

State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Request for Proposals #RFP-08-01

San Diego Coast Overnight Surf Camp



South Carlsbad State Beach
San Diego County, California



**REQUEST FOR PROPOSALS
#RFP-08-01**

FOR

**San Diego Coast
Overnight Surf Camp**

AT

South Carlsbad State Beach

Opening Date
April 1, 2008

Closing Date
June 26, 2008

STATE OF CALIFORNIA – RESOURCES AGENCY
DEPARTMENT OF PARKS AND RECREATION
CONCESSIONS DIVISION
1416 NINTH STREET, 14TH FLOOR
SACRAMENTO, CA 95814





NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that the California Department of Parks and Recreation is now accepting proposals for the operation of an overnight surf camp at South Carlsbad State Beach in the San Diego Coast District of California State Parks. This contract is for a term of five years with a five year option to renew; at the State's discretion.

There is a maximum student to instructor ratio of 7:1. During the non-peak season a State Lifeguard must be hired by concessionaire when ratio exceeds 3:1. In any event, there is a maximum of 28 students on the beach at any one time. The minimum rental offer is \$20,000 per year or 12% of gross sales, whichever is greater.

To be considered for this concession opportunity, you must submit a proposal in accordance with the terms of the Request for Proposals. A summary of the proposal submission terms is presented below:

Proposal Closing Time & Date:	2 pm on June 26, 2008
Proposal Submission Location:	California State Parks 4477 Pacific Highway San Diego, CA 92110
Proposal Bond (The proposal bond is due at the time of proposal submission.):	Two thousand dollars (\$2,000)
Performance Bond (due at time of Contract submission):	Ten thousand dollars (\$10,000)
Proposer's Minimum Years of Relevant Experience:	1 year
Optional Pre-Proposal Meeting:	9:00 am on April 24, 2008 at: San Diego Coast District, North Sector Office 2680 Carlsbad Blvd. Carlsbad, California 92008

For more information or to purchase a copy of the complete RFP for \$25, contact Donna Renner at 619-688-3343, or visit the San Diego Coast District Office at 4477 Pacific Highway, San Diego, CA 92110. You may get more information and download the RFP from our website at www.parks.ca.gov/concessions.

Original Signed by Ronilee A. Clark on April 1, 2008

Ronilee A. Clark, District Superintendent

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SECTION 1 - PROJECT SUMMARY

1.1 GOAL & OBJECTIVES

Department Mission

The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

Goal of this Request for Proposals (RFP)

The goal of this RFP is to award one (1) concession contracts to a person/persons or business entity to operate a surf camp offering daily surfing lessons, which may include group lesson and/or private/semi-private lessons, related beach activities, and overnight camping. One contract will be offered for operation at South Carlsbad State Beach. The term of this contract shall be five years with a five year option to renew, at the State's discretion.

Objectives of this RFP

The objectives of this concession opportunity are to:

- Provide quality services at reasonable prices to the public;
- Promote and instruct safe, enjoyable, and high-quality surfing lessons and beach-related recreational experiences for all park users.

1.2 GENERAL INFORMATION

Site Description

South Carlsbad State Beach is located on the San Diego coast. The mild-temperature water and predictable waves make this beach popular with swimmers and surfers. The mix of cobblestones and sand on the beach can vary greatly according to the season and tide. In winter the beach tends to be dominated by cobblestones. Most of the beach is backed by 30 to 100-foot tall, eroding, sandstone bluffs.

The South Carlsbad campground is an elongated bluff-top camp that is extremely popular. South Carlsbad State Beach features swimming, surfing, skin diving, fishing, and picnicking.

Lifeguard Service

The concessionaire is responsible for requesting and paying for State lifeguard service during the Non-Peak Season (November 1st - February 28th) when the ratio of students to instructors exceeds 3:1. At any time during the term of this contract, if an injury or death of a concession staff or customer occurs during the execution of the terms of this contract, Concessionaire shall maintain total liability. Any State lifeguard present on the beach at any time, whether hired by the concessionaire or State, is responsible for patrol of the entire State Beach property and the safety of all persons present. At no

time shall said lifeguard be responsible solely for the concessionaire and the concession clients.

Current Concession Operation

Estimated annual attendance for the last four years is as follows:

	2003	2004	2005	2006
South Carlsbad SB	1,354,193	1,392,614	1,410,753	1,575,827

Gross sales and rental payments reported by the surf camp concessionaire at South Carlsbad State Beach for the last three years are as follows:

Contract Year (Oct. 1 – Sept. 30)	Gross Receipts	Rent to State
2004/05	\$151,867	\$30,000
2005/06	\$222,127	\$33,319
2006/07	\$186,940	\$30,000

NOTE: The preceding is for general information only; the State does not guarantee its accuracy. It is recommended that proposers personally investigate the premises and park environs.

Future Concession Operations

This RFP (#RFP-08-01) will result in one concession contract for an **overnight surf camp** at South Carlsbad State Beach. Overnight camp permits camping by the concessionaire and class participants at the park unit, as well as daily group and/or private/semi-private surfing lessons.

1.3 CONTRACT SUMMARY

One contract is available for bid through this RFP. It is critical that proposers be familiar with and fully understand all the terms and conditions of the Sample Concession Contract (included herein). Your proposal should be based on the requirements of the contract for which you are bidding in its entirety. If a proposer is awarded a contract, the successful proposer has 30 days to review and sign the awarded contract. If you are the successful proposer, you will be expected to accept the provisions of the Sample Concession Contract as written. If necessary, minor clarifications that are non-material changes approved by staff counsel, the Department of General Services, and the Attorney General, may be made prior to contract execution. The intent of this 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 educational, natural, and cultural resources of the park. The term of this contract is for a period of five years (5) with an additional five (5) year option to renew at the State's discretion.

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

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

1. Operate a surf camp offering surfing instruction; other beach and water sports such as body surfing, body boarding, and volleyball; an interpretive (educational) program for surf students; and overnight camping at South Carlsbad State Beach.
2. Adhere to the requirements of student to instructor ratios. No more than 7 students to 1 instructor at all times. During Non-Peak Season, when the ratio is greater than 3 students to 1 instructor, concessionaire must request and pay for State lifeguard services at a rate of \$20.00 per hour. Additionally, at anytime students are in the water, at least one American Red Cross Lifeguard certified instructor must be present and supervising the class. All instructors must hold Advanced First Aid and CPR certifications. The Peak Season is March 1st - October 31st. The Non-Peak Season is November 1st - February 28th.
3. Pay as annual rent the amount presented in the proposal, which, at a minimum, shall be the greater of twenty thousand dollars (\$20,000) or twelve percent (12%) of Gross Sales. In addition, pay \$500 per month for campsite use, \$750 per month for utilities and refuse disposal, and all fees for lifeguard service.
4. Maintain hours of operation that do not exceed 8 a.m. to one-half hour prior to sunset.
5. There is a maximum of 28 students total allowed at anytime at this beach.
6. Provide an Operation Plan and Interpretive Plan as specified in Proposal Instructions that clearly demonstrates the proposer's plan, which must include providing fully accessible services and facilities that comply with ADA guidelines and a requirement to install an electrical RV hookup at the Surf Camp site. Details of this requirement are specified in the Operation Plan section of the Proposal Instructions. The plans will become part of the contract subject to State review and approval.

7. Maintain the premises in good condition in accordance with Department standards and contract provisions.
8. Provide a continuing Performance Bond in the amount of ten thousand dollars (\$10,000), provide policies of liability and worker's compensation insurance with extended endorsements as required by the contract.
9. Pay federal, state, and local taxes as may be applicable to the operation of the concession, including possessory interest taxes, as required by the contract.
10. Obtain all necessary licenses, permits, and approvals as set forth in the contract and abide by all applicable health, safety, and environmental codes and regulations.
11. Comply with the letter and spirit of current and subsequent guidelines or plans, including General Plan amendments or updates, management and interpretive plans, and others.
12. Demonstrate compliance with labor laws as specified in the RFP.
13. All instructors must carry cell phones with SURCOM's number on speed dial as required by the contract.
14. All instructors whether on or off duty shall not consume or be under the influence of drugs or alcoholic beverages while on the Premises as defined by the contract.

The successful proposer will not:

1. Provide or sell items or services considered inappropriate, deemed objectionable, or denied by the State.
2. Charge prices in excess of those approved by the State.
3. Promote or participate in activities that are incompatible with the rules, regulations, guidelines, or the mission of the Department.

Note: This contract summary is for general information only. Terms and conditions are set forth in detail in the Sample Concession Contract.

