible for compliance with all applicable laws and regulations by its employees and/or vendors.
4. Selected respondent(s) must receive express written consent from the BPDA for any music or other amplified sounds in connection with the Program.
5. Selected respondent(s) must submit a proposed lighting plan to the BPDA for approval prior to installation. The lighting plan will be reviewed by BPDA’s urban design staff.
6. Selected respondent(s) may conduct live loading and unloading of necessary materials and related equipment to support operations, as needed and within reason.
7. Selected respondent(s) must secure their equipment during non-operating hours. Selected respondent(s) may be permitted to store

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materials, equipment and related property within their assigned area throughout the term of the Program. Provided that, the stored materials, equipment and related property must be in support of the "Permitted Uses," defined in the awarded license agreement. The stored materials, equipment and related property shall not be considered Hazardous Materials (as defined in the License Agreement attached as Exhibit A). Furthermore, storage of materials, equipment and related property must be restricted to, and shall remain within, the footprint of the permitted area. Respondents assume 100% liability with respect to theft, damage, or other loss or casualty of materials, equipment and related property that may occur at or near Shipyard Park, and must have a plan for safety and security of any stored items, subject to BPDA approval.

8. Selected respondent(s) must receive express written consent from the BPDA, in writing, prior to the use of any advertising, signage, or trademarks associated with the Respondent and their assigned Licensed Premises.

C. General Information

1. The selected respondent shall operate pursuant to terms and conditions to be set forth in a License Agreement with the BPDA (in substantially the form of the agreement attached to this RFP as Exhibit A.)
2. A designated representative of the selected respondent shall meet with representatives of the BPDA to review the location and the services and/or the performance of the selected respondent under the terms of the license agreement.
3. The selected respondent shall comply with all requirements of law and regulation.
4. The selected respondent shall be responsible for all costs and expenses incurred in connection with the provision of the services.

D. License Fee

The monthly license fee payable to Boston Redevelopment Authority shall be the total of a flat monthly rent payment of \$3,000 plus a minimum of 15% of monthly gross receipts. For any funds expended for BPDA-approved public activation, which is free and open to the public, the BPDA may, at its sole and absolute discretion, award a credit up to 100% of the monthly percentage of gross receipts fee; however, the monthly \$3,000 fee will not be waived. Any credits would be subject to the guidelines detailed below, as well as the final terms of the license agreement.

E. Credit Applicability

1. Programmed events must be free and open to all. Applicable events shall encourage use and enjoyment of Shipyard Park and the Charlestown Navy Yard, but should not be utilized as promotion for profit-seeking ventures.
2. The selected respondent shall provide a calendar of events or infrastructure expenditures for the season one (1) month in advance of the season start date. The calendar shall be submitted for BPDA comment and approval.
3. In the event that the selected respondent would like to organize events throughout the season, a description of the event and expected costs must be communicated to and approved by the appropriate BPDA coordinator at least five (5) business days prior to the event.
4. Capital improvements that are applicable for the credit must be permanent physical improvements to the public realm that remains after lease expiration. To be eligible for credit, the selected respondent must receive written BPDA approval for all capital improvements prior to improvement execution.
5. The selected respondent can allocate no more than 20% of the monthly credit towards staff time required to coordinate and host the event or public realm improvements. Staff hours for each activity must be provided through a monthly report. The remaining credit must be utilized towards direct hard costs associated with programming or public realm improvements.
6. The selected respondent must submit a monthly report detailing the owed percentage of gross receipts and the applicable credit expenditures. Reports must indicate which of the following categories the credit falls under from the list below. If the expense does not apply to one of the categories, the Respondent must include a short description of the event or improvement and the public benefit thereof. The BPDA may provide a standard reporting template that will need to be completed monthly by the selected respondent.
 - a. Educational activities
 - b. Exercise classes and health/wellness programming
 - c. Performing and visual art activities
 - d. Lawn games or similar low-impact interactive games
 - e. Farmers market or similar marketplace
 - f. Temporary art exhibits
 - g. Physical improvements such as seating, lighting fixtures, plantings, historical interpretive signage, walkway improvements
7. At the end of each season, the selected respondent must provide a written memorandum to the BPDA summarizing the impact of the activation,

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including the approximate number of beneficiaries and the level of success in engaging diverse communities.

04

04 Proposal Submission

General Instructions to Respondents

Each respondent shall thoroughly examine and familiarize itself with all parts of the RFP and its exhibits. All proposals must be submitted on forms supplied by the BPDA and shall be subject to all requirements of the RFP. All proposals must be regular in every respect and no special conditions shall be made or included by the respondent.

RFP Schedule

2021/2022 DATES	ACTION
12/13/2021	RFP Documents available on BPDA web site
01/07/2022	Last day for respondents to submit questions
01/14/2022	Last day for BPDA to answer questions
01/28/2022	Proposals Due
Between 02/07/2022 and 02/11/2022	Community presentation to discuss proposal
To Be Determined	Interviews <i>(if needed)</i>

Submission Details

The RFP, including site maps and requirements for this Program, will be available to all interested respondents beginning on December 13, 2021, 9:00 A.M. The RFP package will be available in digital and print form.

The RFP is available for download free-of charge from the BPDA website. Plan holders shall register by entering the information requested and then follow the prompt to start file download. The RFP can be found at the following link:
bostonplans.org/work-with-us/procurement.

Proposal submission: January 28, 2022 at 12 P.M. ALL SEALED PROPOSALS MUST BE BROUGHT OR MAILED TO BOSTON CITY HALL, BPDA, Room 910, 9TH FLOOR, BOSTON MA 02201 – 1007. Proposals sent electronically will not be accepted. Proposals will be opened and the names of the respondents recorded. Proposals submitted prior to the deadline will be kept unopened and stored securely. Proposals submitted after the deadline shall be rejected.

Complete submissions, including each separate sealed envelopes, should be addressed as follows:

TO: Teresa Polhemus
Executive Director/Secretary
Boston Redevelopment Authority
One City Hall Square, Room 910
Boston, MA 02201-1007

Proposal Format

Each Respondent must submit:

1. One (1) original Technical Proposal, and three (3) copies of the Technical Proposal in a sealed envelope (WITHOUT Fee Proposal)

- Additionally, respondents must submit one (1) electronic version of the Technical Proposal (without Fee Proposal) on one (1) portable data storage device (e.g. USB flash memory drive.)
- The original Technical Proposal, the three (3) copies of the Technical Proposal (without Fee Proposal), and the electronic version of the Technical Proposal (without Fee Proposal) shall be submitted in a sealed envelope.

2. One (1) original Fee Proposal, and three (3) copies of the Fee Proposal in a separately sealed envelope. The Fee Proposal shall not be included in the same envelope as the Technical Proposal.

- Additionally, Respondent must submit one (1) electronic version of the Fee Proposal (without Technical Proposal) on one (1) portable data storage device (e.g. USB flash memory drive), using the Respondent Fee Proposal Form provided in **Exhibit F, in a separately sealed envelope.**

Technical Proposal

Plan for Activation

1. **Approach:** Describe the respondent's overall approach to meeting the Program requirements articulated in Section 03, the objectives described in Section 01, and the specifications in the **Exhibit A** Sample License Agreement. Describe how the space and activity will be maintained and marketed. Include the specific days, dates, and times for the proposed activities.
2. **Best Practices:** Describe the respondent's "best practices" and standards. Respondents should demonstrate a thorough understanding of, and the expertise and capacity to perform, the services outlined in this RFP.
3. **Marketing:** Include a plan to attract participants from Boston neighborhoods and adjacent communities while supporting local businesses. Provide a detailed marketing and communications plan that specifically addresses outreach to diverse Boston communities. Include sample educational materials if applicable.
4. **Activities and equipment:** Describe the specific activities proposed, including a schedule, and identify the necessary materials and equipment. Explain how the location will be maintained and cleaned daily, and how the respondent would coordinate with the BPDA regarding vehicle parking and/or equipment storage.
5. **Permits and feasibility:** List the permits that would be required for the proposed activation, along with the steps to obtain them. Describe how the respondent would accommodate non-restricted public use of the space. Provide a proposed operating timeline, including details regarding setup, hours of operation, a summary of shut-down requirements, and any key dependencies.

