State of California • The Resources Agency
Arnold Schwarzenegger, *Governor*
DEPARTMENT OF PARKS AND RECREATION • P.O. Box 942896 • Sacramento, CA 94296-0001
Ruth Coleman, *Director*
(916) 653-7733

October 10, 2008

To Prospective Bidders:

Enclosed is the State's response to proposer questions and Errata #1 to the RFP and Sample contract for the Beach Concession Stands at Huntington and San Clemente (Calafia) State Beaches. The response package includes the following:

1) The State's response to questions submitted by Jim Miller and George Gregory. The questions are presented exactly as submitted.

2) Errata #1, dated October 10, 2008, with modifications to the RFP and Sample Contract.

You may access materials referenced in this letter on the Concessions website at www.parks.ca.gov/concessions. If you have questions, please contact Concessions Specialist, Jim Pine at (916) 653-6817 or jpine@parks.ca.gov.

Sincerely,

James A. Luscutoff, Chief
Concessions, Reservations, and Fees Division

Enclosure

Huntington and Calafia portion of San Clemente State Beach
Beach Stand Concessions RFP
State Responses to Proposer Questions
October 10, 2008

Questions from: Jim Miller and George Gregory
C/O Coffee Importers
34531 golden Lantern
Dana Point, Ca. 92629
949-493-7773
mokaman1@ cox.net

1 I understand the concession stand is on State property but are we under the jurisdiction of the City of San Clemente for issues such as building permits, business licenses etc.? Are their other agencies we must be permitted? Do we have to go through the California Coastal Commission for any building on site?

RESPONSE: In accordance with Sample Contract, Section 37, Compliance with Laws, Rules, Regulations and Policies, concessionaires are responsible to comply with any applicable permits and license requirements.

2 Location requires propane. Is the location for the propane storage tank approved for installation as it sits today, does the 1" of 11/2 "lines to the building meet code?

RESPONSE: A request for installation of propane storage tank must be submitted with plan/design and permit in accordance with Sample Contract Section, 10, Construction and Completion of Improvements, Section 21, Utilities and Services and Section 37, Compliance with Laws, Rules, Regulations and Policies.

3 Does the water bill include the water for the public restrooms and landscaping?

RESPONSE: In accordance with Sample Contract Section 21, Utilities and Services, concessionaire will be responsible for the water bill that includes the public restrooms and landscaping.

4 Does the site have a grease inceptor? If not are we required to install one prior to opening? Does the State share in that expense?

RESPONSE: Grease inceptor details are located on the "As built" available for viewing at the Orange Coast District Office by appointment only. Contact Brent Brody (949) 366-8590 or Steve Scott (949) 366-8510 to make

an appointment. Provision and maintenance of grease inceptors is the responsibility of the concessionaire.

4 Who maintains the public restrooms and shower area and trash around the premise? Being the Restrooms and showers are open all year round and the business could be only open April thru September I would assume the state bears some responsibility?

RESPONSE: State will be responsible for year round maintenance of public restrooms, showers and parking lots. Concessionaire is responsible for trash around the Premises as described in Sample Contract Section 20, Housekeeping, Maintenance, Repair and Removal. An RFP Errata included with this response highlights changes to this Section.

5 How much has the possessory interest tax been for the previous tenant? Is the tax based on sales or building, land value and or term of lease? Do you know the formula for calculating Possessory Interest Tax?

RESPONSE: Concessionaire advised to contact local government jurisdiction for possessory interest tax information.

6. Do minimum rent payments begin April 1, 2008 even if you are not ready to open? If you were to open before April 1st does minimum rent begin when you open?

RESPONSE: The minimum annual rent is based on the contract year which begins with contract execution in accordance with the Sample Contract Section 3. The monthly rent is based on a percentage of gross receipts earned each month. If the monthly rent does not equal the minimum annual rent, the concessionaire will pay the difference at the end of the contract year.

7. Are their any additional monthly fees from the state, City of San Clemente or local agencies? Such as business license, Health department license etc?

