

**City of Bellingham
Request for Proposal
20B-2014**

**RENTAL OF HUMAN POWERED WATERCRAFT AT
LAKE PADDEN PARK**



Submittal Location:

Purchasing Office
2221 Pacific Street
Bellingham, WA 98229

Closing Date & Time:

Five (5) complete copies of each submittal must be received by
11:00 a.m., PST, on Thursday, April 17, 2014

Contact Information:

Bidding information
Purchasing Office- 360-778-7750

Specification information
In writing only: bids@cob.org

To comply with City of Bellingham waste-reduction policies, we require that proposals be submitted on recycled paper, printed on both sides of the page, and that plastic binding, laminates, and other unnecessary materials be eliminated. Proposals shall be stapled in the upper-left-hand corner only.

1.0 OBJECTIVE

The City of Bellingham is seeking proposals for a contractor to provide rental services as follows:

- Rental of human powered watercraft from Lake Padden Park.

Summary - The City of Bellingham seeks the most advantageous proposal for a human powered watercraft rental concession at Lake Padden Park, located 4882 Samish Way, Bellingham, WA 98229 (see Exhibit "A"). The desire of the City is to increase recreational opportunities by providing residents of Bellingham, surrounding communities and visitors with the opportunity to rent a kayak, canoe, paddleboard or pedal boat to explore Lake Padden with equipment that is professionally managed and expertly maintained, and to receive the necessary instruction to use the equipment properly. The City's goal is to award a one-year concession contract with the option to renew for an additional one (1) year to an individual or business entity. The purpose of issuing this RFP is to act in the best interest of the public by having this recreational use operated by a qualified Proposer at no cost to the City, and to reasonably ensure an up-to-date inventory of non-motorized boats for rent at Lake Padden Park that meets the need and demand of the public, and to promote increased visitation to Lake Padden Park through marketing these services.

2.0 TERMINOLOGY

The following terms will apply to this Request for Proposal.

- a) **Contract** means the written agreement resulting from this Request for Proposal executed by the City of Bellingham and the contractor;
- b) **Contractor** means the successful proponent to this Request for Proposal who enters into a written contract with the City of Bellingham;
- c) **City** means the City of Bellingham;
- d) **Must**, or **mandatory**, means a requirement that must be met in order for a proposal to receive consideration;
- e) **Proponent** means an individual or a company that submits, or intends to submit, a proposal in response to this Request for Proposal;
- f) **Should**, or **desirable**, means a requirement having a significant degree of importance to the objectives of the Request for Proposal;
- g) **System**, or **solution**, means any portion of, or all of the deliverable items within the proponent response.

3.0 REQUEST FOR PROPOSAL PROCESS

3.1 INQUIRIES

All inquiries related to this Request for Proposal process are to be directed, in writing, to the following. Information obtained from any other source is not official and should not be relied upon. Inquiries and responses will be recorded and will be distributed to all Proponents in the

form of an addendum. Individuals with questions about the specification should be in writing only to bids@cob.org.

Purchasing Office
2221 Pacific Street
Bellingham, Washington 98229
Telephone 360-778-7750
Fax 360-778-7706
E-mail bids@cob.org

3.2 CLOSING DATE

Five complete copies and one digital copy of each proposal must be received by 11:00 AM, Pacific Standard Time, on Thursday, April 17, 2014 at:

Purchasing Office
2221 Pacific Street
Bellingham, Washington 98226

Proposals must not be sent by facsimile. Proposals and their envelopes should be clearly marked with the name and address of the Proponent, the Request for Proposal number, and the project title. **DO NOT ADDRESS YOUR PROPOSAL TO AN INDIVIDUAL.**

3.3 LATE PROPOSALS

Late proposals will not be accepted.

3.4 EVALUATION COMMITTEE

Evaluation of proposals will be by a committee formed by the City. This committee will be composed of professionals with procurement and contracting skills; park site planning skills; park maintenance skills; and/or, management skills.

3.4.1 EVALUATION AND SELECTION

The evaluation committee will compare proposals against the mandatory criteria. Proposals not meeting all mandatory criteria will be rejected without further consideration. Proposals that do meet all the mandatory criteria will then be further assessed. The City's intent is to enter into a contract with the proponent(s) who best meets the City's needs.

The committee will be interested in learning how you previously have provided services of this type and how you might handle this work. Structure your response to make it easy for the evaluation committee to score your capabilities and experience.