Organization & Staff Qualifications

1. **Contact Person:** Provide the name, address, telephone number, email, and facsimile number of the primary contact person who will be responsible for responding to questions regarding the respondent's proposal.
2. **Qualifications and Experience:** Provide information on the qualifications and relevant experience of the responding firm and key employees and/or staff. Briefly describe the principal business that the respondent is engaged in and the number of employees employed by the respondent by location, and the number and location of facilities. Describe generally any relevant experience that the respondent and its key staff and/or vendors have had in connection with the provision of services similar to the services proposed to be provided and any other relevant business activities.
3. **Key Staff, Partnerships, and Vendors:** Describe the key staff the Respondent intends to dedicate to perform the services. How many employees will be present at the location on a daily basis? How will those employees and/or vendors be managed? What organizations will be involved as partners, and have they collaborated in the past? Describe in detail how the Respondent would form partnerships with local stakeholders.
4. **Respondent's Name and Organizational Structure:** Indicate the name, address, telephone number, email, and facsimile number of the respondent and the names of the principals of the respondent. Specify as to whether the respondent is a corporation, partnership, joint venture, individual or otherwise. Each proposal shall state the legal name of the respondent and shall be signed in ink by a person or by persons legally authorized to bind the respondent to a contract (resulting license agreement). The name and title of the person or persons signing the proposal shall be typewritten or printed neatly below the signature;
 - a. *Corporate Data (if applicable).* Provide the incorporation date and where the Respondent is incorporated. If not incorporated in the Commonwealth of Massachusetts, specify whether the respondent is licensed/authorized to do business in the Commonwealth of Massachusetts. Provide the names of all officers and directors, and respective titles, as well as the names and addresses of all parties who have direct or indirect interest in the corporation.
 - b. *Partnership Data (if applicable).* Provide the date the partnership was organized. Provide the name and address of each partner and whether he or she is a general, limited, special or other type of partner. Also provide the names and addresses of all parties who have direct or indirect interest in the partnership.

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- c. *Joint Venture Data (if applicable)*. Provide the date the Joint Venture was organized. If more than one (1), provide the name and address of each Joint Venture and the percentage of ownership and participation in, each Joint Venture. Also provide the names and addresses of all parties who have a direct or indirect interest in the joint venture.
5. **Technical Qualifications and Certifications:**
 - a. Each respondent must provide a copy of sales and use tax certification.
 - b. Respondents must not have any outstanding code or other regulatory violations with any City of Boston agencies, including, but not limited to: Health Department, Fire Department, Transportation Department, Code Enforcement Division, and Public Works Department. Violations of code and other regulatory requirements may be considered in assessing the respondent's qualifications.
6. **References:** Provide the names, titles, addresses, and telephone numbers of at least three (3) references for the respondent. References shall be contacted.
7. **Insurance and Risk Management:** Describe the Respondent's insurance coverage and risk management strategy evidence of availability of Commercial General Liability insurance insuring Licensor and Licensee against all claims and demands for personal injury and property damage, including Premises/Operation, Products/Completed Operations Liability, Contractual, Board Form Property Damage, and Personal/Advertising Injury in the amount of One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) annual aggregate limit per location;
8. Completed Certificate of Authority (*Exhibit B*);
9. Completed Certificate of Compliance with Laws (*Exhibit C*);
10. Completed Non-Discrimination and Affirmative Action Affidavit (*Exhibit D*);
and
11. Completed Non-Collusion Affidavit (*Exhibit E*).

Fee Proposal

Fee Proposals shall be based on a monthly license fee of \$3,000 payable to the Boston Redevelopment Authority plus a minimum of 15% of monthly gross

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receipts, and shall include the Fee Proposal Form contained in **Exhibit F**, in a separately sealed envelope. The Fee Proposal shall be labeled as follows:

From: *Respondent's Name and Address*

Re: Fee Proposal for the Shipyard Park Activation at the Charlestown Navy Yard

RESPONDENTS ARE REMINDED THAT IT IS THEIR RESPONSIBILITY TO DELIVER THEIR PROPOSALS TO THE BPDA NO LATER THAN THE DEADLINE FOR PROPOSALS. PROPOSALS WILL NOT BE ACCEPTED ELECTRONICALLY.

Interview

Upon reviewing the proposals, the BPDA will determine whether interviews are required as a component of the evaluation and selection criteria. If so, all respondents deemed to have met the Minimum Threshold Requirements and the Quality Requirements set forth in the RFP will be interviewed, and the interviews will be mandatory for any respondents wishing to be considered for the resulting license awards.

If held, the date of interviews will be determined after the RFP has closed. Interviewees will be notified of the interview time and format no later than four weeks following the proposal due date. Should the BPDA need to alter these dates, all impacted respondents will be notified directly no less than twenty-four (24) hours in advance.

Additional RFP Information

Questions

All questions should be submitted in writing via email **no later than January 7, 2022** to the BPDA Procurement Office at: BPDA.CPO@boston.gov. Rebecca Hansen shall be copied on the email to the BPDA Procurement Office at Rebecca.Hansen@boston.gov. Any inquiry received by **January 7, 2022** will be given consideration.

Addenda

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Every clarification or interpretation of questions, if issued in the sole discretion of the BPDA, shall be made to respondents in the form of a written addendum to the RFP and, when issued, will be: (i) sent to every individual or firm on record as having taken a set of contract documents; (ii) posted on the BPDA website; and (iii) on file in the office of the BPDA **on January 14, 2022**. Oral clarifications or interpretations will be of no legal effect.

The BPDA shall not be responsible for, and no respondent may rely upon or use as the basis of a claim against the BPDA, any instruction, information, explanation, clarification, or the like, concerning or relating to the RFP rendered in any fashion except as herein provided.

When any addenda are issued, all plan-holders will receive a copy of such addenda by email and such addenda will also be posted on the BPDA website. It shall be the respondent's responsibility to make inquiry as to the addenda issued. All such addenda shall become part of the RFP and all respondents shall be bound by such addenda, whether or not received by the respondents. No oral interpretation will be made to any respondent as to the meaning of any part of this RFP. Every request for such an interpretation shall be made via email in writing to: the BPDA Procurement Office **BPDA.CPO@boston.gov**. Rebecca.Hansen@boston.gov should be copied on the email to the BPDA Procurement Office.

The BPDA reserves the right to waive any and all minor informalities in the responses or to reject any and all proposals if it is in the public interest to do so.

If respondent is a corporation, a *Certificate of Good Standing* with regard to the corporation issued by the Office of Secretary of State of the Commonwealth of Massachusetts, a Certificate of Good Standing issued by the Department of Revenue of the Commonwealth of Massachusetts, and evidence of corporate authority with respect to execution of the contract on behalf of the respondent, must be furnished to the BPDA as applicable, prior to the execution of the resulting license.