SECTION 2 - THE RFP PROCESS

2.1 PROPOSAL PROCESS

The State will award one (1) contract as a result of this RFP process. The contract will be awarded for the operation of an overnight surf camp concession at South Carlsbad State Beach. Any proposer selected as the “Best Responsible Bidder” who declines a contract will be subject to forfeiture of their Proposer Bond as described below.

Tentative Proposal Dates

April 1, 2008	Opening Date - Publication of the RFP
April 24, 2008	Optional Pre-Proposal Meeting
May 8, 2008	Questions - Last date for proposers to submit written questions
May 19, 2008.....	Answers - DPR written responses to questions
June 26, 2008.....	Closing Date - Deadline for proposal submission
June - July 2008	Investigation and evaluation of Proposals
September 1, 2008	Notification of “Intent to Award Contract”
September, 2008	Award, preparation, and execution of contract
October, 2008.....	Five (5) year with Five (5) year option contract begins

Note: This schedule does not consider unforeseen factors that could impact the timing of the project. It is the intent of the State to keep proposers apprised of changes in the schedule as they occur. Should the award of the contract be protested, additional time will be required to resolve the matter.

Optional Pre-Proposal Meeting

It is strongly recommended that you or your designated representative attend the optional pre-proposal meeting at 9:00 a.m. on April 24, 2008 at the San Diego Coast District, North Sector Office, 2680 Carlsbad Blvd., Carlsbad, California 92008. The meeting provides an equitable forum for all proposers to:

- Meet local Department staff;
- Learn about the RFP process, including procedures for questions and answers, proposal submission, and contract award;
- Inspect the concession site and receive information on the park and facility history and Department plans for the park and the concession;
- Review the RFP document;
- Site Tour

RFP Content Questions

Questions regarding this RFP must be submitted in writing and received no later than 5 p.m. on May 8, 2008. To ensure fair competition in which all proposers receive the same information and materials, no telephone or personal inquiries about this RFP will be answered. Questions should be submitted in writing to the

Department by mail, fax, or email at the addresses and phone number listed below. A written compilation of all questions and answers, and any RFP addenda, will be sent by first-class mail to all identified potential proposers. Questions will be answered as clearly and completely as possible without jeopardizing the competitiveness of the proposals.

Proposers should send their questions addressed to:

California State Parks
San Diego Coast District
4477 Pacific Highway
San Diego, California 92110
Attn: Donna Renner
Email: drenner@parks.ca.gov
Fax: 619-688-3229

Proposal Bond

Proposals must be accompanied by a Proposal Bond or cashier's check payable to the California State Parks, in the amount of two thousand dollars (\$2,000). . By submitting a proposal bond the proposer agrees that the bond or cashier's check will be cashed and retained by the State upon proposer's failure to execute the contract once awarded and/or proposer's failure to comply with the start-up terms of the contract once awarded. Further, by submitting a proposal, proposer agrees that the State will suffer costs and damages not contemplated otherwise should proposer be awarded the contract but fail to execute and proceed with the contract, the exact amount of which will be difficult to ascertain. Accordingly, it is agreed that such retained sums shall not be deemed a penalty, but, in lieu of actual damages, shall represent a fair and reasonable estimate of damages to the State for failure of the proposer to execute and proceed with the contract upon notification of award by the State. Bonds will be returned to all proposers within thirty (30) days after the contract has been fully executed including approval by the Attorney General's Office and the Department of General Services.

Proposal Submission

Your proposal, including the Proposal Bond, must be received by 2 p.m. on June 26, 2008 at:

California State Parks
San Diego Coast District
4477 Pacific Highway
San Diego, CA 92110

Or

California State Parks
Concessions, Reservations, and Fees Division
1416 Ninth Street, #1051
Sacramento, CA 95814

Proposers are responsible for providing adequate time for parking and completing the security check.

Proposal Format & Content

The proposal package must be sealed and clearly marked on the outside with "Proposal for San Diego Coast Overnight Surf Camp at South Carlsbad State Beach". Failure to identify the park location of the contract for which you are proposing may cause your proposal to be disqualified. Please submit an original plus **five (5)** copies of your proposal in 8.5" x 11" three-ring binders. All material should be presented in an 8.5" x 11" portrait format with tabs for each section. Larger formatted graphic exhibits are acceptable if folded to fit within the 8.5" x 11" three-ring binder.

Confidentiality of Proposals

All proposals submitted in response to an RFP become the property of the State and are subject to the requirements of the Public Records Act. The proposer must identify in writing all copyrighted material, trade secrets, or other proprietary information the proposer claims are exempt from disclosure under the Public Records Act (California Government Code Section 6250 et seq.). Proposers claiming exemption must include the following statement in their proposal:

The proposer agrees to indemnify and hold harmless the State, its officers, employees, and agents from any claims, liability, or damages against the State, and to defend any action brought against the State for its refusal to disclose such material, trade secrets, or other proprietary information to any party.

Failure of a proposer to include this statement shall be deemed a waiver of any exemption from disclosure under the Public Records Act. Requests to review proposal submissions will not be allowed until after an "Intent to Award Contract" notice is published by the State.

Withdrawal of Proposals

Proposals may be withdrawn at any time prior to the proposal closing date and time provided that a written request executed by the proposer or his/her duly authorized representative for the withdrawal of such proposal is filed with the Department. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the proposal closing date and time. However, once the proposal closing date and time has past, proposals shall be irrevocable.

2.2 EVALUATION PROCESS**Verification of Proposal Information**

The State may obtain credit reports and verify tax form information to further establish the qualifications of any proposer. Proposers should notify bank and business references in writing that a representative from the state will be contacting them concerning the financial and credit information furnished to the Department with the proposal.

State's Right to Reject Proposals, Waive Defects and Requirements

The State reserves the right to accept or reject any or all proposals, and waive any or all immaterial defects, irregularities, or requirements in the RFP for the benefit of the

State, so long as such waiver does not give any proposer a material advantage over other proposers. A proposer shall not be relieved of his/her proposal nor shall any change be made in his/her proposal due to a proposer error.

Supplemental Information

At its sole discretion, the State reserves the right, but does not have the obligation, to seek supplementary information or clarification from any proposer at any time between the dates of proposal submission/acceptance and the contract award. The State may obtain credit reports and/or make background inquiries to further establish the qualifications of any proposer. Any proposer may be subject to personal interview and inspection of his/her business premises prior to award. Any proposer may be required to appear before the Concession Contract Award Board.

Proposal Evaluation

All proposals received shall be evaluated for form and content in accordance with the requirements of this RFP. The Contract Award Board will evaluate and score each eligible proposal pursuant to the point system and selection criteria as described in the Proposal Instructions and Proposal Evaluation Form. **Proposals not containing all of the items in the Concession Proposal form (DPR 398) may be rejected.** Please refer to Section 3 for more information on completing the Concession Proposal form (DPR 398).

Contract Award Board

Concession Contract Award Boards are appointed by the Director of the Department, or his or her representative, and convened to review, evaluate, and rate each proposal received and make a recommendation to the Director regarding the selection of the "Best Responsible Bidder". The Award Board for this contract may include park staff with related expertise, such as Field Division Chief, Deputy Director, Park Design and Construction staff, or District Superintendent, and representatives from other public agencies and the private sector.

Contract Award

If an award is made, the award for a concession contract will be to the "Best Responsible Bidder" in accordance with Section 5080.23 of the Public Resources Code. The "Best Responsible Bidder" will be the proposer whose proposal passes each of the required elements and receives the highest total score as determined by the Contract Award Board and approved by the District Superintendent.

Execution of the awarded concession contract is subject to approval by controlling agencies of the State, which include the Department of General Services and the Attorney General, and will not be binding on the State or the successful proposer until such approval is obtained.

Protest of Award

Based on Title 14, California Code of Regulations, Chapter 3, Section 4400 and Department policy, other than a contract negotiated under Section 5080.16 of the Public Resources Code, when a concession in excess of two years is proposed to be let at public bid (or RFP), any proposer protesting or objecting to the same, or desiring to protest or object, may file within ten calendar days of the awarding of the contract

(publication of the "Notice of Intent to Award") with the Director of the Department his/her verified petition, setting forth his/her objections, the reasons therefor, and points and authorities in support thereof. Failure to file a verified petition within the ten-day period shall constitute a waiver of the right to protest. Protests must be sent to:

Director
California Department of Parks and Recreation
P O Box 942896
Sacramento, California 94296-0001
Fax: 916-657-3903

A copy of such petition also must be served upon the Attorney General within such ten-day period by the protesting entity. Serve the Attorney General at:

California Department of Justice
Office of the Attorney General
Natural Resources Law Section
1300 I Street, 11th Floor
Sacramento, California 95814
Fax: 916-327-2319

At the time of filing said petition, the protestor may demand in writing a hearing thereon. If a hearing is so demanded, or if the Director on his/her own motion orders a hearing, proceedings shall be taken under the Administrative Procedure Act, and the said petition shall be treated as a statement of issues. Any recommendation or proposed decision of the hearing officer shall be submitted to the Director for approval, adoption, modification, disapproval, or other interlocutory or final action thereon by the Director. If a hearing is not so demanded or ordered, the action of the Director on said petition shall be final.

