

CONCESSION AGREEMENT
FOR BAIT CAMP ON SEAWOLF PARK

THE STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

This Agreement is effective on October 1, 2019, by and between the Park Board of Trustees of the City of Galveston (hereinafter referred to as "Park Board") and Brandon Slanina d/b/a Slanina's Fishing Styles (hereinafter referred to as Concessionaire).

WHEREAS, the City has turned over the management and control of the Seawolf Park to the Park Board; and

WHEREAS, Concessionaire has a desire to enter into such Concession Agreement with the Park Board;

NOW, THEREFORE, for and in consideration for the premises hereinafter set forth, and in accordance with the above quoted authority, Park Board hereby grants to Concessionaire a non-exclusive authority to operate a bait camp at Seawolf Park.

This Agreement is granted subject to the following conditions:

1. **Concession Fee.** Concessionaire agrees to pay the Park Board, every other Monday, 10% of the gross sales for the prior two weeks.
2. **Hours.** The park is open 24/7. Concessionaire will be open as much as possible during those hours.
3. **Term.** This agreement shall expire on September 30, 2021. Subject to approval by the Park Board, the term may be extended an additional two years. There is no guarantee that the term will be renewed and no guarantee the fee will remain the same.
4. **Laws & Restrictions.** The Concessionaire shall strictly comply with all applicable laws, rules, ordinances, restrictions, and regulations. Concessionaire shall secure and maintain all permits and licenses required for its activities at its own expense. No non-moveable structure may be constructed or allowed on the premises.
5. **Restriction on Sales.** The only activities which Concessionaire shall be permitted to engage in on the premises shall be the sale of: Bait. No glass containers will be allowed on or about the premises. All city codes must be complied with and all needed permits obtained prior to the sale or lease. This is a non-exclusive use.

6. **Taxes.** Any and all taxes which may be lawfully imposed upon the property or business of the Concessionaire on the premises shall be paid promptly by the Concessionaire. Concessionaire shall furnish Park Board with receipts and any other verification requested by Park Board.

7. **No Assignment.** The Concessionaire shall not mortgage, pledge, hypothecate, transfer or assign this Agreement or any privileges hereunder, or any interest whatsoever in connection with this Agreement, without permission in writing from the Park Board. No assignment shall relieve Concessionaire of its obligations hereunder. In the event Concessionaire is a legal entity other than an individual, any change in ownership of said entity shall be considered a transfer for the purposes of this Agreement.

8. **Park Board Rules.** The use and occupation of the premises shall be subject to any and all additional rules and regulations as may be prescribed by Park Board from time to time.

9. **Courtesy to All Visitors.** Concessionaire understands that all visitors are to be treated with absolute courtesy.

10. **Right of Re-Entry.** The right is hereby reserved to Park Board, the City, Texas, and to the state of Texas, their officers, agents, and employees to enter upon the said premises at any time for inspection or for any governmental purpose, to remove therefrom persons, equipment, fixtures, goods, debris, improvements, or other material required or necessary for any official purpose, and Concessionaire shall have no claim for damages of any character on account thereof against Park Board, the City, or the state of Texas, or any officer, agent, or employee thereof.

11. **Exoneration.** Park Board and the City, and their officers, agents, and employee s shall not be responsible to Concessionaire or any other person for: (1) damages to property or injuries to persons which may arise from the incident to the use or occupation of the said premises by Concessionaire; (2) damages to the property of the Concessionaire; (3) injuries to the person of the Concessionaire's officers, agents, servants, or employees, or any other persons who may be on said premises at their invitation or the invitation of any one of them, and the Concessionaire shall hold Park Board and the City harmless from any and all such claims, even though such claims may be caused or alleged to be caused in whole or in part by the negligence of Park Board, the City, or its respective officers, agents, or employees.

12. **Notice.** Any notice hereunder shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper, sent by certified mail, addressed and deposited postage pre-paid in a post office or branch office regularly maintained by the United States Government, to the following addresses:

Concessionaire:	Brandon Slanina
Address:	50 Harbor Circle
	Galveston, Texas 77554
Telephone:	409.766.0673

Park Board: Park Board of Trustees of City of Galveston, Texas
Attention: Ms. Kelly de Shaun
Executive Director
Address: 601 Tremont
Galveston, Texas 77550
Telephone: 409.797.5100
Telefax: 409.762.8911
Email: kdeschaun@galvestonparkboard.org

Either party may notify the other of any change of address by written notice.

13. Termination.

A. This Agreement may be terminated by Park Board upon the happening of any of the following events:

(1) Nonpayment of rental amount;

(2) Lapse in required insurance coverage by Concessionaire or failure by Concessionaire to strictly comply with any provisions in this Agreement relating to insurance coverage, allowing any unsafe or dangerous equipment or condition to exist, or by violation of any applicable law, ordinance, rule, or regulation, which termination may be immediate and without advance notice;

(3) The commission by (either) Concessionaire (either individually or jointly) of any act of insolvency, the filing of any voluntary or involuntary actions concerning Concessionaire under any state or federal bankruptcy or other laws for the protection of debtors, an assignment by Concessionaire for the benefit of creditors, or the appointment of a Receiver for Concessionaire or the business of Concessionaire conducted on the premises.

(4) A breach by the Concessionaire of any other terms or conditions of this Agreement and/or violation of any Park Board rules (Concessionaire shall be given ten days' written notice to cure the default, however, Concessionaire shall be given the opportunity to cure only twice during the term of this Agreement);

(5) Any such termination shall be without waiver of any cause of action which may have theretofore accrued. Any waiver by Park Board shall not operate to modify this Agreement, nor shall it in any manner prejudice any rights of Park Board regarding any future violation of any term of this Agreement by Concessionaire, nor shall it constitute a waiver by Park Board of its right to enforce all provisions of this Agreement; and

(6) Concessionaire is convicted of a felony or crime involving a moral turpitude.