If respondent is a sole proprietor, a *Letter of Compliance* issued by the Department of Revenue of the Commonwealth of Massachusetts must be furnished to BPDA, as applicable, prior to the execution of the resulting license.

Withdrawal of Proposals

Proposals may be withdrawn on written request with original signature of an authorized member of the respondent placed in the mail or hand-delivered to BPDA prior to the deadline for proposals. A proposal may be withdrawn after it has been opened only if a mistake is clearly evident on the face of the document, but the intended correct answer is not evident.

License Agreement

By submitting a response to this RFP, the respondent agrees that if the BPDA selects such respondent as the Program provider, the respondent will, within five (5) business days after such selection, execute a "License Agreement," substantially consistent with the form attached to this RFP as **Exhibit A**, with such changes as may be deemed necessary.

Public Records Law

Proposals and other documents submitted in connection with this RFP are subject to the Massachusetts Public Records Law. Statements or endorsements contained in response to this RFP that are inconsistent with such law are of no effect.

Miscellaneous

1. The BPDA reserves the right to postpone or withdraw/cancel this RFP; to accept or reject any and all proposals; to modify or amend the terms of this RFP prior to receipt of proposals or to waive any minor informality with respect to this RFP; to hold discussions regarding the terms of any proposal received in response to this RFP; to request reasonable additional information from any respondent; all as the BPDA may deem to be in the best interest of the BPDA and/or the City.
2. The BPDA shall not have any liability to any respondent except pursuant to the terms of a written license agreement, duly executed and delivered by the BPDA and such respondent.
3. All rights described herein this RFP and to be established in a License Agreement, are entirely subject to BPDA Board approval.
4. All proposals and other documents and materials submitted by a respondent, in support of their proposal, shall be retained by the BPDA and become the property of the BPDA.

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5. Any and all costs incurred by any respondent, in responding to this RFP are entirely the responsibility of such respondent and shall not be reimbursed in any manner by the BPDA.
6. The provisions of this RFP are severable and if any provision(s) shall be determined to be illegal or invalid by a court of competent jurisdiction, such determination shall not impair or otherwise affect any other provision of this RFP.

05

05 Minimum Threshold Requirements and Evaluation Criteria

In order to be eligible for award of a license agreement, respondents must demonstrate that they are responsive and responsible by meeting the Minimum Threshold Requirements and Quality Requirements set forth below. Respondent proposals meeting both the Minimum Threshold Requirements and the Quality Requirements will be evaluated as set forth in Section 06 Comparative Evaluation Criteria.

Minimum Threshold Requirements

The BPDA will conduct a preliminary/initial review to ensure compliance with the following Minimum Threshold Requirements:

- Respondent submitted all required documentation; and
- Respondent submitted its proposal on time as indicated in this Section 04 of the RFP.

Quality Requirements

Respondents wishing to be considered for contract award under this RFP shall also meet the Quality Requirements listed below. To meet the Quality Requirements, the respondent(s) shall be required to have knowledge and experience in the following areas:

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- Respondent must propose activities within the specific area(s) of Shipyard Park identified in Section 02 of this RFP;
- Respondent must provide a proposed operating timeline, and indicate a plan for financing and permitting; and
- Respondent must include documented references and experience organizing at least one (1) similar activation effort in a metropolitan area

06

06 Comparative Evaluation Criteria

All respondents determined to have met the Minimum Threshold Requirements and Quality Requirements outlined in Section 05 shall be evaluated in accordance with the following categories:

1. Plan of Service
2. Marketing and Outreach
3. Respondent's Team and Experience
4. Interview *(if needed)*

For each of the evaluation criterion, a rating of highly advantageous, advantageous, or not advantageous will be assigned to each responsive and responsible Respondent. The ratings for each evaluation criterion will be used to assign a composite rating for each proposal.

1. **Plan of Service**

- a) **HIGHLY ADVANTAGEOUS:** when it has been determined that the proposal outlines a specific and feasible plan for event(s) that are tailored to the Shipyard Park and Charlestown Navy Yard area. A highly advantageous plan will specify days and times for the activities, will identify the necessary steps to obtain all permits and licenses, and will propose specific best practices to ensure a clean, welcoming, and professional environment.
- b) **ADVANTAGEOUS:** when it has been determined that the proposal outlines a feasible plan for event(s) that are appropriate for the Shipyard Park and Charlestown Navy Yard area. An advantageous plan will provide a timeline to meet the goals outlined in the RFP, and will identify strategies to adequately maintain a clean, welcoming, and professional environment.

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- c) NON-ADVANTAGEOUS: when it has been determined that the proposal lacks detail or timelines; is not tailored to the Shipyard Park and Charlestown Navy Yard area; and/or does not ensure a clean, welcoming, and professional environment.

2. **Marketing and Outreach**

- a) HIGHLY ADVANTAGEOUS: when it has been determined that the Respondent has a comprehensive marketing and communications plan that specifically addresses outreach to Boston communities in an effort to attract a diverse array of residents and neighbors. A highly advantageous Respondent would also identify tactics for supporting local businesses and ways to incorporate public education regarding local history.
- b) ADVANTAGEOUS: when it has been determined that the Respondent has a plan for outreach to Boston communities and support for local businesses.
- c) NON-ADVANTAGEOUS: when it has been determined that the Respondent has proposed no plan to market or provide public information, and/or the proposed plan is not tailored to the local community.

3. **Respondent's Team and Experience**

- a) HIGHLY ADVANTAGEOUS: when it has been determined that the Respondent is seeking a single license for the entire season, as a partnership between a single operator and multiple community partners. The proposal describes specific partnerships or experience in the City of Boston. Key staff and/or Respondents demonstrates relevant qualifications and at least 3 years of experience providing and managing high-quality activities in public or quasi-public venues.
- b) ADVANTAGEOUS: when the proposal describes specific partnerships or experience in the City of Boston. Key staff and/or Respondents demonstrates relevant qualifications and at least 1 year of experience providing and managing similar activities.
- c) NON-ADVANTAGEOUS: when it has been determined that the Respondent's key staff and or Respondents demonstrate little or no relevant professional experience, qualifications, and/or familiarity with or partnerships in the City of Boston.

4. **Interview (*if needed*)**

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- a) **HIGHLY ADVANTAGEOUS:** When it has been determined that: i) the Respondent project lead facilitates an open and participatory discussion among other team members, and refers questions appropriately to subject matter experts on the team; and ii) the assigned on-site manager and/or personnel contributes substantially to the presentation and discussion, demonstrating considerable appropriate knowledge, skills and experience and offering relevant and thoughtful remarks during the presentation and discussion.
- b) **ADVANTAGEOUS:** When it has been determined that: i) the Respondent project lead facilitates an open discussion during the interview; and ii) the assigned on-site manager and personnel contribute when specifically asked to answer questions and demonstrate an acceptable level of knowledge, skills, and experience in public activation and placemaking.
- c) **NOT ADVANTAGEOUS:** When it has been determined that: i) the Respondent project lead does not engage the rest of the assigned on-site personnel in the conversation, or does not refer questions appropriately to the assigned on-site personnel on the team; or ii) the assigned on-site personnel does not contribute to the conversation and does not exhibit the requisite knowledge, skills, and experience required.