2.3 CONTRACT EXECUTION

Preparation of Contract

Subsequent to the award of a contract, if an award is made, the State will prepare a final contract for execution. The contract will contain "exhibits" developed from the selected proposal including the proposal's Operation and Interpretation Plans, as required. Minor changes or modifications to the contract, proposal plans, and contract exhibits may be made prior to execution based on agreement between the State and concessionaire. However, no material change to the contract or its exhibits as presented in the RFP and in the selected proposal may be made.

Performance Bond and Insurance

The successful proposer will be required to submit a Performance Bond and evidence of insurance required under the contract. Failure to submit the bond and/or insurance verification within the time limit presented may be treated as a refusal to execute, if the State so elects. The State may take the Proposer Bond and select the next Best Responsible Proposal.

Failure to Sign/Deliver Contract

A failure of the successful proposer to sign and deliver the contract within thirty (30) days of receipt may be treated as a refusal to execute, if the State so elects. The State may retain the Proposer Bond and select the next Best Responsible Proposal and so on until a contract is fully executed.

Return of Proposer's Bond

The proposer's bond or cashier's check will be returned or refunded when the successful proposer has executed the contract and provided the State with all bonds and evidence of all insurance required under the contract.

SECTION 3 - THE PROPOSAL

3.1 INSTRUCTIONS FOR THE CONCESSION PROPOSAL

A completed Concession Proposal form (also known as DPR 398) and a Proposal Bond will constitute your proposal. You must complete all sections, respond to all questions, and fill in all blanks of the form. Inapplicable questions or blanks must be marked "N/A" or "Not Applicable". Failure to properly complete the form may disqualify your proposal.

The proposal must be clear, unambiguous, and unconditional. It should clearly commit you to entering into a contract with the State to provide the services as required by this RFP and offered in the proposal.

The submission of a proposal shall be deemed evidence that you are fully aware of the responsibilities of being a concessionaire and have carefully examined State laws relating to California State Park concessions; possessory interest tax as related to concessions; the site(s) selected for said concession; obligations and responsibilities related to local control agencies and permitting requirements; and the proposal instructions, proposal form, and the sample concession contract included herein.

Please refer to the Proposal Evaluation Criteria in Section 3.2 and to the following information to complete the Concession Proposal form (DPR 398):

I. PROPOSER INFORMATION

A. Proposer Identification

Incumbent Factor

The incumbent concessionaire is defined as the individual, partnership, or corporation that currently operates the concession advertised in this RFP. Such concession operation must be at the same site, comprise the same type of operation(s), and provide substantially the same types of products and services as those specified in the RFP. Incumbent proposals are awarded points based on annual Performance Evaluations (DPR 531) performed by the State. Poor Performance Evaluations may result in negative point scores.

Small Business Status

Preference will be granted to proposers properly certified as Small Businesses as defined in Title 2, Section 1896, et seq., California Code of Regulations. If you want to claim this preference, include a copy of the Small Business Certification with your proposal. Omission of the Certificate or Office of Small Business (OSB) identification number may delay awarding of preference points. A complete and certifiable application must be on file with the OSB by 5:00 p.m. on the proposal closing day. To ensure a certifiable document, applications should be submitted well before the proposal closing day. It is the proposer's responsibility to contact OSB to verify the completeness of the application. Incomplete documents are not certifiable. You may obtain an application for Small Business Certification from:

Office of Small Business and DVBE Certification
707 Third Street, 1st Floor, Room 400
West Sacramento, CA 95605
(800) 559-5529 or (916) 375-4940
FAX (916) 374-4950

Certification will verify that the business is independently owned and operated; not dominant in its field of operation; has its principal office located in California; has officers domiciled in California; and together with affiliates is either a service, construction, or non-manufacturer with 100 or fewer employees and average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three (3) years, or a manufacturer with 100 or fewer employees.

B. Business Information

Select the type of business that describes the proposing entity (Sole Proprietorship, Partnership, Joint Venture, or Corporation) and provide the requested information. The type of business must be established prior to submitting a proposal and must not be a condition of receiving the contract.

C. Individual Information

Each individual, partner, member of joint ventures, officer of corporations, concession manager, and holders of 25% or more of the company's shares (as applicable) must complete a copy of the Individual Information form AND complete and sign the Authorization to Release Information in Section IV.

Experience

Provide a narrative describing in detail the duration, extent, and quality of your education and business experience with special emphasis on your experience related to the subject concession. Be specific with respect to the type and dates of experience, your role in the management and specific duties, type and size of operation, quality of operation, public agency involvement, contractual relationships, and other factors that demonstrate your ability to successfully operate the proposed concession. Be sure to demonstrate how you meet the required proposer qualifications, if applicable. Attach additional information as needed.

For the purposes of this RFP, proposers must have a minimum of one (1) year experience owning, managing, or operating a business of similar size, type, and scope as the concession operations set forth and envisioned by this RFP. The proposer will be rated according to the years of relevant experience as verified by references.

D. Statement of Financial Capability

Proposers must present evidence satisfactory to the State demonstrating their ability to finance, operate, and maintain the concession as proposed. Your statement of financial capability must include the source of funding and detailed information including:

Source of funding and cost of concession development: Identify and describe the specific source of funding that your business will use to undertake the project as you have proposed. If funds are to be used from outside sources (i.e., parent company, third

party, LLC partners, etc.), provide documentation, such as a recent bank statement, balance sheet, income statement, and/or other supporting documents, to demonstrate these funds are available and unconditionally committed to this concession project. In addition, if funds are to be borrowed to finance any portion of the total investment, you must provide loan commitment documentation such as a letter-of-intent from the individual, bank, or other lending entity indicating the minimum amount to be loaned and any applicable percentage rate. The loan commitment may contain the qualification that the loan will be consummated only upon award of an agreement with the State, otherwise the commitment must be irrevocable and unconditional.

Business Financial Statement: Use the Business Financial Statement to describe the current and true condition of your business' assets, liabilities, and net worth. Round figures to the nearest dollar. If your business is a partnership or joint venture, each general partner or joint venturer must individually submit a Business Financial Statement. You may provide copies of forms filed with the Internal Revenue Service, where applicable.

E. Credit Worthiness

Proposers must present evidence of credit worthiness. At a minimum, evidence shall include a credit report(s) issued by a nationally recognized credit bureau within 60 days of the proposal due date. Said credit report(s) shall include proposer's credit score. Any derogatory information listed on said reports must be explained.

F. References

Financial, client, and vendor references are used to confirm information provided by proposers and to evaluate the proposer's quality of experience and past performance. Please submit three references for each reference type required below. Proposers should notify their references in writing that a representative from the State will be contacting them.

For the purposes of this RFP, please provide the references from the following sources:

- Financial References: Include your bank or savings and loan institution.
- Business References: Name government agencies or other organizations with whom you have done business and that can verify your performance and ability to fulfill contract obligations for the provision of goods and services.
- Vendor References: Please provide vendor references if you are a pre-existing business currently utilizing vendors.

II. PROPOSAL INFORMATION

Provide Operation and Interpretive Plans that address each of the checked elements in the Concession Proposal form (DPR 398). For your information, each element of the Concession Proposal is described below. You may submit additional information to fully describe and enhance your proposal.

A. Operation Plan

As a condition of the contract award, the successful proposer may be required to revise non-material elements of the Operation Plan to the satisfaction of the State and prior to the execution of the contract. The final plan will be incorporated as an exhibit to the contract

and become an obligation of the concessionaire thereunder. In addition to the Operation Plan, the successful proposer also must adhere to the operational requirements as described in the contract. Your Operation Plan should address each of the following elements:

Vision/Mission Statement

Your Vision/Mission Statement should capture both the State's and your own goals and objectives for the concession business and provide a clear philosophy to guide you.