RESPONSE: Prospective proposer is responsible to determine any local jurisdiction fees applicable to this operation. State Park fees are described in the Sample Contract.

8. Can you build a free standing rental shack? Can it be built on the lawn area of the premise?

RESPONSE: No

9. In our proposal can you propose to build or do sometime with the site based on future developments and if you propose such an idea are you committed to build it even if it is becomes not feasible as the site develops?

RESPONSE: Proposers are required to address the proposal elements for which they would be awarded points in this RFP. The future operation or development consideration described in the RFP relates to a "mobile food service" described in Sample Contract Section 5, Use of Premises. Sample Contract Section 18, Modifications, Additions, Title to Improvements, provides for development considerations following contract execution as approved by State.

10. Can you build a second story on the building?

RESPONSE: No.

11. Could we take two parking stalls to build a rental shack?

RESPONSE: No.

12. Can we install additional parking lot fixtures?

RESPONSE: Additional parking lot fixtures that would reduce or impact parking will not be approved.

13 Do we have any signage at the top of Calafia and Avenida Del Presidente?

RESPONSE: No. State will consider appropriate signage at the entrance to the State Park property.

14. Can we install a volleyball court on the beach for public use?

RESPONSE: No.

15. Electrical to the building is it single or three phase?

RESPONSE: Single.

16. Law Enforcement is it the responsibility of the City and/ or State?

RESPONSE: The State shares law enforcement jurisdiction with the Orange County Sheriffs Department.

17. Is someone currently cleaning the public restrooms and the Shower? If so, are the available for the new tenant to hire?

RESPONSE: Cleaning and maintenance of public restrooms and showers will be the State's responsibility.

18. Do you have any history of sewer spills or plumbing back up?

RESPONSE: State Park records indicate no known spills or plumbing back ups for the last 20 years. The sewer is the responsibility of the City of San Clemente. Proposers may contact Orange County Health Care agency for information.

19. We have noticed a smell from the sewer system, is that issue been addressed and corrected by the State or is it still a project being evaluated?

RESPONSE: The sewer infrastructure is owned by the City of San Clemente. Proposers may contact the City of San Clemente for further information.

20. Any building or site plans available to the interested parties?

RESPONSE: "As built" details are available for review at the Orange Coast District Office by appointment only. Contact Brent Brody (949) 366-8590 or Steve Scott (949) 366-8510 to make an appointment.

21. In case of graffiti on the outside of the leased premise does that become the responsibility of the tenant or the State?

RESPONSE: Concessionaire.

22. If awarded the contract does the Calafia beach stand tenant have exclusive catering rights to the public beach? What happens if an offsite catering venue wanted to use the parking lot to cater an event on the beach, would they be allowed a permit? How far north and south would our exclusive catering rights go?

RESPONSE: There will be no catered events on the public beach at Calafia. In accordance with Sample Contract Section 5, Use of Premises, catered events require a Special Event Permit approved by the Orange Coast District Office. The concessionaire will have exclusivity for catered events within their concession premises, and non-exclusive catering in other areas of the unit, through the Special Event Permit process.

23. If awarded the contact can the tenant sublet to another business to add to the concept?

RESPONSE: Per Sample Contract Section 54, Assignments and Subconcessions, State must approve all assignments or sub-concession contracts for operation on the premises.

REQUEST FOR PROPOSALS
Beach Stand Operations

Huntington and Calafia portion of San Clemente State Beaches

ERRATA #1
October 10, 2008

Changes include the following:

RFP Page 4, Section 1.3 Contract Summary

Sample Contract Page 2, Section 1, Description of Premises

Sample Contract Page 3, Section 4, Rent

Sample Contract Page 6, Section 5, Use of Premises

Sample Contract Page 7, Section 5, Use of Premises

Sample Contract Page 22, Section 20, Housekeeping, Maintenance, Repair and Removal

Sample Contract Page 24, Section 21, Utilities and Services

1.3 CONTRACT SUMMARY

It is critical that proposers be familiar with and understand all the terms and conditions of the Sample Concession Contract (included herein). Your proposal should be based on the requirements of this contract in its entirety. If a proposer is awarded the contract, the successful proposer has 30 days to review and sign the awarded contract. The successful proposer shall be expected to accept the provisions of the Sample Concession Contract as written. If necessary, minor clarifications, approved by staff counsel, the Department of General Services, and the Attorney General, may be made prior to contract execution. The intent of the contract is to provide the public with high-quality, reasonably priced goods and services in an authentic manner and atmosphere that enhances the visitor's experience and the natural, cultural and educational resources of the park. The term of the contract(s) is for a period of ten (10) years.