Exhibit A – Sample License Agreement

LICENSE AGREEMENT

BY AND BETWEEN

BOSTON REDEVELOPMENT AUTHORITY D/B/A BOSTON PLANNING & DEVELOPMENT AGENCY

AND

LICENSEE

This License Agreement (the “Agreement” or “License”) is made as of the __ day of XXXXX, 20XX by and between the **BOSTON REDEVELOPMENT AUTHORITY** (hereinafter, the “Licensor”, “BPDA” or “Boston Redevelopment Authority”), a public body politic and corporate organized and existing under Chapter 121B of the Massachusetts General Laws, as amended, d/b/a Boston Planning & Development Agency with a principal place of business located at One City Hall Square, Boston, Massachusetts 02201-1007, and its successors and assigns, and **LICENSEE** (hereinafter, the “Licensee”), a Massachusetts corporation with a principal place of business located at _____, and its successors and assigns. Hereinafter, the Licensor and the Licensee shall collectively be referred to as the “Parties,” and each individually as a “Party.”

WITNESSETH:

WHEREAS, the BPDA owns land totaling 16.22 acres, obtained by the BPDA from the United States of America (hereinafter referred to as the “USA”) as surplus property, that includes **Shipyard Park in the Charlestown Navy Yard**, and deeded to the Boston Redevelopment Authority now d/b/a Boston Planning & Development Agency on **May 25, 1979**. Said quitclaim deed is attached and hereinafter referred to as **Exhibit X**;

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WHEREAS, a covenant of the deed states “The property shall not be sold, leased, assigned or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes as they are described herein, subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior”;

WHEREAS, the National Park Service, Federal Lands to Parks Program is the designated representative of the Secretary of the Interior for the approval of concession agreements;

WHEREAS, Licensor and Licensee acknowledge the property is improved with funding from the Land and Water Conservation Fund and will comply with all terms and conditions of the LWCF Manual and LWCF Grant No. 25-00221 and all subsequent amendments;

WHEREAS, on XXXXX, 20XX, the BPDA issued the Shipyard Park Activation at the Charlestown Navy Yard Request for Proposals “RFP” from qualified parties to enter into short-term license agreement(s) to activate the waterfront of the Charlestown Navy Yard (“CNY”);

WHEREAS, the BPDA received XXXX proposals before the deadline of XXXXXXXXXXXXXXXXXXXX;

WHEREAS, the Licensee proposes and requests permission from the BPDA to provide public activities at the following locations: XXXXXXXXXXXXXXXXXXXX, as presented in the site-map **Exhibit A**, attached hereto and made a part hereof (hereinafter referred to as the “Licensed Premises”); and

WHEREAS, on XXXXXXXX, 20XX, the BPDA Board voted to authorize the Director of the Boston Redevelopment Authority to execute a license agreement with Licensee for XXXXXXXXXXXX, on terms and conditions as are determined by the Director to be in the best interest of the BPDA, and substantially consistent with those in the Board Memorandum submitted on XXXXXXXXXXXX, 20XX.

NOW THEREFORE in consideration of the mutual promises contained herein, the receipt, adequacy, and sufficiency of which is hereby acknowledged by the Parties hereto prior to the execution, sealing, and delivery of this Agreement, and the mutual promises herein contained, Licensor and Licensee, intending to be legally bound, hereby agree as follows:

1. **Permitted Uses and Purposes.**

- (a) Use of Licensed Premises. The Licensee and its employees, agents, contractors, subcontractors, participants, guests, visitors and invitees may enter upon, occupy and use the Licensed Premises only for the following non-exclusive uses and purposes (“Licensed Uses”) and for no other uses or purposes:
 - (i) XXXXXXXXXXXXXXXXXXXX.
- (b) Permits. Licensee shall, at Licensee’s sole cost and expense, obtain all necessary permits, licenses, or other approvals required by any federal, state, county, municipal or other governmental agency to operate the Licensed Premises for the uses and purposes described above and shall provide Licensor with a copy of all such permits, licenses and approvals prior to Licensee’s occupancy of the Licensed Premises.
- (c) Compliance with Law. Licensee shall use the Licensed Premises in strict compliance with any and all applicable laws, ordinances, rules, regulations, covenants and other requirements of any federal, state, county, municipal or other governmental agency. Without limiting the generality of the foregoing, Licensee expressly agrees and acknowledges that Licensor shall comply with any and all applicable laws, ordinances, rules, regulations, orders, covenants, guidelines and other requirements related to COVID-19, including but not limited to any such laws, ordinances, rules, regulations, orders, covenants, guidelines, and other requirements issued by the City of Boston, and the Commonwealth of Massachusetts. It is the Licensee’s responsibility to remain apprised of any and all applicable laws, ordinances, rules, regulations, orders, guidelines and other requirements throughout the term of this Agreement. Licensor shall not be liable to Licensee for any costs or lost revenue associated with compliance with any applicable law, ordinance, rule, regulation,

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covenant or other requirement.

Should the Licensor or any federal, state, county, municipal or other governmental agency determine that Licensee's use of the Licensed Premises is not in compliance with all applicable laws, ordinances, rules, regulations, covenants or other requirements, the Licensee shall take immediate steps to come into compliance with all applicable laws, ordinances, rules, regulations, covenants or other requirements. If the Licensee fails to cure or otherwise come into compliance with any applicable laws, ordinances, rules, regulations, covenants or other requirements of any federal, state, county, municipal or other governmental agency within five (5) days after delivery of written notice from the Licensor or any federal, state, county, municipal or other governmental agency, such failure shall be considered a material default and ground for immediate suspension by the Licensor. In the event of such suspension, the suspension shall remain in effect until the Licensee remedies such noncompliance to the satisfaction of the Licensor, or any federal, state, county, municipal or other governmental agency (as applicable).

Notwithstanding anything to the contrary in this Agreement, if the Licensor, in its reasonable and sole discretion, determines that: (i) the Licensee's compliance with any applicable laws, ordinances, rules, regulations, covenants or other requirements of any federal, state, county, municipal or other governmental agency is infeasible; or (ii) any further failure to comply with applicable laws, ordinances, rules, regulations, covenants or other requirements of any federal, state, county, municipal or other governmental agency presents unacceptable risk of liability to the Licensor, the Licensee may terminate this License upon five (5) hours' notice to the Licensee.

2. **License Term.** The term of this License shall be for the period commencing upon full execution of this Agreement and expiring on February 28, 2025, (the "Initial Term"), with the BPDA holding two (2) successive extension options that may be exercised at the sole discretion of the BPDA.

If exercised by the BPDA, the first option term shall commence approximately March 1, 2025 and expire on February 28, 2026 ("the "1st Option Term"). If exercised by the BPDA, the second option term shall

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commence March 1, 2026 and expire on February 28, 2027 (the “2nd Option Term.”)

The Licensor shall notify the Licensee by January 31, 2025 and January 31, 2026 of its intent to exercise the successive extension options.

The Initial Term, the 1st Option Term (if exercised), and the 2nd Option Term (if exercised) shall be referred to collectively as the “License Term.”

3. **License Fee.** The license fee (the “Licensee Fee”) shall be paid XXXXX during the License Term, and shall be calculated as follows. XXXXXX. The first License Fee payment shall be due on XXXXXXXX, 20XX and the last License Fee payment shall be due on XXXXXXXXX, 20XX. The term “commercial activity” shall include all revenue-generating activities. When paying the License Fee, the Licensee shall submit a report of XXXXX for all commercial activity. Failure to timely pay the XXXX License Fee or include a report of the previous XXXXX receipts for all commercial activity may be deemed a breach of this Agreement.