3.4.2 PROPOSAL SCORING

Proposals will be evaluated based on submitted documents; elaborate art work, corporate brochures, and extraneous presentation materials are neither nor desired. The ultimate objective of this RFP is to find a vendor to provide safe and dependable human powered watercraft rental services at Lake Padden Park. Proposals will be scored based on the following elements:

1. Vendor experience/References (40%)	1 2 3 4 5 X 4 = _____
2. Quality of equipment & service (40%)	1 2 3 4 5 X 4 = _____
3. Past experience/performance on similar contracts with other public or private entities (20%)	1 2 3 4 5 X 2 = _____
Total Score (out of 50)	

3.5 NEGOTIATION DELAY

If a written contract cannot be negotiated within thirty days of notification of the successful proponent, the City may, at its sole discretion at any time thereafter, terminate negotiations with that proponent and either negotiate a contract with the next qualified proponent or choose to terminate the Request for Proposal process and not enter into a contract with any of the Proponents.

3.6 ESTIMATED TIME FRAMES FOR REQUEST FOR PROPOSAL

The following timetable outlines the anticipated schedule for the Request for Proposal and contract process. The timing and the sequence of events resulting from this Request for Proposal may vary and shall ultimately be determined by the City.

EVENT	ANTICIPATED DATE
Request for proposal issued	Thursday, March 27, 2014
Request for proposal closes	Thursday, April 17, 2014
Interviews/Evaluations completed	Friday, May 2, 2014
Negotiation of contract commences	Wednesday, May 7, 2014
Contract is signed	Wednesday, May 21, 2014

4.0 PROPOSAL PREPARATION

4.1 IRREVOCABILITY OF PROPOSALS

By submission of a clear and detailed written notice, the proponent may amend or withdraw its proposal prior to the closing date and time. Upon closing time, all proposals become irrevocable. By submission of a proposal, the proponent agrees that should its proposal be successful, the proponent will enter into a contract with the City.

4.2 CHANGES TO PROPOSAL WORDING

The Proponent will not change the wording of its proposal after closing and no words or comments will be added to the proposal unless requested by the City for purposes of clarification.

4.3 PROPONENTS' EXPENSES

Proponents are solely responsible for their own expenses in preparing a proposal and for subsequent negotiations with the City, if any. If the City elects to reject all proposals, the City will not be liable to any Proponent for any claims, whether for costs or damages incurred by the Proponent in preparing the proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever. The City is likely to require one or more meetings at the City, with proponents that have been selected as finalists for this project. Proponents are solely responsible for their own expenses attributable to any activity or materials related to such meetings.

4.4 PROPOSAL VALIDITY

Proposals will be open for acceptance for at least 90 days after the closing date.

4.5 FIRM PRICING

Prices will be firm for the entire contract period unless this Request for Proposal specifically states otherwise.

4.6 CURRENCY AND TAXES

Prices quoted are to be:

- a) In U.S. dollars;
- b) Inclusive of duty, where applicable;
- c) F.O.B. destination, delivery charges included where applicable;
- d) Including all taxes.

4.7 COMPLETENESS OF PROPOSAL

By submission of a proposal the Proponent warrants that if this Request for Proposal is to design, create, or provide a system, or manage a program, all components required to run the system or manage the program have been identified in the proposal, or will be provided by the Contractor at no charge.

5.0 ADDITIONAL TERMS

Where applicable, the names of approved sub-contractors listed in the proposal will be included in the Contract. Additional sub-contractors will not be added, nor other changes made, to this list in the Contract without the written consent of the City.

ACCEPTANCE OF PROPOSALS

- a) This Request for Proposal should not be construed as an agreement to purchase goods or services. The City is not bound to enter into a contract with the proponent who submits the lowest priced proposal or with any proponent. Proposals will be assessed by the evaluation committee. The City will be under no obligation to receive further information, whether written or oral, from any proponent.
- b) Neither acceptance of a proposal nor execution of a contract will constitute approval of any activity or development contemplated in any proposal that requires any approval, permit or license pursuant to any federal, state, or municipal statute, regulation or by-law.
- c) The City will have sole discretion in selecting the Proponent(s) and has the right to reject all proposals.

5.1 DEFINITION OF CONTRACT

Notice in writing to a proponent that it has been identified as the successful proponent and the subsequent full execution of a written contract and purchase order will constitute a contract for the goods or services, and no proponent will acquire any legal or equitable rights or privileges relative to the goods or services until the occurrence of both such events. The contract will include, but not be limited to, the terms set out in Appendix A.

5.2 LIABILITY FOR ERRORS

While the City has used considerable efforts to ensure an accurate representation of information in this Request for Proposal, the information contained in this Request for Proposal is supplied solely as a guideline for proponents. The information is not guaranteed or warranted to be comprehensive or exhaustive. Nothing in this Request for Proposal is intended to relieve proponents from forming their own opinions and conclusions with respect to the matters addressed in this Request for Proposal.

5.3 MODIFICATION OF TERMS

The City reserves the right to modify the terms of this Request for Proposal at any time at its sole discretion. This includes the right to cancel this Request for Proposal at any time prior to entering into a contract with the successful proponent(s).