Summary descriptions of some of the important contract provisions are described below.

At a minimum, the successful proposer for each location will be required to:

1. Equip, operate, and maintain beach concession stands offering hot and cold foods, beverages, beach and camping sundries, the sale and rental of beach equipment, and optional catering services. At a minimum, sale items shall include drinking water and sunscreen. There will be three (3) beach concession stands at Huntington SB located at the following street ends: Brookhurst Street, Magnolia Street and Beach Blvd. Calafia has one (1) concession stand with a public restroom and shower facility. Public restrooms and showers to be maintained by State.

2. Maintain the minimum hours of operation as required by the contract. In the event of adverse weather or other operating conditions, State may permit the concession to close at any time during the term of this contract.

3. Pay as annual rent the amount presented in the proposal, which, at a minimum, shall be the greater of thirty-five thousand dollars ($35,000) or sixteen percent (16%) of Gross Sales and eight percent (8%) of Gross Sales for Optional Catering at Huntington SB and twenty thousand dollars ($20,000) or twelve percent (12%) of Gross Receipts and six percent (6%) of Gross Sales for Optional Catering at Calafia.

4. Complete facility improvements to enhance the visitor use and comply with ADA requirements as identified in the Sample Contract Section 10, Construction and Completion of Improvements, and Exhibit I.

5. Provide an Operation Plan, Facility Plan, and Interpretive Plan, as specified in Proposal Instructions that clearly demonstrate the proposer's plan to provide high quality facilities and services. The plans will become part of the contract subject to State review and approval.

1. DESCRIPTION OF PREMISES

The State for and in consideration of the agreements hereinafter stated, grants to Concessionaire for the purposes stated herein, the right, privilege, and duty to develop, equip, operate, and maintain nonexclusive concessions within Huntington and/or the Calafia portion of San Clemente State Beaches at the specific location(s) as set forth in **Exhibit A,** attached hereto and made a part of this contract (the "Premises"). Premises shall include three (3) beach stand facilities located at Brookhurst Street, Magnolia Street and Beach Blvd within Huntington SB, excluding restrooms; and one (1) beach stand at Calafia Beach; and up to fifty (50) feet of the surrounding beach stand area within each of the respective park units excluding parking lots.

The possessory interest herein given to the Concessionaire does not exclude the general public from the Premises; however, the use by the general public is limited by the terms and conditions of the possessory interest given herein. This contract is not intended to confer third party beneficiary status to any member of the public who is benefited by the terms of this contract. The possessory interest is further subject to all valid and existing contracts, leases, licenses, encumbrances, and claims of title that may affect the Premises.

2. CONDITION OF PREMISES

The taking of possession of the Premises by the Concessionaire, in itself, shall constitute acknowledgment that the Premises are in good and sufficient condition for the purposes for which Concessionaire is entering into this contract. Concessionaire agrees to accept Premises in their presently existing condition, "AS IS", and that the State shall not be obligated to make any alterations, additions, or betterments to the Premises except as otherwise provided for in this contract.

3. TERM

The term of this contract shall be for a period of ten (10) years, commencing on the first day of the month following approval by the California Department of General Services. Should Concessionaire hold-over after the expiration of the term of this

contract with the express or implied consent of the State, such holding-over shall be deemed to be a tenancy from month-to-month at the herein stated prescribed rent as set forth in this contract in Section 33, "Surrender of Premises; Holding Over", of this contract, with continuous Consumer Price Index adjustment, as defined below, subject otherwise to all the terms and conditions of this contract.