Notwithstanding the above, the Percentage of Gross Receipts Monthly Fee may be reduced or waived entirely if the Licensee is suspended by the Licensor, terminated by the Licensor, or expends funds for Licensor-approved public activation. For any funds expended for Licensor-approved public activation, the Licensee will receive a credit for such funds up to 100% of the Percentage of Gross Receipts Monthly Fee. In addition to receiving the written pre-approval of the Licensor, the public activation must fall into one of the two categories:

- a. **Public Programming.** Defined as activation programming that is free and open to the public that has been approve in writing by the Licensor in advance. All such programming must allow any and all members of the public to be able to participate at no charge. This public programming can include the following categories:
 - i. xxxx;
 - ii. xxxx;
 - iii. xxxx;
 - iv. xxxx; or
 - v. xxxxx
- b. **Physical Enhancement of the Public Realm.** Defined as improvement to: any (i) permanent fixture, (ii) temporary

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improvement, or (iii) landscape enhancement that improves CNY public property that has been approved in writing by the Licensor in advance. Examples of Physical Enhancement(s) of the Public Realm likely to meet approval include:

- i. xxxx;
- ii. xxxx;
- iii. xxxx;
- iv. xxxx; or
- v. xxxxx

Physical Enhancement(s) to the Public Realm shall not include improvements made to any private property or improvements that would generally be necessary for the Licensed Uses.

Before the Licensor shall deduct a Licensor-approved public activation expense from the Percentage of Gross Receipts Monthly Fee, the Licensee must submit a detailed invoice of the expense to the Licensor. Upon review and approval of the expenses, the Licensor shall credit such expenses up to 100% of the Percentage of Gross Receipts Monthly Fee. To the extent such expenses exceed 100% of the Percentage of Gross Receipts Monthly Fee, those expenses may be credited towards future Percentage of Gross Receipts Monthly Fee(s). To the extent such expenses exceed 100% of Percentage of Gross Receipts Monthly Fee(s) for the License Term, the Licensee will not receive any further credit or reimbursement. In no event shall a Licensor-approved public activation expense be deducted from the Base Monthly Fee.

4. **Operating Schedule.** The Licensed Uses shall be prepared and opened by a date to be agreed upon with the Licensor. The operating schedule shall be listed as **Exhibit B** to this Agreement. Should the Licensee be required or compelled to change the schedule or close during the hours it is scheduled to operate, the Licensee must give notice to the BPDA Director of Real Estate or his/her designee.

Community activation and programming that occurs without alcoholic beverages may be permitted to begin as early as 9:00 a.m. with the prior written consent of the BPDA.

5. **Accounting and Reporting.** The Licensee shall provide monthly reports, and an end of the License Term report to the BPDA's Director of Real Estate or his/her designee reasonably detailing the Licensed Uses, as well as the

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gross costs of and gross revenues from those efforts. The reports shall include a statement of all revenues and expenses arising from all Licensed Uses along with a brief narrative describing the impact of the Licensed Uses. Such reports shall be in the form of a financial statement (or, if available, an audited financial statement).

The Licensee acknowledges that any expense incurred in providing the above-described reports shall be paid by the Licensee. The Licensee further acknowledges that the failure to provide the required information shall be a breach of this Agreement.

6. **Advertising and Marketing.**

- (a) The Licensee must obtain the BPDA's Director of Real Estate or his/her designee's pre-approval for all on-site advertising, including advertising directly related to the Licensed Uses authorized herein. Advertising on the Licensed Premises and on any equipment, furniture, umbrellas, etc., shall be kept to a reasonable amount and size.
- (b) The Licensee, in its advertisements, signs, as well as oral representations, shall not misrepresent in any respect the facilities provided or the status of the Licensee, or the condition of the Licensed Premises. The fact that the Licensed Premises and the Licensed Uses are in partnership with the BPDA shall be included in any brochures and advertising of the Licensed Premises or the Licensed Uses thereon.
- (c) The BPDA may require that the Licensee limit competing advertisement at the request of a sponsor for certain events or certain periods of time.
- (d) The Licensee shall post the names and prices of products sold within the Licensed Premises on printed signage or price lists. Such signage shall be provided by the Licensee at its sole expense.
- (e) The Licensee shall withdraw any advertising or desist from any promotional activity, upon request from the BPDA, should the BPDA determine that such advertising or promotional activity is inappropriate or exceeds the authorized conditions of use.

7. **Charges for Utility Services.** Licensee shall pay the Licensor a flat fee of (XXX) per month for use of utility services at the Licensed Premises.
8. **Improvements.** No buildings or structures shall be erected on, no fixtures shall be installed on, and no other improvements or alterations shall be made to, the Licensed Premises without the Licensor's prior written consent; such consent shall not be unreasonably denied. Furthermore, no signs (other than those required by law) shall be placed upon the Licensed Premises without the Licensor's prior written consent.

Subject to the prior written approval of the BDPA, the Licensee shall post signs indicating that the Licensed Premises shall remain open to the public during all Licensed Uses.

All improvements, including temporary fencing or patio furniture, require prior approval of BPDA Urban Design prior to installation.

9. **Maintenance and Repair.**
 - (a) **Maintenance of Licensed Premises.** The Licensee shall be solely responsible for the costs associated with all maintenance, security, repairs and other services arising out of its use of the Licensed Premises. All fixtures, effects, equipment, and property of any kind of the Licensee, and of all persons claiming through or under the Licensee, shall be at the sole risk of the Licensee.

Such maintenance shall include, without limitation, removing litter, trash, debris or other disposable materials generated by the Licensee and/or its agents, participants, guests and/or invitees. The Licensee shall leave the Licensed Premises in at least as good condition as received at the beginning of the License Term, normal wear and tear from permitted uses excepted.

Licensee is responsible for procuring separate trash and recycling services for the Licensed Premises. Separate trash and recycling receptacles must be maintained by the Licensee within the Licensed Premises. With prior Licensor authorization, the dumpster area

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adjacent to the Licensed Premises may be used to store Licensee trash and recycling storage.

- (b) Protection of Abutting Public Ways. In addition to the foregoing, Licensee shall, at its sole cost and expense, take adequate precautions to protect all existing walks, roads, streets, utilities, pipes, curbs, pavements, fencing, hydrants, signs, trees, and plantings on or adjacent to the Licensed Premises and shall repair and replace or otherwise make good as directed by the Licensor, any damage caused by Licensee, its employees, agents, contractors or invitees, to such walks, roads, streets, utilities, pipes, curbs, pavements, fencing, hydrants, signs, trees or plantings. All streets and sidewalks shall be kept free of all debris and equipment to provide safety and minimum inconveniences to the public.
- (c) Maintenance within the Licensed Premises. Licensee shall be responsible for cleaning and removing any trash or debris within the Licensed Premises and the area immediately surrounding the Licensed Premises. This cleaning and removal shall occur daily during and at the conclusion of any Licensed Uses.
 - (i) Licensee is required to perform daily and nightly clean-up of the Licensed Premises.
- (d) Gates and Fencing. Licensee shall, at its sole cost and expense, install, maintain and repair in satisfactory condition all gates and fencing necessary during the License Term, as determined by Licensor.
- (e) Bathroom Facilities. The provision of appropriate and sufficient bathroom facilities and the maintenance and daily cleaning thereof shall be the sole responsibility of the Licensee.

10. **Condition of the Licensed Premises.**

- (a) Licensed Premises "As Is." Licensee has inspected the condition of the Licensed Premises and accepts the Licensed Premises in its "as is" condition as of the date of this License, and will not, at any time, make any claim that the Licensed Premises or structures thereon are not in suitable repair or condition for the uses and purposes of this License, nor will the Licensee at any time make any claim for damage arising

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from or consequent upon any repairs that Licensor or Licensee may perform or cause to be performed or in consequence of the occupancy of the Licensed Premises by Licensee.