5.4 OWNERSHIP OF PROPOSALS AND PUBLIC DISCLOSURE

All documents, including proposals, submitted to the City become the property of the City. They will be received and are subject to the provisions of the Public Disclosure Law.

5.5 CITY BUSINESS TAX

The selected proponent must register and pay appropriate City of Bellingham business tax. Please contact the City's Tax Representative at (360) 778-8010 for information on this requirement.

6.0 PURPOSE

The City of Bellingham is requesting proposals from qualified vendors to provide human powered watercraft rentals such as those listed below at Lake Padden Park in Bellingham, WA.

Examples - but not limited to: Kayaks, Canoes, Pedal Boats, Paddle Boards

7.0 PROJECT GOALS

To increase recreational opportunities at Lake Padden Park.

- Provide access to human powered watercraft at Lake Padden Park.

To increase the safety of human powered boating activity on Lake Padden.

- Safety should be improved by:
 - an increased use of required equipment e.g. life jacket, whistle, leash, etc.
 - increased knowledge of the limitations created by cold water and how to prepare for it.

8.0 COST

This activity should not create any costs for the City; rather, it should create monthly rental revenue.

9.0 SCOPE OF SERVICES

It is intended that the successful vendor will have the right and responsibility to provide human powered watercraft rental services at a designated site at Lake Padden Park (See Exhibit "A"). Vendor is required to operate a mobile operation at the designated site; the rental equipment must be removed from the Park on a daily basis, unless otherwise negotiated.

The vendor will provide rental services during the following times:

Saturday-Sunday 12:00 p.m. to 7:00 p.m.

Vendor may modify their hours in case of inclement weather. Vendor service on the remaining hours and days of the week will be determined as needed. Weather conditions and park visitation/public demand will be considered in jointly determining weekday rental hours.

The vendor shall provide services of the highest quality and dependability. The concession will normally be operated from June 14, 2014 through August 31, 2014. The vendor may extend prior to June 14 or past August 31 if agreeable by the City of Bellingham, Parks & Recreation Department.

The vendor will also be responsible to provide litter/garbage clean up around the designated site at the close of each day.

10.0 Allowances

The vendor will be allowed the following benefits:

- The vendor may set up a canopy or tent in the area designated for their business (See Exhibit "A").
- The vendor will be allowed up to 3 parking spaces for staff and a delivery trailer/vehicle.
- The vendor may complete demos or sales on site for items related to non-motorized aquatic vehicles.
- With notification, the vendor may modify hours.
- The vendor may set up a sandwich board advertising their business during concession hours at the West park entrance on Samish Drive, as well as inside the East park entrance.

The proponent must be able to provide sufficient resources to be able to execute the requirements listed in this RFP.

11.0 LIMITATIONS

The vendor must be able to operate with the following limitations:

- There is no electrical access and no generators shall be used.
- All signage content and posting location must be reviewed and pre-approved by the City.
- All advertising must be pre-approved by the City.
- The vendor must remain in the designated location; no roving of the Park is permitted.
- Motor vehicles may not be used to deliver equipment onto the grass. They must remain in designated roadways and parking areas.
- All equipment must be removed from the Park daily, unless otherwise negotiated.

12.0 SAFETY

The vendor selected will abide by all safety codes and regulations as set forth by State and Local laws. The City of Bellingham considers safety to be our top priority; therefore, safety standards must be maintained at all times.

- The vendor is responsible for providing all safety equipment necessary for the types of equipment rented. The safety equipment will include, but is not limited to, life jackets, a life ring, whistles, a first aid kit, blankets and a chase boat. Safety equipment must be up-to-date and in good condition.
- The chase boat may be human powered or have an electric motor, and may only be stored on the beach during the vendor's business hours.
- During non-business hours, the chase boat must be removed from the Park with the rest of the rental equipment, unless otherwise negotiated.
- In the event of lightning or thunder, the vendor will cease all operations as soon as the time between lightning flash and thunder is 30 seconds or less and remain closed for 30 minutes after the last lightning is seen or thunder heard.

13.0 COMPENSATION

The vendor will pay to the City a monthly lease fee, (2.5 month operating period) for use of the vendor location. Total lease fee including leasehold excise tax is \$101.56 per month. Rent and leasehold excise tax for partial months shall be pro-rated.

14.0 REQUIREMENTS

The City prefers to work with a single proponent for all services. If vendors wish to partner, they must submit a single proposal with an established entity that shall be the primary responsible proponent and point of contact.