Organizational Structure

Provide an organization chart and staffing plan that can guide the operation and ongoing management of your concession business. Your plan should identify and define all job classifications to be used and the required job skills and qualifications. Describe the assignments, duties, and schedules for each staffing level considering contract requirements, the proposed hours of operation (see Sample Concession Contract), and any unique seasonal and peak use circumstances.

Transition/Business Start-Up

Describe your plan and timeline for starting concession operation and providing a seamless transition in customer service.

Customer Service

Demonstrate your ability and clear commitment to successfully implement an effective customer service program. Your plan should include, but is not limited to, previously established and effective customer service program models, adequate employee staffing and management oversight, hours of operation equal to or greater than required by this RFP, and a customer satisfaction feedback survey program.

Employee Staffing and Training

Your employee policies and training program should include, but are not limited to, personnel policies; hiring practices; health and safety policies and procedures; business orientation; job training; and park orientation training. At anytime students are in the water, at least one American Red Cross Lifeguard certified instructor must be present and supervising the class. All instructors must be CPR and First Aid Certified. Such programs must provide sufficient staffing with the skills, capabilities, and training to ensure the provision of uninterrupted, high-quality services to all park visitors. Each concession staff member must be fingerprinted through the California Department of Justice's live scan process and results of said live scan must be on file with the State prior to work performed in association with this concession contract. Any persons with a report of criminal history, as identified by the live scan process, will be subject to review and approval by the State. Describe your policy regarding alcohol and drug use.

Marketing and Advertising

Your marketing and advertising plan should include, but is not limited to, proposed approaches, methodologies, media, advertising materials, schedules, and budget allocations. All advertising must promote San Elijo or South Carlsbad State Beaches, as appropriate.

Community Involvement

Provide a plan for and commitment to creating added value and benefits to the surrounding community and park visitors. This plan may include special events, educational programs, and community service activities. In addition, you should identify the special skills, knowledge, and resources needed and available to implement your plan.

Products, Merchandise, and Services

Provide a detailed description of the services to be provided by the concession operation. The services offered should meet or exceed the needs of the park users, and be compatible with and complimentary to the mission of the park.

Prices and Pricing Policies

Provide a price schedule for a representative sample of the services proposed. Implementation of these policies must provide park visitors with quality products at reasonable prices considering the competition of comparable markets for similar products and services.

Conservation and Recycling

Outline your approach to solid waste management, including reduction, re-use, and recycling, use of post-consumer recycled products, water and energy conservation, pest management, hazardous materials handling, air quality, and other applicable facets of resource conservation and environmental protection that are applicable to the concession operation. Your plan should clearly commit you to a program that will minimize negative impacts on the environment and encourage park visitors to do the same.

Accessibility

Provide a plan for and commitment to ensuring disabled visitors will have access to all of the services provided through the concession operation in accordance with the American's with Disabilities Act of 1990 including Titles I, II, and III of that act, the Rehabilitation Act of 1973, and California Government Code Sections 4450 et. seq. and 7250.

Safety

Provide a Safety Plan that describes the role and qualifications of the concession's Safety Officer. The Plan should outline an Emergency Management Plan for handling emergency situations and should include a method for notifying the proper authorities and providing advanced medical care. The proposal should commit the Safety Officer to working with State Park Lifeguards and other law enforcement personnel in the development of a detailed Emergency Management Plan. The Safety Plan should describe the Safety Orientation, which will be given to all surf school participants and should include how to identify potential hazards and basic safe surfing techniques.

Facility Improvement

Provide a plan, including costs, for the installation of a recreational vehicle (RV) power pedestal at the surf camp area of South Carlsbad State Beach. The location for the RV pedestal will be determined by a State Representative. In addition to this Facility

Improvement Element, the successful proposer must also adhere to the requirements as described in Paragraph 16 of the contract.

The Facility Improvement shall include, at a minimum, the following: (1) Provide electrical conduit, wiring and any other materials necessary to electrically energize the RV pedestal receptacles; (2) Remove 700 feet of existing #2 wire between the hand-hole nearest the main meter box and the hand-hole nearest the proposed pedestal location and replace with #2/0 wire; (3) trench approximately 150' between RV pedestal location and nearest hand-hole; (4) install conduit; (5) backfill and compact trench; (6) patch any asphalt removed (cold patch will be acceptable); and (7) provide concrete pad for RV pedestal per manufacturer's instructions. The above work shall be done by a licensed electrical contractor approved by the State.

The materials, at a minimum, shall be: (1) RV pedestal – Pad mounted, Milbank with 20/30/50 AMP receptacles, or equivalent; (2) No. 2/0 THHN or THWN or THW wire between hand-hole nearest the main meter box and the hand-hole nearest the RV pedestal location; (3) 1" PVC schedule 40 conduit between RV pedestal and nearest hand-hole; and (4) Any other material necessary for a properly functioning electrical system.

B. Facility Plan

No facility plan is required for this RFP. Please describe the facility improvement element of your concession in Section A, Operation Plan, "Facility Improvement (For South Carlsbad State Beach contract only)".

C. Interpretive Plan

The Interpretive Plan is an element of a concession. The Interpretive Plan from the successful proposal, after the State's review and approval, shall be included as an exhibit to the contract. The State reserves the right to include or exclude any item or items in the Interpretive Plan that the State determines do not meet the intent of the RFP or the mission of the Department. In addition to the Interpretive Plan, the successful proposer also will be required to implement the interpretive elements as described in the contract.

Interpretive Programs and Activities

Describe your plans for interpretive programs and activities. At a minimum, one interpretive program or demonstration per class is required. Interpretive program subjects must be relevant to the history and culture of surfing, the natural history of the California coast, or marine and coastal conservation. Appropriate interpretive programs include but are not limited to campfire programs, nature walks, surfboard design demonstrations, and discussion groups. Instruction and demonstration of surfing technique does not count towards the Interpretive Program requirement.

D. Rental Offer

The concessionaire will be required to pay as Annual rent a guaranteed amount (Rental Guarantee) or a Percentage of Gross Sales, whichever is greater. Proposers should bid both the Rental Guarantee and the Percentage of Gross Sales as specified in the Concession Proposal form (DPR 398). For the purposes of this RFP, the

annual Rental Guarantee must be at least twenty thousand dollars (\$20,000) and the Percentage of Gross Sales must be at least twelve percent (12%).

E. Concession Feasibility

Document your ability to successfully initiate the proposed concession in a financially responsible manner, in accordance with the terms and conditions of the sample contract and your Operation and Interpretive Plans (as applicable). This information must substantiate your ability to: develop, furnish, equip, operate and maintain the concession in a high-quality manner; provide the public with quality products and services at reasonable and competitive prices; pay the State the rental offered; and provide a reasonable return on your investment. Fiscal documentation that will be considered in awarding points includes a financial pro forma; statement of assets and liabilities; business, vendor, bank, and/or financial references; and similar documents. You may provide information in addition to that required in the Concession Proposal form (DPR 398), but do not alter the format in any way. You must respond to each item in the order listed with the information requested or N/A.

III. PROPOSAL SUMMARY

The Proposal Summary should summarize your relevant experience, knowledge, and expertise, and your Operation and Interpretive Plans (as applicable) in 250 words or less.

IV. CERTIFICATION OF PROPOSER INFORMATION

A. Labor Law Compliance Certification

A request may be made to the National Labor Relations Board for information regarding Administrative Hearing decisions against each proposer. You must have no more than one final, unappealable finding of contempt of court by a federal court issued for violation of the National Labor Relations Act within the two-year period immediately preceding the closing date of this RFP or your proposal will be disqualified.

B. Proposer Certification

A completed certification is required with your proposal or it will be disqualified.

C. Authorization to Release Information

A signed authorization for each individual, partner, member of joint ventures, officer of corporations, Concession Manager, and holders of 25% or more of the company's shares (as applicable) must be included or the proposal will be disqualified.

V. PRIVACY NOTICE

This section provides notice to proposers. No action by proposers is necessary.

3.2 PROPOSAL EVALUATION CRITERIA

The following criteria will be used by the Contract Award Board to evaluate the responses provided by proposers in the Concession Proposal form (DPR 398).