(b) No Representations or Warranties. Licensor has not made any representation or warranty as to the condition of the Licensed Premises or its suitability for any particular use or as to any other matter affecting this License.

11. **Hazardous Materials.** Licensee shall not use, generate, store, or dispose of, or permit the use, generation, storage, leakage or disposal of Hazardous Materials on or about the Licensed Premises. If Licensee breaches its obligations under this Section, Licensor may immediately take any and all action reasonably appropriate to remedy the same, including taking all appropriate action to clean up or remediate any contamination resulting from Licensee's use, generation, storage, leakage or disposal of Hazardous Materials. Licensee shall defend, indemnify, and hold harmless Licensor and its representatives and agents from and against any and all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of cleanup and remediation) arising from Licensee's failure to comply with these provisions. The term "**Hazardous Materials**" means any substance, material, or waste which is now or hereafter classified or considered to be hazardous, toxic, or dangerous under any law relating to pollution or the protection or regulation of human health, natural resources or the environment, or poses or threatens to pose a hazard to the health or safety of persons on the Licensed Premises. This indemnity provision shall survive termination or expiration of this License.

12. **Insurance.**

(a) Types and Amounts of Insurance. Licensee shall, at its sole cost and expense, purchase and maintain during the License Term the following types of insurance in the amounts indicated or in such greater amounts as Licensor deems necessary:

(i) Commercial General Liability insurance insuring Licensor and Licensee against all claims and demands for personal injury and property damage, including Premises/Operation, Products/Completed Operations Liability, Contractual, Board

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Form Property Damage, and Personal/Advertising Injury in the amount of One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) annual aggregate limit per location;

- (ii) Workers Compensation insurance in statutory amounts as required under G.L. c. 152 (the Workers' Compensation Law) covering any of Licensee's employees performing work at the Licensed Premises, and the employees of any of Licensee's contractors, subcontractors, and agents engaged in performing work at the Licensed Premises, all in accordance with the Workers' Compensation Law;
- (iii) Automobile Liability (Any Auto/Hired/Non-owned) for One Million Dollars (\$1,000,000.00) combined single limit; and
- (iv) Umbrella Liability excess of General Liability, Employer's Liability, and Auto Liability for Three Million Dollars (\$3,000,000.00) each occurrence.

(b) General Conditions of Insurance.

- (i) The Boston Redevelopment Authority will be named as an additional insured on all policies except Workers' Compensation and Employer's Liability.
- (ii) Above insurance shall be primary and non-contributory over any such insurance available to the Boston Redevelopment Authority and their officials, employees, and volunteers.
- (iii) Waiver of Subrogation will be included with respect to all coverages listed above in favor of the Boston Redevelopment Authority. The Workers' Compensation Policy must be specifically endorsed and noted as such in the required certificate.

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- (iv) Commercial General Liability insurance will state that no act or omission of Licensee shall invalidate the policy as to the Boston Redevelopment Authority.

Licensee shall furnish to Licensor certificates evidencing such insurance policies. Licensee shall not commence or continue to perform any work at the Licensed Premises unless Licensee has obtained, and is maintaining in full force and effect, all required insurance, and until all insurance certificates have been filed evidencing the specific insurance coverage required.

- (c) Form. All insurance policies to be obtained in accordance with the foregoing shall be in the form and written by companies satisfactory to the Licensor.
- (d) Insurance Provisions. The insurance policies to be obtained in accordance with the foregoing, shall include the following provisions:
 - (i) that the insurance afforded to these additional insureds shall be primary insurance, and that if the additional insureds have other insurance which might be applicable to any loss, the amount of insurance provided under Licensee's policies of insurance shall not be reduced or prorated by the existence of other insurance;
 - (ii) either designating Licensor as the insured or denying to the insurer acquisition by subrogation of rights of recovery against Licensor to the extent that the rights have been waived by the Licensee prior to the occurrence of loss or injury pursuant to this Section 12 or Section 13 below;
 - (iii) that no act or omission of Licensee shall invalidate the policy as to Licensor, and no act or omission of Licensor shall invalidate the policy as to Licensee;

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- (iv) that no obligation on the part of Licensor, direct or indirect, is to be construed beyond the License Term; and
- (v) that if, either Licensee's agreement herein to insure or to name Licensor as additional insured with respect to contractual liability assumed by the Licensee under the terms of this License or otherwise or any contract of insurance between the Licensee and its insurance company, shall to any extent be or be determined to be void or unenforceable, then it is the intention of the parties that such circumstances shall not otherwise affect the validity or enforceability of the Licensee's agreements under this Section 12 nor the validity or enforceability of such contract of insurance, each of which shall be enforced to the fullest extent permitted by law.

13. **Indemnification.** Licensee shall indemnify and save harmless the Boston Redevelopment Authority, its officers, employees, agents and representatives, from and against any and all liabilities, suits, actions, claims, demands, damages, losses, expenses, judgments and costs of every kind and description to which the Licensor may be subjected to or put by reason of injury (including death) to persons or property resulting from, in connection with, or growing out of any act of commission or omission of Licensee, its employees, agents, contractors, subcontractors, visitors, guests, invitees or any and all other persons or entities dealing with Licensee in any way in the occupancy and use of the Licensed Premises. At the request of the Boston Redevelopment Authority, Licensee shall initiate and complete all activities, including any legal proceedings, necessary to effect the resolution of any such suits, actions, claims, or demands. The provisions of this Section 13 shall not, in any way, be limited by the provisions of any other Section herein. The provisions of this Section 13 shall survive the termination of this License.

Licensee acknowledges that the Boston Redevelopment Authority makes no guarantees or promises as to the security of any property stored upon or within the Licensed Premises. The Licensee accepts the Licensed Premises "as is" and agrees to bear, in its entirety, any and all risk associated with the use and storage of private property within the Licensed Premises.

14. **Default and Termination.**

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- (a) Default. Failure to pay any charges to be paid hereunder, or material failure to comply with any other provision of the License within five (5) days after delivery of written notice from the Licensor to the Licensee, shall constitute a default hereunder and thereafter Licensor may terminate this License and remove Licensee from this Licensed Premises, provided however that no notice shall be necessary to terminate this License in the event the default arises out of a failure of Licensee to maintain insurance required hereunder. In the event of such termination, Licensee shall surrender the Licensed Premises peacefully, and shall not oppose or contest eviction proceedings when notified to vacate or when notified that this License has been terminated.

- (b) Emergencies. Licensor may suspend Licensee's rights under the License immediately if, in Licensor's sole and absolute discretion, a public safety emergency exists that requires said suspension, whether said public safety emergency is caused by Licensee or other circumstances beyond the control of the Licensor or Licensee. Licensor and Licensee shall cooperate to minimize to the extent reasonably possible the nature, extent and duration of the emergency requiring the suspension.

- (c) Unilateral termination. The Licensor unilaterally terminates this License upon five (5) days written notice to the Licensee for any cause whatsoever and specifying the date of termination.

- (d) Surrender of Licensed Premises. Upon the expiration or earlier termination of this License, Licensee shall vacate the Licensed Premises and remove from the Licensed Premises at its sole cost and expense, all of its equipment, supplies, furnishings, and other personal property, including property of its invitees and shall further, at the request of Licensor, restore the Licensed Premises to its original condition as of the date of this License, at Licensee's sole cost and expense, to the satisfaction of Licensor. Licensee shall, at its sole cost and expense, repair any damage to the Licensed Premises. In the event that Licensee fails or neglects to remove its property or that property of its invitees from the Licensed Premises, restore the Licensed Premises to its original condition, and/or repair any damage to the Licensed Premises as herein required, Licensor shall have the right to do so at the sole cost and expense of Licensee. Any property

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not removed from the Licensed Premises shall, at Licensor's option, become the property of the Licensor. The provisions of this Section 14(c) shall survive the termination of this License.