Beginning with Contract Year Two (2) and on the first day of each contract year thereafter, the Minimum Annual Rent shall be adjusted to reflect changes in the Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in **Exhibit B,** attached to and made a part of this contract.

For purposes of this contract, the term "contract year" shall mean each one-year period of time that commences on the commencement date identified above, extending twelve (12) months therefrom, and continuing from each anniversary throughout the term of the contract.

4. RENT

Concessionaire shall pay, without offset, deduction, prior notice, or demand, as "Minimum Annual Rent" the sum of **(as provided in each successful proposal):**

___ Minimum Annual Rent; or

___ Percent of Gross Receipts, including on-site catering services; and

___ Percent of Gross Receipts for off Premises catered events authorized under a Special Event Permit issued by Orange Coast District Office.

Deleted: except

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Beginning with Contract Year Two (2) and on the first day of each contract year thereafter, the Minimum Monthly/Annual Rent shall be adjusted to reflect changes in the Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in **Exhibit B,** attached hereto and made a part of this contract.

Concessionaire shall make payment of Minimum Annual Rent and other payments to State in lawful money of the United States. However, if any payment made by a check, draft, or money order is returned to State due to insufficient funds or otherwise, State shall have the right, at any time after the return, upon written notice to Concessionaire, to require Concessionaire to make all subsequent payments in cash or by cashier's or certified check.

foods, beverages, beach and camping sundries, and the sale and rental of beach-related recreational equipment. Bottled water and sunscreen of SPF 15 or higher shall be offered for sale. All sale items are subject to approval of the District Superintendent.

B. Mobile Food Service: Upon consent by State, Concessionaire may provide, maintain, and operate a mobile food service for the sale of food, beverages, and beach sundries.

C. Catering Services: Concessionaire may provide exclusive catering service within the Premises described in Section 1, Description of Premises, and non-exclusive catering at other areas of the unit, under a Special Event Permit issued by the Orange Coast District according to Department guidelines. Rent to the State for such catered events is described in Section 4, Rent.

Deleted: beach

D. Healthy Foods Initiative: As the primary food providers within California State Parks, participation by concessionaires in the State's efforts to promote healthy and sustainable food practices is critical. To that end and in accordance with State's mission to "provide for the health" of Californians, Concessionaire shall promote the importance of healthy, locally and sustainably grown, organic foods, and shall use sustainable practices, organic ingredients, and recycled products whenever possible. These practices shall include the following:

1) To the extent possible, Concessionaire shall develop a network of local farmers and ranchers who are dedicated to sustainable agriculture and can assure a steady supply of pure and fresh ingredients.

2) Concessionaire shall offer a selection of food and beverage items that conform to the definition of "healthy" foods as defined by the U.S. Department of Agriculture and the Food and Drug Administration in the Code of Federal Regulations, Title 9, Section 317 and Title 21, Section 101.

3) Concessionaire shall offer a selection of beverages with no sugar added, such as bottled water, natural fruit juices, and tomato juice.

4) To the extent possible, Concessionaire shall provide food products that are as pure and natural as possible, without synthetic additives, pollutants, or unnecessary packaging and marketing.

The Use of Premises will be consistent with the State approved "Operation Plan", "Interpretive Plan", and "Facility Plan" as proposed by Concessionaire and modified by State as is reasonable and necessary to meet the intention of the State for this concession operation and the mission of the Department. The approved "Operation Plan", "Facility Plan", and "Interpretive Plan" are incorporated herein and made part of this contract as **Exhibits H, I,** and **J,** respectively.

At a minimum, Concession services shall be provided during park hours as early as 6 a.m. to at least 9 p.m. on all weekends and holidays from the first Saturday in April through September 30th, and between the hours of 10:00 a.m. and 5:00 p.m. on weekdays from Memorial Day through Labor Day during each year of the contract. In the event State deems the hours of operation inadequate for proper service to the public, State may require Concessionaire to adjust the days and/or hours of operation to a schedule provided by State. Concessionaire may remain open on other dates, observing same or longer hours, at Concessionaire's discretion with the concurrence of State. In the event of adverse weather or other operating conditions, State may permit the concession to close at any time during the term of this contract. Concessionaire shall not use or permit the Premises to be used in whole or in part during the term of this contract for any purpose other than as herein set forth without the prior written consent of the State.