Incumbent Preference

5 Points

Incumbent proposals are awarded points based on annual Performance Evaluations (See DPR 531 in the Sample Concession Contract) performed by the State as follows:

Overall Rating of Evaluation	Number of Years Rating Was Received	Points Awarded
“Excellent”	3 out of last 3 years	5 points
“Excellent” with no “needs improvement” or “unsatisfactory”	2 out of last 3 years	3 points
“Excellent” with no “needs improvement” or “unsatisfactory”	1 out of last 3 years	2 points
Satisfactory	3 out of last 3 years	1 point
“needs improvement” or “unsatisfactory”	1 out of last 3 years	- 1 point
“needs improvement” or “unsatisfactory”	2 out of last 3 years	- 3 points
“needs improvement” or “unsatisfactory”	3 out of last 3 years	- 5 points

Small Business Preference

5 Points

Five points will be awarded to those proposers who have a complete and certifiable application on file with the Office of Small Business Certification prior to the close of this RFP.

Experience

20 Points

For the purposes of this RFP, proposers must have a minimum of one (1) year experience owning, managing, or operating a business of similar size, type, and scope as the concession operations set forth and envisioned by this RFP. The proposer will be rated according to the years of relevant experience as verified by references and the quality of experience as it relates to the business described in this RFP. Proposer shall be awarded greater points based on the degree to which they document “quality experience in providing similar services in a similar type of business.” In addition, points shall be awarded for documented quality experience contracting with public agencies.

Operation Plan

20 Points

Points will be awarded based upon the degree to which the proposal addresses each of the required elements of the Operation Plan (as identified in the DPR 398, Concession Proposal) and demonstrates an understanding of and commitment to achieving the objectives of this RFP. In addition, points shall be awarded based upon the proposer’s demonstrated ability to implement the components of the plan. More points shall be awarded to proposals that provide high-quality goods and services that are consistent with the intent of the RFP and the mission of the park.

Interpretive Plan

10 Points

Points will be awarded based upon the degree to which the proposal demonstrates an understanding of the park’s interpretive programs and contributes to the overall interpretive messages of the park.

Rental Offer

40 Points

For the purpose of assigning points in the Proposal Evaluation, the highest acceptable* rental offer will be assigned the maximum points available for that category. Each lower rental offer will be assigned points in relation to the highest rental offer as follows:

- A. Rental Guarantee (Minimum bid is Twenty thousand dollars (\$20,000))

$$\frac{(\text{Bid Amount}) \text{ minus } (\$20,000)}{(\text{Highest Bid Amount}) \text{ minus } (\$20,000)} \times 15 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

- B. Percentage of Gross Sales (Minimum bid is twelve percent (12%))

$$\frac{(\text{Bid Amount})}{(\text{Highest Bid Amount})} \times 25 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

*Note: the highest bids received may not be considered acceptable. Proposers may be required to prove to the satisfaction of the State their ability to operate a successful business under their rental offer. Failure to prove this ability will be cause to disqualify the proposal. In this case, the second highest acceptable bid would be used to calculate points awarded.

3.3 PROPOSAL EVALUATION SHEET

PROPOSER: _____

LEVEL I COMPLIANCE WITH RFP REQUIREMENTS

PROPOSER QUESTIONNAIRE

- I. PROPOSER INFORMATION
 - A. Proposer Identification _____ (pass/disqualify)
 - B. Business Information _____ (pass/disqualify)
 - C. Individual Information _____ (pass/disqualify)
 - D. Statement of Financial Capability _____ (pass/disqualify)
 - E. Credit Worthiness _____ (pass/disqualify)
 - F. Financial/Business/Vendor References _____ (pass/disqualify)
 - II. PROPOSAL INFORMATION
 - A. Operation Plan _____ (pass/disqualify)
 - B. Facility Plan N / A
 - C. Interpretive Plan _____ (pass/disqualify)
 - D. Rental Offer _____ (pass/disqualify)
 - E. Concession Feasibility _____ (pass/disqualify)
 - III. PROPOSAL SUMMARY _____ (pass/disqualify)
 - IV. CERTIFICATION AND AUTHORIZATION
 - A. Labor Law Compliance Certification _____ (pass/disqualify)
 - B. Proposer Certification _____ (pass/disqualify)
 - C. Authorization to Release Information _____ (pass/disqualify)
- PROPOSER BOND** _____ (pass/disqualify)

Proposer must pass LEVEL I to qualify for further consideration.

LEVEL II RENT PROPOSED/CREDIT WORTHINESS & ABILITY TO FINANCE

- A. Rent Proposed Met/Exceeded Minimum Requirement _____ (pass/disqualified)
- B. Ability to Finance _____ (pass/disqualified)
- C. Credit Worthiness _____ (pass/disqualified)
- D. Compliance with National Labor Relations Act _____ (pass/disqualified)

Proposer must pass LEVEL II to qualify for further consideration.

LEVEL III PROPOSAL EVALUATION

- A. Proposer Information
 - Incumbent Preference _____ / 5 Points
 - Small Business Preference _____ / 5 Points
 - Experience _____ / 20 Points
- B. Proposal Information
 - Operation Plan _____ / 20 Points
 - Interpretive Plan _____ / 10 Points
 - Rental Offer _____ / 40 Points
 - Financial Feasibility _____ Pass/Fail*

GRAND TOTAL _____ / 100 Points

Comments:

Board Member: _____ Date: _____

*** A “fail” rating in this category disqualifies the proposal.**

3.4 CONCESSION PROPOSAL, DPR 398

I. PROPOSER INFORMATION

A. PROPOSER IDENTIFICATION

GENERAL INFORMATION

BUSINESS NAME _____
(Exactly as it is to appear on the Concession Contract)

ADDRESS _____

CITY/STATE/ZIP CODE _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

CONCESSION MANAGER NAME _____

SMALL BUSINESS: No Yes S/B #: _____

FEDERAL ID NUMBER: _____

CONTACT PERSON

NAME _____

ADDRESS _____

CITY/STATE/ZIP CODE _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

B. BUSINESS INFORMATION

Check the one box below that describes your type of business and complete/attach the associated information requested. Also attach an organization chart if appropriate.

SOLE PROPRIETORSHIP

PARTNERSHIP: Attach a complete copy of the Partnership Agreement. To qualify as a responsive proposer, the Partnership Agreement shall be executed and binding upon each of the parties.

- 1. Date partnership established _____
- 2. Is the Partnership Agreement recorded? Yes. Date _____ Where _____ No
- 3. Has the partnership done business in California? Yes. Dates _____ No

4. <u>PARTNER NAMES</u>	<u>ADDRESSES</u>	NO. OF SHARES	GENERAL (G) or LIMITED (L)
			<input type="checkbox"/> G <input type="checkbox"/> L
			<input type="checkbox"/> G <input type="checkbox"/> L
			<input type="checkbox"/> G <input type="checkbox"/> L

JOINT VENTURE: Attach a complete copy of the Joint Venture Statement/Agreement. To qualify as a responsive proposal, the Joint Venture Statement/Agreement shall be executed and binding upon each of the parties.

- 1. Date joint venture established _____
- 2. Is the Joint Venture Statement/Agreement recorded? Yes. Date _____ Where _____ No
- 3. Has the joint venture done business in California? Yes. Dates _____ No
- 4. JOINT VENTURER NAMES AND SHARE ALLOCATIONS ADDRESSES

CORPORATION: Attach a Corporate Resolution indicating the officers authorized to contract on behalf of corporation. The Corporate Resolution shall contain the corporate seal and be certified by the Secretary of the corporation. To qualify as a responsive proposer, the corporation shall be in good standing and qualified to do business in the State of California.

- 1. Date incorporated _____
- 2. Place incorporated _____
- 3. Is the corporation authorized to do business in California? Yes No
- 5. How is the corporation held? Publicly. Below, explain how and where stock is traded. Privately
- 6. For publicly held corporations, attach a copy of the most current Annual Report.

B. BUSINESS INFORMATION, continued

(CORPORATION - Continued)

7. Complete the information below:

AUTHORIZED

ISSUED

OUTSTANDING

Number of voting shares

Number of non-voting shares

Number of shareholders

Value per share of common stock: Date _____ Par _____ Book _____ Authorized _____

8. Complete the information below for each officer and director of the corporation, the shareholder who is not a corporation officer or director but owns the largest number of voting shares of corporation stock, and the shareholder who is not a corporation officer or director but owns the largest number of non-voting shares of corporation stock.

<u>NAME</u>	<u>TITLE</u>	<u>ADDRESS</u>	<u>VOTING SHARES</u>	<u>NON-VOTING SHARES</u>
-------------	--------------	----------------	--------------------------	------------------------------

9. Has a surety or bonding company ever been required to perform on the default of the corporation within the last ten (10) years?

Yes. Provide the information below for each default. No (*proceed to item 10*)

Surety/Bonding Company Name _____

Bond Date _____ Bond Amount _____

Explain the circumstances surrounding each default and actions taken by the surety or bonding company.