15. **Acknowledgement.** This Agreement and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the Boston Redevelopment Authority, dated May 15, 1979, and recorded at the Suffolk County Registry of Deeds at Book 9182, Page 134, and the current Program of Utilization which governs the use of the property. Violations of the said terms and conditions may be grounds for reversion to the United States of America, at its discretion and termination of this Agreement. Concessionaire owned personal and real property improvements associated with the real property, may be subject to seizure, without compensation, by the USA.
16. **Notices.** All demands, notices, consents or approvals to be made hereunder shall be in writing and shall be deemed delivered hereunder if mailed postage prepaid, by registered or certified mail, return receipt requested, or delivered by hand to the addresses first set forth above, or to such other address as may be specified by either of the parties in writing:

If to Licensee:
XXXXXXXXXXXXX
ADDRESS
ADDRESS

If to Licensor:
Boston Redevelopment Authority d/b/a
Boston Planning & Development Agency
One City Hall Square, 9th Floor
Boston, Massachusetts 02201-1007
Attention: Director

With a copy to:
Boston Redevelopment Authority d/b/a
Boston Planning & Development Agency
One City Hall Square, 9th Floor
Boston, Massachusetts 02201-1007
Attention: General Counsel

17. **Brokerage.** Licensee acknowledges that it has had no involvement in this real estate transaction with a real estate brokerage firm. Licensee covenants

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to pay, hold harmless, and defend Licensor against any and all loss, cost, expense, or liability incurred by Licensor for any compensation, commissions, and charges claimed by any broker or agent with respect to this License or any extension thereof.

18. **Licensee Manager.** The Licensee must provide the Licensor with contact information for on-site manager(s) that will be present during all applicable hours of operation. This must include a phone number by which the on-site manager will be accessible to immediately address concerns or issues which arise during operations. The Licensee shall provide this information to other appropriate parties as identified by the BPDA.
19. **Noise.** The Licensee shall be aware of and abide by all applicable noise requirements in the CNY. Further, no amplified music or should will be allowed prior to 11:00 a.m. without the prior written consent of the BPDA. Any amplified music or sound during operation hours must be quiet enough not to disturb nearby residents or businesses. Accordingly, any amplification should not be audible beyond the Licensed Premises. Further and in consultation with the BPDA, the Licensee shall create and implement a process by which it will respond to any complaints concerning noise.
20. **Lighting.** The Licensee shall submit a lighting fixture and installation plan to the BPDA for approval. The lighting plan will be reviewed by BPDA's urban design staff.
21. **Security.** Licensee acknowledges that it is solely responsible for providing appropriate security during any Licensed Uses. Before any Licensed Uses commence on the Licensed Premises, the Licensee shall provide the BPDA with an acceptable and detailed security plan.
22. **Miscellaneous.**
 - (a) **No Waste.** Licensee shall not commit or suffer waste or impairment of the Licensed Premises.
 - (b) **Parking.** Licensee shall be awarded one (1) parking spot, with placard, next to the Licensed Premises for the Licensed Uses. Licensee shall not permit any of its employees or invitees to park motor vehicles on public right-of-ways adjacent to the Licensed Premises, or on the

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Licensed Premises, without the written consent of the BPDA's Director of Real Estate or his/her designee.

- (c) Terry Ring Road. Licensee is permitted to block traffic to the end of Terry Ring Road, as set forth in Exhibit A. Traffic may only be blocked while Licensee operates the Licensed Premises; further, blocks must be removed daily. Blocks must be easily moveable to allow Licensor access to the maintenance shed at all times.
- (d) Assignment and Subletting. This License shall not be assigned, transferred, mortgaged, encumbered or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, without the prior written consent of the Licensor. Licensee shall not sublet the Licensed Premises or otherwise permit the Licensed Premises to be occupied by any person or entity other than Licensee without the prior written consent of Licensor. The Licensee covenants that it will not occupy or otherwise use the Licensed Premises, nor allow it to be occupied or used for any purposes other than those listed herein, nor in any way to occupy or use the property in other than a proper or fitting matter, nor in a manner contrary to any law of the Commonwealth or to any ordinance or by-law of the City of Boston.
- (e) Liens Against the Licensed Premises. Licensee shall not allow any liens or other charges to be placed, filed or recorded against the Licensed Premises. If any lien or charge is filed, Licensee shall, as soon as possible, have such lien canceled or discharged of record, to the satisfaction of Licensor, by payment, bond, court order or otherwise. If Licensee fails to so cancel or discharge any such lien or charge, Licensor may do so at Licensee's sole cost and expense.
- (f) Access to Licensed Premises. Licensee will permit Licensor, its employees, or authorized agents to enter upon the Licensed Premises at any time, either to view or inspect the same, or to remove, without being held responsible therefore, any building, structure, sign, vehicle or any material not approved by the Licensor.
- (g) Assistance During Emergencies. Licensee shall immediately notify the Boston Police, Boston Emergency Medical Services ("Boston EMS") and Boston Fire Departments of any emergency requiring their service. Licensee shall transmit all information accurately to the Boston Fire

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Department, Boston EMS and the Boston Police Department and shall arrange a suitable meeting place in order to expedite the Police, EMS and the Fire Department's entrance to the Licensed Premises.

Licensee shall assist and provide backup during any emergency call for medical, fire, evacuation, or crowd control management; and maintain safe and effective evacuation procedures in the event of an emergency. In addition, Licensee shall respond to reported crimes, accidents, injuries and any emergency situation and stand ready to effect an emergency evacuation according to specific orders of City of Boston officials when appropriate.

- (h) Non-Discrimination. Licensee shall not discriminate, nor allow any of its employees, agents, contractors or subcontractors to discriminate, upon the basis of race, color, sex, sexual orientation, creed, or religion in the hiring and employment of workers and/or in providing goods, services, and accommodations to the general public.
- (i) Other costs. Licensee shall provide and assume all costs directly or indirectly related to its use of the Licensed Premises including police, fire, security guards, ambulances, and sanitary services required to ensure compliance with all laws, codes and ordinances.
- (j) Commercial use. The Licensee shall not engage, directly or indirectly, in any commercial activities within the Licensed Premises, other than those enumerated in this License without the prior written approval of the Licensor.
- (k) Amendments. This License may not be amended, altered or modified in any manner whatsoever except by a written instrument signed by Licensor and Licensee.
- (l) Captions. The captions are inserted for reference purposes only and shall not be used in any way to interpret, clarify, define, limit or amend the scope or intent of this License or the meaning of any provision of this License.
- (m) Applicable Law. This License shall be interpreted in accordance with and governed by the laws of the Commonwealth of Massachusetts.