B. This Agreement may be terminated by either party by giving thirty (30) days written notice.

14. **Insurance.** Throughout the term of this Agreement or any extensions thereof, Concessionaire shall maintain insurance against public liability for injury to persons (including death) or damage to property resulting from or arising out of, or alleged to have arisen from or resulted from, the operations of the Concessionaire in or about the premises. Such insurance policy shall be in an amount not less than \$1,000,000, combined single limit coverage, or such greater amount as shall be from time to time required by Park Board, and shall name Park Board and the City as an additional named under said policy, and said policy shall provide for thirty (30) days' notice to Park Board prior to any cancellation or revision of said policy. Such policy shall be in form and with an insurance carrier acceptable to the Executive Director or Park Board. Concessionaire agrees that it will make no claim nor authorize any claim to be made against and will provide waivers of subrogation from its insurers as to Park Board, its employees, servants, or agents in connection with or as a result of fire, explosion, or other casualty injuring persons or damaging the contents, equipment, furniture, or fixtures in or about the premises. Concessionaire shall always provide Park Board with a current copy of all such insurance policies, and with a current copy of certificates of insurance providing for thirty (30) days' notice prior to cancellation or revision as above provided.

15. INDEMNITY. CONCESSIONAIRE HEREUNDER AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS PARK BOARD, THE CITY, AND THEIR INDIVIDUAL TRUSTEES, COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL EXPENSES, DAMAGES, CLAIMS OR CAUSES OF ACTION THAT MAY ARISE IN CONNECTION WITH (A) CONCESSIONAIRE'S FAILURE TO PERFORM ITS OBLIGATIONS HEREIN OR (B) CONCESSIONAIRE'S USE AND OPERATION OF THE PREMISES, INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES AND COSTS OF DEFENSE. THIS INDEMNITY AGREEMENT IS INTENDED TO ENCOMPASS ANY AND ALL MANNER OF CLAIMS (WHETHER FOR BODILY INJURY, DEATH, PROPERTY DAMAGE, FINES, OR CITATIONS FOR VIOLATIONS OF ANY LAW, STATUTE, ORDER, OR REGULATION, OR OTHERWISE), ARISING OUT OF ANY ACTIVITIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, CLAIMS CAUSED BY THE NEGLIGENCE OF PARK BOARD, THE CITY, AND THEIR INDIVIDUAL TRUSTEES, COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INTENDED BY CONCESSIONAIRE TO INDEMNIFY AND PROTECT PARK BOARD, THE CITY, AND THEIR INDIVIDUAL TRUSTEES, COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES FROM THE CONSEQUENCES OF PARK BOARD, THE CITY, AND THEIR INDIVIDUAL TRUSTEES, COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES, WRONGFUL ACTS AND NEGLIGENCE, WHETHER OR NOT THE NEGLIGENCE IS THE SOLE CAUSE OR CONCURRING CAUSE IN THE INJURY, DEATH, OR DAMAGE. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONCESSION AGREEMENT FOR ANY REASON.

16. **Limits of Liability.** Concessionaire agrees to look solely to Park Board for the performance of its obligations under this Concession Agreement and agrees that in no event is the City or the individual members of Park Board liable or responsible in any manner for this Concession Agreement, nor for any breach thereof.

17. **Access and Signage.** Concessionaire shall have reasonable access to the premises over the property of Park Board by virtue of such avenues of ingress and egress, and at such time as Park Board shall direct. Concessionaire shall have no rights, express or implied, in any property belonging to or subject to the management of Park Board, other than the premises. Concessionaire shall not in any manner restrict the public from access to the waters of the Gulf of Mexico. Concessionaire, and its agents, employees, and vendors shall, in no way, interfere with, impede or adversely affect any property, business or patrons of Park Board. All signage on the premises or advertising the premises shall be subject to prior approval of the Executive Director of Park Board. All signage must include the Park Board logo, name, and telephone number, and shall request that any problems be reported.

18. **No Obstruction.** Concessionaire shall not keep or display anything or otherwise obstruct the roads, driveways, walkways, or area ways adjacent to the premises.

19. **Fire Protection.** Concessionaire shall install and maintain fire extinguishers and other fire protection and safety devices as may be required from time to time by any governmental or other agency having jurisdiction.

20. Miscellaneous.

A. Concessionaire will pay the cost of trash and garbage removal.

B. During the entire time during which this Agreement shall be in effect, Concessionaire will be responsible for all expenses in any manner arising from its duties and activities hereunder.

C. All equipment or other physical objects in or about the premises shall be safe, clean, in good working order, and aesthetically appealing in the opinion of the Park Board. No motor vehicles shall be permitted to remain on the premises except for such limited period as may be necessary for loading or unloading equipment without the prior written approval of Park Board.

D. Concessionaire acknowledges that there may be other concessionaires in the same area.

21. **Attorneys' Fees.** Concessionaire agrees to pay all attorneys' fees incurred by the Park Board in any manner in connection with the preparation of this Concession Agreement, any negotiations associated therewith, securing all necessary approvals therefore, enforcing any provisions hereof, and any disputes or questions regarding this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have each caused this instrument to be executed in duplicate originals, on this the _____ day of _____, 2019.

Park Board of Trustees of the City of Galveston

By: Kelly de Schaun
Title: Executive Director

Concessionaire

By: Brandon Slanina d/b/a Slanina's Fishing Style