Proposals should be brief and concise. The Proposal should contain the following information:

- Contact information, including but not limited to cell phone numbers and email addresses.
- A narrative background of the proposer's ability and experience in providing human powered watercraft rental services.
- An inventory of the type of craft to be rented from the facility.
- An inventory of safety equipment.
- Vendors will demonstrate they have taken proper safety protocols into consideration.
- A copy of the rental fee structure.
- Selected vendor must provide liability insurance naming the City as additionally insured and be accompanied by an endorsement as outlined in Appendix A.
- A minimum of three references indicating recent experience pertaining to providing service; references to include company/organization name, contact person and telephone number.

- Contractor will pay monthly lease fee for use of the facility, pro-rated for partial months (See Compensation above).
- A valid City of Bellingham Business License.

15.0 EVALUATION FACTORS

- Does the vendor have experience performing the required service?
- Do the vendor's references support the vendor's proposal?
- Does the vendor have the equipment to perform the required service?
- Has the vendor had any past experience performing the required service on a similar contract with other public or private entities?

The following are mandatory requirements. Proposals not clearly demonstrating that they meet them will receive no further consideration during the evaluation process.

Mandatory Criteria
a) The proposal must be received at the closing location by the specified closing date and time.
b) Proposal must be in English and must not be sent by facsimile.
c) Five copies of the proposal must be submitted. The proposal should not exceed 15 double sided pages in length.
d) Proposal must contain a signed letter or statement(s) substantially similar in content to the sample proposal cover letter in Appendix B.
e) The City may elect to ask proponents to make a presentation to the selection committee. The proponent will bear the costs for any presentation.
f) The City will have sole discretion in selecting the proponent(s) and has the right to reject all proposals.

15.1 INTERVIEW SCHEDULE

Selected vendors may be asked to give a presentation of no more than 20 minutes.

16.0 PRICING

Contractor will propose a rental fee schedule that is subject to approval by the City.

APPENDIX A

Selected Contract Clauses

1.0 COMPLIANCE WITH LAWS

The contractor will give all the notices and obtain all the licenses and permits required to perform the work. The contractor will comply with all laws applicable to the work or performance of the contract. The successful proponent(s) will be required to obtain a Bellingham City Business Registration Certificate and pay all applicable taxes. For additional information, check with the City's Finance Department, 360-778-8010. Any contract resulting from this Request for Proposal will be governed by and will be construed and interpreted in accordance with the laws of the State of Washington.

2.0 INDEMNITY

Any contract resulting from this Request for Proposal will require that the contractor indemnify, defend and hold harmless the City, its employees and agents from and against all claims, demands, losses, damages, costs and expenses made against or incurred, suffered or sustained by the City at any time or times (either before or after the expiration or sooner termination of this contract) where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the contractor or by any servant, employee, officer, director or sub-contractor of the contractor pursuant to the contract excepting always liability arising out of the independent acts of the City.

3.0 TAXES

The contractor will be responsible for all applicable taxes, including, but not limited to, business and occupation taxes and Washington Leasehold Excise Tax.

4.0 INSURANCE

Any contract resulting from this Request for Proposal may require that the contractor, without limiting its obligations or liabilities, and at its own expense, provide and maintain throughout the contract term, the following insurance with insurers licensed in the State of Washington in forms acceptable to the City. The contractor will provide the City with an insurance certificate evidencing the required coverage with an endorsement naming the City as additional insured.

- a) Workers Compensation Statutory Amount.
- b) Comprehensive general liability in an amount not less than \$2,000,000, inclusive, per occurrence insuring against bodily injury and property damage and including liability assumed under the contract.
- c) Automobile liability on all vehicles owned operated or licensed in the name of the contractor in an amount not less than \$1,000,000.
- d) Such insurance shall be primary and non-contributory with any other insurance for which the City is a named insured.

5.0 CONTRACT TERMINATION

Either party may terminate this contract with 7 days' written notice. Monthly rent will not be refunded in the event the contractor terminates the contract. In the event the contract is terminated by the City monthly rent will be refunded.

**CITY OF BELLINGHAM
FACILITY USE AGREEMENT**

The **CITY OF BELLINGHAM**, a first class municipality of the State of Washington, located at City Hall, 210 Lottie Street, Bellingham, Washington, 98225 (hereinafter the "City"), and **[Human Powered Watercraft Vendor]**, (hereinafter the "User"), in consideration of the mutual covenants set forth herein, agree as follows:

I. PURPOSE. This Agreement grants the User, as well as its members and guests, the right to conduct certain activities on or at facilities owned by the City as follows:

Activities

Provide human powered watercraft rentals for the public including, but not limited to, kayaks, canoes & paddle boards, as well as appropriate safety gear and instruction. Vendor is required to operate a mobile operation; rental equipment must be removed from the park on a daily basis.

City facilities

An 800 square foot area in Lake Padden Park (see Exhibit "A") located at 4882 Samish Way, Bellingham, WA.