10. Has the corporation ever been adjudicated bankrupt or involved in pending bankruptcy matters?

Yes. Below, enter dates, court jurisdiction and amounts of liabilities and assets. No

11. Is the corporation presently a party to any pending litigation, liens or claims?

Yes. Below, enter detailed information for each legal action. No

12. Is the corporation subject to any outstanding claims, liens, or judgments?

Yes. Below, enter detailed information for each claim, lien or judgment. No

13. Has the corporation defaulted on, been terminated for non-performance or breach of contract, or voluntarily abandoned or forfeited rights under a contract for services or concessions contract?

Yes. Below, enter an explanation of the circumstances and outcomes of each event. No

C. INDIVIDUAL INFORMATION

Legal Name _____ Social Security No. _____
 Residence Address _____ Phone No. _____
 Business Address _____ Phone No. _____

PERSONAL HISTORY

1. Have you, individually, as a partner, joint venturer or as officer of a corporation had a bond or surety canceled or forfeited within the last ten (10) years?
 Yes. Provide information below. No (*proceed to item 2*)

Bond Company Name _____

Bond Date _____ Bond Amount _____

Explain the reason for each cancellation or forfeiture.

2. Have you individually, as a partner, joint venturer, or officer of a corporation been convicted of a felony crime in the last 10 years?
 Yes. Please explain No

3. Have you or your spouse or any business that you owned or in which you were an officer or had an interest ever declared bankruptcy, been declared insolvent or bankrupt, filed for bankruptcy, or reorganization under Federal or State laws?
 Yes. Below, enter dates, court jurisdictions, and amounts of liabilities and assets. No

4. Are you individually or any partnership or joint venture in which you have been party currently involved in any pending litigation? Yes. Below, enter dates, violations and locations. No

WORK EXPERIENCE:

Attach a resume and narrative as necessary.

CERTIFICATION: I hereby certify under penalty of perjury that all responses stated above regarding my personal history and work experience are true to the best of my knowledge and belief, and I understand and agree that any misstatement or omission of any material fact may cause forfeiture on my part of all rights to the proposed contract to be awarded by the State of California.

SIGNATURE

DATE

▲ _____

D. STATEMENT OF FINANCIAL CAPABILITY

SOURCE OF FUNDING AND COST OF CONCESSION DEVELOPMENT

(Attach additional pages as necessary.)

BUSINESS FINANCIAL STATEMENT

For: _____ As of: _____
 (Business Name) (Date)

ASSETS

Current Assets

CASH ON HAND IN BANK _____

ACCOUNTS RECEIVABLE:

Current _____
 Over 30 Days _____
 Over 60 Days _____

NOTES RECEIVABLE DUE WITHIN 1 YEAR _____

MERCHANDISE INVENTORY: Cost/Market _____

OTHER CURRENT ASSETS:

_____ _____
 _____ _____

Total Current Assets _____

Long Term Assets

NOTES RECEIVABLE DUE AFTER 1 YEAR _____

LAND AND BUILDINGS (at cost) _____
 <Less> Reserve For Depreciation _____

FIXTURES AND EQUIPMENT (at cost) _____
 <Less> Reserve For Depreciation _____

PREPAID EXPENSES/DEFERRED CHARGES _____

OTHER LONG TERM ASSETS:

_____ _____
 _____ _____

Total Long Term Assets _____

*** TOTAL ASSETS *** _____

E. CREDIT WORTHINESS

(Attach additional pages as necessary.)

E. REFERENCES

Duplicate this page and submit one reference page for each reference type (financial, vendor, or client) required in the instructions.

REFERENCE NO. 1

Name/Firm _____

Address _____

Contact Person _____ Phone Number _____

Acct. Type(s) & Number(s) _____

Type of Business Relationship _____

Length of Association _____

REFERENCE NO. 2

Name/Firm _____

Address _____

Contact Person _____ Phone Number _____

Acct. Type(s) & Number(s) _____

Type of Business Relationship _____

Length of Association _____

REFERENCE NO. 3

Name/Firm _____

Address _____

Contact Person _____ Phone Number _____

Acct. Type(s) & Number(s) _____

Type of Business Relationship _____

Length of Association _____

REFERENCE NO. 4

Name/Firm _____

Address _____

Contact Person _____ Phone Number _____

Acct. Type(s) & Number(s) _____

Type of Business Relationship _____

Length of Association _____

II. PROPOSAL INFORMATION

(Attach separate pages as necessary)

A. OPERATION PLAN

No Operation Plan Required

- Vision/Mission Statement
- Organizational Structure
- Transition/Business Start-up
- Customer Service
- Employee Staffing & Training
- Marketing and Advertising
- Community Involvement

- Products, Merchandise, and Services
- Prices and Pricing Policies
- Conservation and Recycling
- Accessibility
- Other: Safety
- Other: Facility Improvement
- Other: _____

B. FACILITY PLAN

No Facility Plan Required

- Furnishings Plan
- Capital Improvement Plan
- Maintenance and Housekeeping Plan
- Other: _____

- Implementation Plan
- Cost(s) estimates.
- Other: _____

C. INTERPRETIVE PLAN

No Interpretive Plan Required

- Proposer's Relevant Experience
- Business' Interpretive Theme
- Interpretive Programs and Activities
- Diversity Outreach Plan
- Other: _____
- Other: _____
- Other: _____

- Business' Ambiance Plan
- Primary Education Plan
- Food Service Plan

D. RENTAL OFFER

Minimum Rental Guarantee: _____ (minimum acceptable bid is \$20,000/year)

Percentage of Gross Receipts as follows:

____% of monthly gross sales (minimum bid is 12%)

E. CONCESSION FEASIBILITY

You may provide additional information, but do not alter the formats below in any way. You must respond to each item in the order listed with the information requested or N/A.

CONCESSION DEVELOPMENT COST ESTIMATE

PRELIMINARY PLANNING AND DESIGN	_____	
CONSTRUCTION OF INTERIOR IMPROVEMENTS/FIXTURES	_____	
EQUIPMENT/FURNISHINGS	_____	
AUTOS/TRUCKS	_____	
STOCK/INVENTORY	_____	
LICENSES & PERMITS	_____	
PREPAID EXPENSES	_____	
OTHER COSTS:		
_____	_____	
_____	_____	
_____	_____	
TOTAL DEVELOPMENT COSTS		_____

PROPOSED MEANS TO FINANCE CONCESSION

CONCESSIONAIRE SUPPLIED CAPITAL	_____	
SHORT TERM LOANS (1 year or less)	_____	
LONG TERM LOANS (more than 1 year)	_____	
SUPPLIER CREDIT	_____	
OTHER FINANCING:		
_____	_____	
_____	_____	
_____	_____	
TOTAL FINANCING*		_____

** Must meet or exceed "Total Development Costs" amount.*

FINANCIAL PROFORMA

Complete all aspects of this proforma as they apply to your proposed concession operation. Round figures to the nearest dollar.

ITEM	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
GROSS PROFIT					
<u>Gross Sales</u>					
Total Gross Sales ⁽¹⁾					
<Less> Cost of Goods Sold ⁽²⁾					
TOTAL GROSS PROFIT					
OPERATING EXPENSES					
<u>Variable Operating Expenses</u>					
Salaries & Payroll Related					
Taxes & Licenses (other than sales income)					
Insurance					
Advertising					
Maintenance & Repairs					
Utilities (including telephone)					
Legal & Accounting					
Rent to State					
Interest					
Supplies & Material					
Administrative Overhead					
Travel & Transportation					
Other:					
Total Variable Operating Expenses					
<u>Fixed Operating Expenses</u>					
Facility Improvements					
Equipment Purchases					
Amortization					
Depreciation					
Performance Bond					
Total Fixed Operating Expenses					
TOTAL OPERATING EXPENSES ⁽³⁾					
* NET INCOME * <i>(before income taxes)</i>					

(1) EXPLAIN HOW YOU ARRIVED AT THE PROJECTED TOTAL GROSS SALES.

(2) EXPLAIN HOW YOU CALCULATED COST OF GOODS SOLD.

(3) EXPLAIN HOW YOU CALCULATED TOTAL OPERATING EXPENSES

PREPARER SIGNATURE ▶	TITLE
PRINTED NAME	PHONE NUMBER
ADDRESS	CITY/STATE/ZIP CODE

III. PROPOSAL SUMMARY

(Attach separate pages as necessary)

IV. CERTIFICATION AND AUTHORIZATION

A. LABOR LAW COMPLIANCE CERTIFICATION

I hereby certify that:

PROPOSER NAME _____

FEDERAL EMPLOYER ID NUMBER _____

ADDRESS _____

CITY/STATE/ZIP CODE _____

has not had more than one, final, unappealable finding of contempt of court by a federal court issued against the proposer for any violation of National Labor Relations Act provisions within the two-year period immediately preceding the closing date for acceptance of proposals under this Request for Proposals.