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- (n) Severability. If any provision of this License shall to any extent be held invalid or unenforceable, the remainder of this License shall not be deemed affected thereby.
- (o) Entire Agreement. This License and all exhibits attached hereto set forth the entire agreement of the Parties hereto with respect to the subject matter contained herein.
- (p) Counterparts. This License may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.
- (q) Relationship of the Parties. The Licensor shall not be responsible for any loss, injury, or damage to persons or property in or about the Licensed Premises relating directly or indirectly to this License. The Licensee shall at no time be considered an agent or representative of the Licensor.
- (r) No Property Interest. No ownership, leasehold or other property interest shall vest in Licensee by virtue of this revocable License. Licensee acknowledges this is a temporary license and use is only for a limited interim period.
- (s) No obligation on the part of the Licensor, direct or indirect, is to be construed beyond this temporary license.
- (t) No stock piling of spoil, refuse, trash or landfill materials will be permitted or allowed on the Licensed Premises.
- (u) The Licensed Premises for use by the public is subject to and governed by the Massachusetts Recreational Use Statute, G.L. c. 21, § 17(c).
- (v) Licensee's use of the Licensed Premises is not exclusive. The Licensor may schedule special events, allow other permitted uses, or schedule necessary construction at or near the Licensed Premises.

23. **Additional Covenants.**

- (a) The Licensee agrees to comply with any other reasonable rules and regulations as the Licensor shall establish from time to time upon

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notice to the Licensee.

- (b) Licensee agrees that it shall be responsible for any of their contractor(s) workmen, employees or agents working on or in the Licensed Premises for conformance with this Agreement and for compliance for any laws, codes, rules, regulations or ordinances of any federal, state, or municipal board, agency, or commission and shall be responsible for obtaining all permits or licenses at their expenses.
- (c) The Licensee shall make every effort to accommodate the public, National Park Service events, City of Boston events, Boston Planning & Development Agency events, other authorized licensees, or construction.
- (d) Licensee agrees to take such measures, which, in the sole and reasonable judgment of Licensor, are reasonably necessary to provide for the safety of the public during the term of this License.

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In witness whereof the Parties hereto have placed their hands and seals below as of the date first above written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY
D/B/A BOSTON PLANNING &
DEVELOPMENT AGENCY

By: _____
Brian P. Golden, Director

LICENSEE

By: _____

Approved as to form:

E. Renee LeFevre
General Counsel
Boston Redevelopment Authority d/b/a
Boston Planning & Development Agency

LICENSE EXHIBIT XX
License Area

Exhibit B – Certificate of Authority

CERTIFICATE OF AUTHORITY MEETING OF BOARD OF DIRECTORS _____
20XX

At a meeting of the Directors of Licensee duly called and held at _____ on the _____ day of _____, 20XX, at which a quorum was present and acting, it was Voted, that _____ the _____ of the Licensee is hereby authorized and empowered to make, enter into, sign, seal, and deliver, on behalf of this entity a license for the ***Shipyard Park Activation at the Charlestown Navy Yard*** with the Boston Redevelopment Authority d/b/a Boston Planning & Development Agency (“BPDA”).

I do hereby certify that the above is a true and correct copy of the record, that said vote has not been amended or repealed and is in full force and effect as of this date, and that

_____ is the duly elected _____
of this firm.

Attest:

_____ Clerk or Secretary of the Entity

(If Corporation, Affix Corporate Seal)

Exhibit C – Certificate of Compliance with Laws

Massachusetts Employment Security Law

Pursuant to M.G.L. c. 151 A, §19A(b), the undersigned hereby certifies under the penalties of perjury the Respondent, with Department of Employment Training (DET) ID Number _____ has complied with all laws of the Commonwealth relating to unemployment compensation contributions and payments in lieu of contributions.

Compliance may be certified if the Respondent has entered into and is complying with a repayment agreement satisfactory to the Commissioner of DET, or if there is a pending adjudicatory proceeding or court action contesting the amount due pursuant to M.G.L. c. 151 A, §19A(c).

Massachusetts Child Care Law

Pursuant to Chapter 521 of the Massachusetts Acts of 1990, as amended by Chapter 329 of the Massachusetts Acts of 1991, the undersigned hereby certifies that the Respondent:

1. _____ employs fewer than fifty (50) full-time employees; or
2. _____ offers either a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program; or
3. _____ offers child care tuition assistance, or on-site or near-site subsidized child care placements.

Revenue Enforcement Protection Program

Pursuant to M.G.L. c. 62C, §49A, the undersigned hereby certifies that the Respondent's Social Security or Federal Identification No. is _____, and that to the best of his/her knowledge and belief, the Respondent has filed all state tax returns and paid all state taxes required by law.

Signed this ____ day of _____, 20____.

BY: _____

NAME: _____

Exhibit D – Nondiscrimination and Affirmative Action

The Respondent agrees:

1. The Respondent shall not, in connection with the services under this License, discriminate by segregation or otherwise against any employee or applicant for employment on the basis of race, color, creed, national origin, age, sex or sexual preference and shall undertake affirmative action measures designed to guarantee and effectuate equal employment opportunity for all persons.
2. The Respondent shall provide information and reports requested by the BPDA pertaining to its obligations hereunder, and will permit access to its facilities and any books, records, accounts or other sources of information that may be determined by the BPDA to affect the Respondent's obligations.
3. The Respondent shall comply with all federal and state laws pertaining to civil rights and equal opportunity including executive orders and rules and regulations of appropriate federal and state agencies unless otherwise exempt therein.
4. The Respondent's non-compliance with the provisions hereof shall constitute a material breach of this License, for which the BPDA may, in its discretion, upon failure to cure said breach within thirty (30) days of written notice thereof, terminate this License.
5. The Respondent shall indemnify and save harmless the BPDA from any claims and demands of third persons resulting from the Trolley Stop Provider's non-compliance with any provisions hereof.

Signed: _____

Name: _____

Title: _____

Date: _____

Exhibit E – Non-Collusion Affidavit of Respondent

State of _____

County _____

of _____, being
first duly sworn deposes and says that:

1.0 He/she is (owner, partner, officer, representative, or agent) of _____, the Respondent that has submitted the attached Proposal:

2.0 He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

3.0 Such Proposal is genuine and is not a collusive or sham Proposal;

4.0 Neither the said Respondent nor any of the officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Respondent, firm or person to submit a collusive or sham Proposal in connection with the Contract for which the attached Proposal has been submitted or to refrain from submitting a proposal in connection with such Contract, or has in any manner, directly or indirectly sought by agreement of collusion or communication or conference with any other Respondent, firm or person to fix the price or prices in the attached Proposal or of any other Respondent, or to fix any overhead, profit or cost element of the Proposal price or the Proposal price of any other Respondent or to secure through any collusion conspiracy, connivance or unlawful agreement any advantage against the Boston Redevelopment Authority or any person interested in the proposed Contract; and

5.0 The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

Boston Redevelopment Authority
d/b/a Boston Planning & Development Agency

Subscribed and sworn to before me this _____ day of _____, 2020

My commission expires:

Title

Exhibit F - Fee Proposal Form

The monthly license fee payable to BPDA shall be a flat monthly rent payment equal to \$3,000 plus a minimum 15% monthly percentage of gross receipts. Please complete the form below.

A. FLAT MONTHLY LICENSE PAYMENT: \$3,000 x 30 months = \$90,000 total flat license fee

AND

B. PERCENTAGE OF GROSS RECEIPTS:

_____ % (minimum 15%) x \$_____ estimated total gross receipts for

three (3) seasons = _____ total percentage of gross receipts fee

Total fee in words: _____

The proposed activities should generate enough revenue to be sustainable without a subsidy, and should **not** assume that the BPDA will make significant improvements to the Shipyard Park infrastructure.

For any funds expended for BPDA-approved public activation which is free and open to the public, the licensee may receive a credit up to 100% of the monthly percentage of gross receipts fee. Any credits would be subject to written pre-approval from the BPDA, as well as the final terms of the license agreement.