II. TERM OF AGREEMENT AND HOURS OF ACTIVITIES. This Agreement permits use of City facilities for the period: starting June 14, 2014 and ending August 31, 2014 (The "Primary Term"). The User shall have the option to extend the Primary Term of this Agreement for one additional year by written notice to City sent not later than December 31, 2014. Occupation of the facilities for longer than the period stated will subject the User to a pro-rata increase in facility fees. User and its staff and customers shall only use the City facilities on the following days and during the hours indicated, unless otherwise negotiated: Saturday-Sunday, June 14-August 31, 12:00 noon through 7 p.m. Vendor hours may be shortened in case of inclement weather.

III. SERVICES AND UTILITIES.

- A. The City agrees to provide the following services and utilities, if any:
 - a. On site public restrooms.
 - b. Daily use of up to three (3) parking spaces for staff and a delivery trailer/vehicle.

- B. As a condition of use of the facilities, User agrees to furnish the following utilities or services, if any, and will be wholly responsible for paying to the same:
 - a. Obtain any necessary permits and comply with applicable City Municipal Code and Washington State laws.
 - b. Litter/garbage clean up around the designated facilities at the close of each day.
 - c. Provide and require use of applicable safety equipment including life jackets, whistles, leashes, a life ring, first aid kit, blankets and a chase boat. Chase boat may be human powered or have an electric motor and may only be stored on the beach during the hours of activities.
 - d. Inspect and maintain watercraft and safety equipment daily to ensure that it is in good, working order.
 - e. Provide necessary instruction to ensure equipment is used properly.
 - f. Boats and paddles shall be cleaned to remove toxins and invasive species prior to launching in Lake Padden.

- C. This activity is to occur with no increased cost to the City in terms of expense or staff labor.

IV. PAYMENT. As consideration for use of the facilities, User agrees to compensate the City as follows:

Ninety dollars (\$90.00) per month, plus leasehold excise tax in the amount of eleven and 56/100 dollars (\$11.56) per month. Payment for any given month shall be due by the first day of that month and shall be payable to the City Finance Director and delivered to the Parks and Recreation Administration Office, 3424 Meridian Street,

Bellingham, Washington 98225. Payment for partial months will be pro-rated. If User fails to pay any amount due under this Agreement within ten (10) days of the due date, a late charge equal to five percent (5%) of the unpaid amount shall be assessed and be immediately due and payable. In addition, interest shall accrue on the delinquent amount at a per annum rate which is the lesser of the highest interest rate permitted by applicable law or twelve percent (12%) per annum.

Compensation is only for use of the facilities, and does not include any other license fees, taxes, costs or similar payments which may be applicable.

V. TAXES, FEES, AND REGULATIONS.

A. User is liable for all taxes, license fees, and similar costs that are imposed by the City or other units of government that may be applicable to User's activities. Fees administered by the City that may be applicable include but are not limited to the following:

1. City Business and Occupation Tax, BMC 6.04
2. Leasehold Excise Tax, RCW 82.29A

B. User is referred to the City's Finance Department for information, forms and applications for City-administered fees.

C. User will comply with all applicable statutes, ordinances and regulations, and will obtain and pay for any applicable permits.

VI. ACCEPTANCE AND SURRENDER OF FACILITIES.

A. User agrees to accept the designated City facilities without modification to them, as they exist at the time of execution of this Agreement.

B. User agrees to surrender the facilities to the City at the end of its occupancy in the same condition as when accepted, and shall do its best to avoid damages to the facilities. User is liable for the costs of repair of any damage to City facilities caused by it.

VII. LIABILITIES AND INSURANCE.

A. The User agrees to indemnify and hold harmless the City and all its officers, agents and employees as to any claims for losses or damages or injuries to persons, to property, or to agents of the User that arise in connection with the activities of User carried on under this Agreement including, but not limited to, the transportation, inspection and rental of human powered watercraft, where such liability is incurred in whole or in part as a result of the actions of the User, its employees, assignees, or agents. In the event of any such claims or lawsuits, the User shall assume all costs of defense, including any costs and fees incurred by the City or its agents. The User shall provide automobile liability insurance (where applicable) and comprehensive general liability insurance in an amount acceptable to the City, and shall name the City as an additional insured on all policies. User will provide the City with an insurance certificate evidencing the coverage.

B. The User shall obtain and maintain in force at least the following minimum insurance coverages covering all activity under this Agreement, and as to which the City shall be named as additional insured (with any endorsement required by the policy):

1.	Workers Compensation	Statutory Amount
2.	Broad Form Comprehensive General Liability insuring against bodily injury, property damage and including liability assumed under this Agreement	\$2,000,000 per occurrence
3.	Automobile Liability on all vehicles owned, operated or licensed in name of User	\$1,000,000

Said insurance shall be primary and noncontributory with any other insurance for which the City is a named insured. An insurance certificate showing the coverage required under this paragraph will be submitted to the City for approval at least annually.