Additionally, I, the signatory, do hereby swear that I am duly authorized to legally execute the certification described above on behalf of the proposer. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

SIGNATURE ▶	DATE -
SIGNATORY'S PRINTED	TITLE

B. PROPOSER CERTIFICATION

I/We am (are) personally acquainted with the premises of the subject concession and I/we have read, understand, and agree with the terms and conditions specified in this RFP document, including the Sample Concession Contract.

I/We meet the required experience qualifications and/or currently employ a Concession Manager who meets the qualifications.

I/We have the necessary financial resources to equip and operate the concession and perform the proposed capital investments, and I/we have enclosed a cashier's check or Proposer's Bond in the required amount, payable to the Department of Parks and Recreation, as a guarantee that, in the event my/our proposal is accepted and approved by the State, I/we will:

1. Execute and complete the Concession Contract, incorporating this proposal and all the terms and conditions contained in the RFP. The Concession Contract then will be executed by the State upon approval by the appropriate State agencies;
2. Provide the Performance Bond as required by the Concession Contract upon execution of the Contract by State; and
3. Provide the proposed guarantees, including rent, capital investments, equipment, and management and operation services.

I/We hereby certify that all responses and information provided in connection with this proposal are true to the best of my/our knowledge and belief, and I/we understand and agree that any misstatement or omission of any material fact may cause forfeiture on my/our part of all rights to the proposed agreement to be awarded by the State of California.

I/We hereby respectfully submit this proposal, including all required documents and statements. I/We represent that the signatories hold the positions set forth below their signatures and are authorized to execute this proposal.

If the proposal is made by a sole proprietor, this form shall be signed with the full name of the proposer. If it is made by a partnership, a limited partnership, or a joint venture, it shall be signed with the full name of each partner or member thereof. If it is made by a corporation, it shall be signed by: (1) the President, any Vice President, or the Chairman of the Board; and (2) by the Corporation Secretary, any Assistant Secretary, Chief Financial Officer, or any Assistant Treasurer.

SIGNATURE ▶	POSITION/TITLE AND/OR FUNCTION	DATE
PRINTED NAME	PHONE NUMBER	FAX NO.
ADDRESS	CITY/STATE/ZIP CODE	
SIGNATURE ▶	POSITION/TITLE AND/OR FUNCTION	DATE
PRINTED NAME	PHONE NUMBER	FAX NO.
ADDRESS	CITY/STATE/ZIP CODE	
SIGNATURE ▶	POSITION/TITLE AND/OR FUNCTION	DATE
PRINTED NAME	PHONE NUMBER	FAX NO.
ADDRESS	CITY/STATE/ZIP CODE	

State of California - The Resources Agency
 DEPARTMENT OF PARKS AND RECREATION

C. AUTHORIZATION TO RELEASE INFORMATION

(General)

To Whom It May Concern:

I/my company have (has) submitted a proposal to the State of California, Department of Parks and Recreation, for a concession operation. I hereby authorize you to release or discuss any or all information in your possession pertaining to me as requested by an employee or representative of the State of California, Department of Parks and Recreation in connection with or to verify information submitted by me in the above-referenced proposal.

PROPOSER SIGNATURE 	DATE SIGNED
PRINTED NAME	
POSITION/TITLE	
COMPANY NAME <i>(if applicable)</i>	

V. PRIVACY NOTICE

Section 1798.17 of the Civil Code requires this notice be provided when collecting personal information from individuals. Each individual has the right to review his or her personal information maintained by this department unless exempted by law.

OFFICIAL RESPONSIBLE

Chief, Concessions and Reservations
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001
(916) 653-7733

AUTHORITY

Public Resources Code Section 5080.08(a) and 5080.08(b)

PURPOSE

The information will be used for the purposes of evaluation to determine capabilities of proposers to perform the contract and to determine the best responsible proposer if an award is made.

PROVIDING INFORMATION

All information requested is mandatory.

EFFECTS OF NOT PROVIDING INFORMATION

If the requested information is not provided, the proposal will be determined to be not responsive and will be rejected.

KNOWN OR FORESEEABLE DISCLOSURES OF INFORMATION PURSUANT TO CIVIL CODE SECTIONS 1798.24, SUBDIVISIONS (e) OR (f)

Disclosure may be made to the Department of General Services, Office of the Attorney General, Department of Finance, Office of the Auditor General, or the Department of Parks and Recreation Audits Office.

SAMPLE CONCESSION CONTRACT

FOR

San Diego Coast Overnight Surf Camp

AT

South Carlsbad State Beach

STATE OF CALIFORNIA – RESOURCES AGENCY
DEPARTMENT OF PARKS AND RECREATION
CONCESSIONS DIVISION
1416 NINTH STREET, 14TH FLOOR
SACRAMENTO, CA 95814



San Diego Coast Overnight Surf Camp at South Carlsbad State Beach
CONCESSION CONTRACT
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SAMPLE

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

CONCESSION CONTRACT

For

San Diego Coast Overnight Surf Camp

Located In

South Carlsbad State Beach

San Diego County

THIS CONTRACT is made and entered into by and between the STATE OF CALIFORNIA, acting through its Department of Parks and Recreation, hereinafter referred to as "State", and **Concessionaire** of City, State, hereinafter referred to as "Concessionaire";

RECITALS

WHEREAS, California Public Resources Code Section 5080.03 et seq. authorizes the Department of Parks and Recreation to enter into concession contracts for the operation of state park system lands and facilities and;

WHEREAS, it is appropriate that the following contract be entered into for the safety and convenience of the general public in the use and enjoyment of, and the overall enhancement of recreational and educational experience at units of the state park system;

NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

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 a nonexclusive concession in South Carlsbad State Beach at the location(s) as set forth in **Exhibit A**, attached to and made a part of this contract (the "Premises".)

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 shall, in itself, 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 five years (5) with an additional five (5) year option to renew at the State's discretion commencing on the first day of the month following approval by State, the Office of the Attorney General, and the Department of General Services, as shown below. 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, with continuous Consumer

Price Index adjustment, as defined below, subject otherwise to all the terms and conditions 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**

A. Concessionaire shall pay, without offset, deduction, prior notice, or demand, as "Minimum Annual Rent" the sum of twenty thousand dollars (\$20,000) [*or as bid*] or twelve percent (12%) [*or as bid*] of Annual gross receipts, whichever is greater as bid.

Beginning with year Six (6), if the contract is extended, and on the first day of every fifth contract year thereafter, the Minimum Annual Rent and the Monthly Fee for utilities and refuse disposal services as described below 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.

B. Pay \$500 per month for campsite use. Additionally, pay all day-use parking fees and additional vehicle fees. Fees will be those published in the Department's annual Reservation Guide and are subject to change. The maximum number of vehicles allowed per campsite is three. Payment of campsite and additional vehicle fees for the entire month will be made by the first day of that month. Payment will be made in advance of use. Campground and additional vehicle payments received after the first of the month are subject to the late payment penalties described below.

C. Pay \$750 per month for utilities and refuse disposal services in accordance with this Paragraph and with Paragraph 19 of this contract. Payment of these services are due by the 15th of the month following service and shall be reported by Concessionaire monthly with the Concessionaire's statement of gross receipts as described more fully below. Payment shall be made in a form separate from the

Minimum Monthly Rent payment. All terms and conditions for late fees will apply for late payment of utilities and refuse disposal services as described below.

D. When Concessionaire is required to pay for State lifeguard service under Paragraph 5, Use of Premises, payment shall be made in accordance with this paragraph. The cost of a State lifeguard is \$20/hour. Payment of lifeguard service fees is due by the 15th of the month following service. Hours of lifeguard service shall be reported by Concessionaire monthly with the Concessionaire's statement of gross receipts as described more fully below. Payment shall be made in a form separate from the Minimum Monthly Rent payment. All terms and conditions for late fees will apply for late payment of lifeguard services as described below.

E. 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.

Beginning with the fifteenth (15th) day of the month following the opening of the concession for business, and on or before the fifteenth (15th) day of each month thereafter, Concessionaire shall furnish to State a verified statement of the concession's gross receipts for the preceding month. Such statement shall be in a format provided by State and shall specify the current period and cumulative total of gross receipts for the concession through the end of the preceding month for the then current contract year. Concurrent with such monthly statement, the Concessionaire shall pay to State the appropriate rental fee for the preceding calendar month as prescribed above.