6. BONDS

All bonds required under this contract must be in a form satisfactory to State, issued by a corporate surety licensed to transact surety business in the State of California.

A. Performance Bond: Concessionaire, at Concessionaire's own cost and expense, agrees to obtain and deliver to State, prior to the commencement date of this contract and prior to entering the Premises, and shall maintain in force throughout the term of this contract, a valid Performance Bond (which may be

Title to all Alterations and improvements existing or hereafter erected on the Premises, regardless of who constructs such improvements, shall immediately become State's property and, at the end of the Term, shall remain on the Premises without compensation to Concessionaire. Concessionaire agrees never to assail, contest, or resist title to the Alterations and improvements. The foregoing notwithstanding, State may elect, by notice to Concessionaire, that Concessionaire must remove any Alterations that are peculiar to Concessionaire's use of the Premises and are not normally required or used by State and/or future occupants of the Premises. In this event, Concessionaire shall bear the cost of restoring the Premises to its condition prior to the installment of the Alterations.

19. PERSONAL PROPERTY

Except to the extent covered by Section 18, "Modifications, Additions, Title to Improvements", title to all personal property provided by Concessionaire shall remain in Concessionaire. Concessionaire shall not attach any personal property to any building without first obtaining State's written approval. Unless approved in writing by State, all property attached to real property will be considered a real property improvement and shall become property of State at the time this contract is terminated.

20. HOUSEKEEPING, MAINTENANCE, REPAIR AND REMOVAL

During the term of this contract at Concessionaire's own cost and expense, Concessionaire shall maintain and operate the Premises and areas in, on, or adjacent to a distance of not less than fifty (50) feet, excluding public restrooms, showers, and parking lots, including personal property and equipment, in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind. Concessionaire shall remedy without delay any defective, dangerous, or unsanitary conditions. Each concession location is responsible for providing and maintaining their own trash removal containers and service.

A. Housekeeping: Housekeeping activities are defined as all those activities concerned with keeping facilities clean, neat, and orderly, and includes, but is not limited to, mowing, raking, sweeping, vacuuming, mopping, stripping, waxing,

brought onto the Premises by Concessionaire. Concessionaire, at Concessionaire's expense, shall restore and repair the Premises, and any of Concessionaire's improvements or fixtures remaining thereon, to a good, clean, safe, and fit condition, reasonable wear and tear excepted, and shall completely remedy all injuries to the Premises.

21. UTILITIES AND SERVICES

Concessionaire shall be responsible for all costs associated with the installation and provision of all utilities necessary to and used in connection with the Premises, including but not limited to sewage disposal. For Calafia, State is responsible for electrical utilities associated with lighting the parking lot, restrooms, showers and walkway. For Huntington, State is responsible for the water bill. When installing facilities, no trees shall be trimmed or cut without permission of State. Removal and disposal of all rubbish, refuse, and garbage resulting from concession's operations shall be the Concessionaire's responsibility and shall be disposed of outside the park unit and in accordance with applicable laws and local ordinances. All trash containers and/or trash bins shall be adequately screened to the satisfaction of State.

22. RESOURCE CONSERVATION

A. Environmental Conservation Program: Concessionaire shall set a positive example in waste management and environmental awareness that shall lead to preservation of the resources of the State. Accordingly, Concessionaire shall prepare and execute a program, subject to the prior written approval of the State, designed to reduce environmental impacts that result from concession operations. This program shall address, but not be limited to: solid waste management, including reduction, reuse and recycling; water and energy conservation, pest management, grease removal and disposal, hazardous materials handling and storage, and air quality. Specifically, the program must include the following:

1) Recycling and Beverage Container Programs: The Concessionaire shall implement a source reduction and recycling program designed to