C. The User shall provide Workers Compensation coverage for its employees, if any exist, as required by law. The User specifically agrees to defend and indemnify the City

from claims or suits brought by User's own employees against the City; and for that purpose, the User specifically waives any immunity under the Workers Compensation Act.

VIII. RESPONSIBILITY FOR CONDUCT OF INVITEES. User shall provide adequate security and crowd control and further assumes full responsibility for the conduct of persons at the facilities with the consent of, or at the invitation of, the User. The User assumes the duty of protecting property of the City from the negligent and/or wrongful acts of such persons, and for these purposes, the "property of the City" means not only facilities herein, but related facilities owned by the City as well.

IX. INDEMNIFY AND HOLD HARMLESS. The User agrees to indemnify and hold harmless the City and all its officers, agents and employees as to any claims for losses or damages or injuries to persons, to property, or to agents of the User or as to claims for infringement or deprivation of constitutional right, that arise in connection with the activities carried on under this Agreement including, but not limited to, the User's storage of boats and the provision of classes to the public, where such liability is incurred in whole or in part as a result of the actions of the User, its employees, assignees, agents, invitees, or licensees. In the event of any such claims or lawsuits, except to the extent of any contributory fault on the part of the City as determined by a court of proper jurisdiction, the User shall assume all costs of defense, including any costs and fees incurred by the City or its agents.

X. ALCOHOLIC BEVERAGES PROHIBITED. User shall not sell or give away alcoholic beverages of any kind and shall make reasonable efforts to prohibit the use or possession of them on City property.

XI. ADVERTISING. The User shall not permit any posting of advertising matter of any kind at City facilities, except in places designated by the City for such purposes. Advertising matter for anything other than activities of the User may only be posted with written permission of a responsible official of the City. User shall remove any advertising matter that is objected to by a responsible official of the City. Notwithstanding the forgoing, User shall be permitted to: (a) post one sandwich board complying with City sign regulations, advertising their business during concession hours at the West park entrance on Samish Drive as well as one inside the East park entrance; and (b) post one sign advertising their business, hours of

concession, rules and regulations and pricing schedule. All signs shall be reviewed and approved by City as to size, content, style, materials and structure prior to installation and shall be posted and removed daily along with other equipment.

XII. EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES. The Contractor agrees that it will comply with all State and local non-discrimination laws and regulations in effect at the time this agreement is executed. The Contractor shall comply with all Federal non-discrimination laws and regulations if any of this contract is financed with Federal funds.

XIII. REPRESENTATIVES OF THE PARTIES.

A. The City's representative with regard to this Agreement is its Department of Parks and Recreation. Richard Henrie, Recreation Manager, is designated as the person responsible for liaison and compliance with this Agreement.

B. The User designates _____ as User's representative responsible to the City for liaison and compliance with this Agreement.

XIV. HAZARDOUS MATERIALS. User warrants that it will not produce, dispose of, or keep on the premises herein any hazardous substance, toxic waste, or other toxic substance which if found on the property would subject the owner or user to any damages, penalty, or liability under an applicable local, state, or federal law or regulation. User shall indemnify and hold harmless the City with respect to any and all damages, costs, attorney fees, and penalties arising from any activities regarding such substances on the premises.

XV. TERMINATION OF AGREEMENT.

A. This Agreement may be terminated by either party for cause upon the giving of seven (7) days' written notice of the other party of intent to so terminate, specifying the grounds for termination including but not limited to breach of a provision of this Agreement, breach of law or regulation, or misfeasance. During this period, the City (if it is the terminating party) in its sole discretion may immediately suspend the User from further activities. If during the seven-day period, in the sole discretion of the party giving notice, (a)

the ground(s) for termination can be remedied and (b) the party so notified has corrected the situation, then this Agreement shall not terminate. If either (a) or (b) is not the case, this Agreement shall terminate at the end of the seven-day period.

B. This Agreement may be terminated by either party for the convenience of that party for any reason upon seven (7) days written notice to the other party of intent to do so.

C. Notwithstanding notice of termination and during the pendency of any termination notice, User shall continue to pay the City amounts due under this Agreement and, unless otherwise requested by the City, shall fully and faithfully continue to perform its obligations under this Agreement.

D. Amounts due the City by User under this Agreement shall not be pro-rated or refunded in the event the User terminates the Agreement..

XVI. PRICING POLICY. It is agreed that the location of points of sale, method of sale and prices charged for commodities sold or business transacted under this Agreement are subject to the supervision of the City, through its Parks and Recreation Department. The scale of prices for commodities sold or business transacted shall not exceed that reasonably charged for similar commodities or business elsewhere in the City of Bellingham. The City reserves the right to reject proposed prices charged on the grounds that they impose an unreasonable burden on the public.

XVII. ASSIGNMENT. This Agreement may be assigned by the User only on written consent by the City which may be withheld for any reason. If assigned, the User shall ensure that the assignee complies in all respects with the terms of this Agreement.

XVIII. RIGHTS OF USER AND USER'S EMPLOYEES. No personnel employed or utilized by the User shall acquire any rights or status as employees of the City or in the civil service system, nor shall they be deemed employees or agents of the City for any purpose. The User shall be responsible in full for any payment due its employees, including workers compensation and related costs.

XIX. SPECIAL CONDITIONS.

A. The User must remain in the designated business location depicted in Exhibit A. No roving of the park to operate or promote business is permitted.

B. Motor vehicles may not be used to deliver equipment onto the grass or beach; they must remain in designated roadways and parking areas.

C. The User may set up a canopy or tent not to exceed 10'x10', in the area designated for their business as depicted in Exhibit A.

D. There is no electrical access provided and no generators shall be used.

E. The User may complete demos or sales on site for items related to non-motorized watercraft.

F. With prior notification, the User may modify hours of concession.

G. In the event of lightning or thunder, the User will cease all activities as soon as the time between lightning flash and thunder is 30 seconds or less and will remain closed for 30 minutes after the last lightning is seen or thunder heard.

EXECUTED this the _____ day of _____, 2014, for the User, **[Human Powered Watercraft Vendor]:**

(Name, Title)

EXECUTED this the _____ day of _____, 2014, for the **CITY OF BELLINGHAM:**

Departmental Approval:

Mayor

Department Head

Attest:

Approved as to Form:

Finance Director

Office of the City Attorney

SAMPLE

EXHIBIT A
Designated Area for Business at Lake Padden Park



Terms and Conditions

- Questions concerning the bid process should be addressed to the following:
Purchasing & Materials Management Division
2221 Pacific Street
Bellingham, Washington 98229
360-778-7750, Bids@cob.org

- Vendors are requested to review this invitation carefully, without delay, for defects and questionable or objectionable matter. Questions, objections or comments should be made in writing and received by the issuing office no later than 10 (Ten) calendar days prior to the opening, so that any necessary amendments may be published and distributed to plan holders to prevent the opening of a defective solicitation. Vendors' protests based upon any omission, or errors, or the content of the Invitation will be disallowed if not made known prior to the opening.

- The City reserves the right to reject any and all proposals, to waive minor deviations from the specifications, or to waive any informality in proposals received, whenever such rejection or waiver is in the best interest of the City. Among other things a solicitation may be rejected when;(1) the vendor is in arrears on taxes or other claims due the City; (2) the vendor is not in a position to perform the contract; (3) the solicitation is not signed; (4) the vendor fails to furnish bid bonds or surety deposits, plans, specifications, samples, etc., when such were specifically called for in the Invitation to Solicitation; (5) the vendor has modified the form or failed to use the proposal form attached; (6) the vendor makes a material change in the specifications, terms or conditions of the Invitation to Solicitation; (7) the solicitation contains a material alteration or erasure which is not initialed by the signer of the solicitation; (8) the vendor has been debarred from public bidding by either the State of Washington or the United States Federal Government; (9) any other reason determined to be in the best interest of the City.

- The plan holder's list is the way in which the City will notify vendors of changes in the bid specifications. All changes to bid specifications will be issued by the Purchasing Office. The City will notify plan holders by the communications means selected by the plan holder (Fax or Email). The City will make a reasonable effort to notify bidders of changes; however the sole responsibility lies upon the bidder to inquire if a change has been issued prior to the bid opening time and date. Please visit the web site at <http://www.cob.org/bid> or call the Purchasing office at 360-778-7750 to verify addenda prior to submitting a bid.

- Vendors are required to reply to all items listed in the specifications.

- Bids, RFP's, RFQ's will not be accepted if received at the official location later than the date and time set for opening. All document envelopes should be clearly marked to show the solicitation invite number and date of opening. It is the vendor's responsibility to deliver the document to the proper location by the assigned time. The City accepts no responsibility for misdirected or lost documents prior to the receipt of documents.

- A vendor may withdraw its proposal at any time prior to the scheduled closing only if done in writing.

- Unsuccessful vendors will not automatically be notified of results but may obtain results from the purchasing WEBSITE at <http://www.cob.org/bid>, or upon request.

- All proposals shall include Federal, State, and local taxes. Unless otherwise indicated in the Invitation, Washington State sales tax must be included on the proposal sheet as a separate line item. The City is exempt from Federal Excise Tax.

- Any contractor doing business in Washington State is required to be a registered contractor in Washington, prior to bid award regardless of where the contractor's office is located.

Vendors are required to possess a Washington State Business Identification Number (UBI) and a Bellingham City Business Registration Certificate prior to bid award and will be required to pay business and occupation taxes. For additional information, check with the Finance Department, (360) 778-8000

-Bids offering terms other than those shown herein shall be declared non-responsive and will not be considered. Signing the Bid document affirms that the original Invitation for Bid document has not been altered in any way. If it is determined that a vendor changed our specifications, it would be grounds for immediate disqualification on the grounds of being non-responsive.

- The City will NOT accept bids/proposals sent by facsimile machines (FAX) or email unless indicated otherwise in the bid document.

- The City of Bellingham may accept this proposal within 60 days from date of opening. A purchase order issued within the 60 day period shall constitute acceptance of the proposal.

- At the request of the City, and prior to award, the vendor may be required to demonstrate the product or equipment at a location chosen by the City, and in the presence of authorized City personnel, to prove any performance capabilities or features which may be in question.

- This award shall be subject to RCW 39.34 Interlocal Cooperation Act wherein other government agencies may purchase on the City proposal request, in accordance with the terms and prices stated, over the subsequent time period for which the vendor is willing to honor the solicitation price.

- Vendor's exception to the stated delivery time may cause the offer to be considered non-responsive by the City. Delivery date is defined as the date upon which delivery is required at the destination specified in the invitation.

- The vendor shall hold and save the City, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for or on account of any or all suits or damages of any character whatsoever resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this contract, unless such suits or damages arise from negligence on the part of the City or its employees in the performance of their assigned duties. The City shall not be liable for any costs incurred by the vendor in proposal preparation.

- In case of default by the vendor, for whatever reasons, the City of Bellingham may procure the material or services from other sources and hold the vendor responsible for any excess cost occasioned thereby. In case of default by the vendor on this proposal the vendor will not be allowed to submit proposals on subsequent proposals for the same material or equipment.

- In the event of damage to City property in the performance of a contract, the primary vendor will be held responsible and reimburse the City to the extent of damage.

- City shall not be held responsible for any vandalism or damage committed upon the contractor's equipment while it is parked or stored on City Property.

This bid/RFP will be incorporated into the City's Purchase Order and the successful vendor will be bound by the bid and the Purchase Order terms and conditions. Any vendor not complying with the terms of this bid and Purchase Order will be, in addition to any other legal or equitable remedies that may be available to the City, suspended from bidding on future City bids for one year from the date the vendor fails to comply with the bid and/or Purchase Order.

Provision for RFPs for Services Contracts Regarding Living Wage Ordinance

A. If selected, Bidder agrees to fully comply with and be bound by all provisions contained in Bellingham Municipal Code Chapter 14.18 regarding paying a living wage. The provisions of BMC Chapter 14.18 will be incorporated into any contract between the City and Bidder.

B. Bidder shall not discharge, reduce in compensation, or otherwise discriminate against any employee for seeking to assert or enforce any rights under BMC Chapter 14.18 by any lawful means.

C. Bidder shall keep itself informed of the current requirements contained in BMC Chapter 14.18, including, by way of example, the current compensation amounts.

D. Any successful Bidder using a subcontractor will be required to ensure that the subcontractor will comply with BMC Chapter 14.18.

Protest Procedure

Any protest must be made in writing, signed by the protestor or the protestor's authorized agent, and filed with the City's Purchasing Superintendent, 2221 Pacific Street, Bellingham, WA 98229, with a copy to the City Attorney, 210 Lottie Street, Bellingham, WA 98225. The protest shall contain all of the following information:

- The protestor's name, address, and phone/facsimile number;
- The bid/rfp number and bid/rfp project name;
- A detailed description of the specific factual and legal ground(s) for the protest, including all exhibits referenced by the protestor; and
- The specific relief requested;

Protests based upon the specifications or other terms contained in the bid/rfp documents shall be submitted not later than five (5) calendar days prior to the scheduled bid/rfp opening. All other protests shall be submitted no later two full business days following bid opening. By submitting a bid or proposal the bidder/proposer forfeits any right to protest the solicitation or its documents. Unless prohibited by law, the City reserves the right to reject all bids/rfps as a remedy to a protest or independently of protests.

Failure to comply with these procedures shall render a protest untimely or inadequate and, consequently, may result in the City rejecting the protest solely on this basis.

Any decision made by the City regarding the bid award, contract execution or bid rejection shall be conclusive only subject to such judicial review as permitted under Washington law and timely filing in the Superior Court of Whatcom County, Washington. This venue clause shall modify any other provision in these bid documents to the extent there is an inconsistency.