Payments to State shall be made to the order of the Department of Parks and Recreation and delivered to the District Office identified herein below or at such other location as may from time to time be designated by State. If, at the end of the contract year, the total of monthly percentage rental payments made (or due) during that contract year is less than the Minimum Annual Rent required for that contract year, the difference shall be remitted to State with the last monthly sales statement for the contract year. Payments must be received by State on or before the fifteenth (15th) day

of the month as described above. Any late payment shall constitute a breach of contract, giving rise to State's remedies as set forth below. Further, any late payment will be subject to a late penalty consisting of an administrative charge on the late amount, calculated at the rate of five percent (5%) of the amount of the late payment or portion thereof. The parties agree that the late charge represents a fair and reasonable estimate of the costs State will incur because of late payment. Acceptance of the late charge by State shall not constitute a waiver of Concessionaire's default for the overdue amount, nor prevent State from exercising the other rights and remedies granted under this contract. Concessionaire shall pay the late charge as additional rent with the next monthly rent payment.

_____ **[Initials of concessionaire(s)]**

Any amount due to State, if not paid within five (5) days following the due date, will bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate legally permitted. However, interest shall not be payable on late charges incurred by Concessionaire, nor on any amounts on which late charges are paid by Concessionaire, to the extent this interest would cause the total interest to be in excess of that legally permitted. Payment of interest shall not excuse or cure any default by Concessionaire.

Upon written request by the Concessionaire to State demonstrating unusual or extenuating circumstances causing the late payment, the State, in its sole discretion, may waive the late charge. Further, in the event Concessionaire is prevented from carrying on the operations contemplated herein by reason of an Act of God or other reasons beyond Concessionaire's control, and when requested in writing in advance by Concessionaire, Minimum Rent may be abated in proportion to the amount by which gross receipts are reduced by the occurrence for such period of reduced or non-operation, as determined in the sole discretion of State.

If this contract is terminated by State because of Concessionaire's default, and if Concessionaire becomes liable for any deficiency in rent by way of damages or otherwise, or if at any time during the contract term Concessionaire ceases to conduct in the Premises the business referred to herein, then from and after the time of the breach causing this termination, or from and after the time of the cessation of business,

the rent shall be deemed to be the greater of the Minimum Rent provided herein, or an amount based upon the average of the payments that have accrued to State as percentage rent during the twenty-four (24) months preceding the termination or cessation of business, unless the termination or cessation occurs within three (3) years of the beginning of the contract term, in which event the previous twelve (12) (or fewer, if applicable) months shall be used as the basis of this average.

5. USE OF PREMISES

The Premises shall be used by the Concessionaire for surfing instruction and overnight camping. Concessionaire may reserve up to two (2) inland campsites per class and must pay all applicable camping fees including extra vehicle fees as described in Paragraph 4, RENT. Activities provided shall include daily surfing instruction; other beach and water sports such as body surfing, body boarding, and volleyball; interpretive programs and activities; and camping. The Use of Premises shall be consistent with the State approved "Operation Plan" and "Interpretive 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 park unit and the Department. The approved "Operation Plan" and "Interpretive Plan" are incorporated herein and made part of this contract as **Exhibit C** and **D**, respectively.

Peak and Non-Peak Seasons: For the purposes of this agreement, Peak Season occurs between March 1st – October 31st annually. Non-Peak Season occurs between November 1st – February 28th annually.

Hours of Operation: No students are allowed in the water prior to 8 am and all lessons must end one-half hour before sunset. State may require Concessionaire to adjust the days and/or hours of operation to a schedule provided by State.

Surfing Instruction: No more than seven (7) students are allowed per instructor. No more than twenty-eight (28) students are allowed per class. All students shall be supervised by concession staff at all times while on the Premises. Concessionaire shall ensure that all students certify in writing that they are able to swim.

Lifeguard Service: Concessionaire is NOT required to provide lifeguard service during Peak Season or when the student to instructor ratio is 3:1 or less.

Concessionaire must request and pay for State lifeguard service during the Non-Peak Season when the student to instructor ratio exceeds 3:1. Concessionaire must give State a minimum of fourteen (14) days notice when requesting State lifeguard services. Requests shall be made in writing to the San Diego Coast District Superintendent or designee. Payment for lifeguard services (\$20/hour) shall be made in accordance with Paragraph 4, Rent.

At anytime during the term of this contract, if an injury or death of a concession staff or customer occurs during the execution of the terms of this contract, Concessionaire shall maintain total liability. Any State lifeguard present on the beach at any time, whether hired by the concessionaire or State, is responsible for patrol of the entire State Beach property and the safety of all persons present. At no time shall said lifeguard be responsible solely for the concessionaire and the concession clients.

- Overnight Students: Concessionaire shall employ one staff member for every seven overnight students. Each session may have no more than 14 overnight students. All students shall be supervised by concession staff 24-hours a day while on the Premises.
- Daily Students: Concessionaire may have up to 14 additional, daytime-only students per session but may not exceed the student number and ratios described above.

Concession Staff: Concessionaire shall require all surf instructors to be experienced surfers skilled in the intricacies of ocean behavior. For each class, it is mandatory that for every seven students Concessionaire provides a minimum of one instructor with Advanced First Aid CPR certifications. At anytime students are in the water, at least one American Red Cross Lifeguard certified instructor must be present and supervising the class. Proof of certification must be submitted to State prior to the start of employment and must remain current for the duration of employment. Each concession employee, including Concessionaire and any Subconcessionaire, must be fingerprinted through the California Department of Justice's live scan process and results of prints on file with State prior to work performed in association with this concession contract. Any persons with a report of criminal history, as identified by the live scan process, will be subject to review and approval by the State. Concession staff shall have at least one cellular phone programmed with the SURCOM emergency

phone number (951-443-2969). State shall notify Concessionaire of phone number changes.

Interpretive Program: Concessionaire shall present one interpretive program or demonstration per session as outlined in Concessionaire's Interpretive Plan and approved by State. Interpretive program subjects must be relevant to the history and culture of surfing, the natural history of the California coast, or marine and coastal conservation. Appropriate interpretive programs include but are not limited to campfire programs, nature walks, surfboard design demonstrations, and discussion groups. Instruction and demonstration of surfing technique shall not apply towards the Interpretive Program requirement.

Department Regulations: Concessionaire agrees that any Department staff has the right to expel any Concession staff or student who violates Department rules and regulations. Regulations that the Concessionaire agrees to follow include but are not limited to:

- A. The number of campers shall not exceed the maximum number allowed for the campsite;
- B. Adherence to all regulations regarding property closures, trespass, and entrance to prohibited areas;
- C. Payment of all day-use fees for all vehicles associated with the Concession;
- D. Adherence to 10 p.m. beach closure;
- E. Adherence to 10 p.m. peace and quiet in the campground;
- F. All concession staff and students not camping must leave the Premises by 10 p.m.
- G. Adherence to all state laws as they apply to the use of tobacco, alcohol, and other controlled substances.

State may require Concessionaire to adjust the days and/or hours of operation to a schedule provided by State. 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.

Food Preparation: All food service must conform to the California Uniform Retail Food Facilities Law.

6. **BONDS**

A. 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.

B. 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 renewed annually) in the sum of ten thousand dollars (\$10,000) payable to the State. This bond shall insure faithful performance by Concessionaire of all the covenants, terms, and conditions of this contract inclusive of, but not restricted to, the payment of all rentals, fees, and charges and prompt performance of and/or payment for all maintenance obligations. In lieu of a bond, the Concessionaire may substitute another financial instrument (such as an Irrevocable Standby Letter of Credit), which must be sufficiently secure and acceptable to State. At least thirty (30) days prior to the expiration or termination of said bond or acceptable financial instrument, a signed endorsement or certificate showing that said bond or financial instrument has been renewed or extended shall be filed with the State. Within 15 days of State's request, Concessionaire shall furnish State with a signed and complete copy of the valid bond or financial instrument.

C. Concessionaire acknowledges that allowing the Performance Bond or other security instrument(s) to expire or otherwise terminate and/or allowing the total secured amount to fall below the security required herein will cause State to incur costs and significant risks not contemplated by this contract, the exact amount of which will be difficult to ascertain. These costs include, but are not limited to, administrative costs and other expenses necessary to ensure continued performance of services for the public and protection of the Premises.

Accordingly, if Concessionaire allows the Performance Bond or other security instrument to expire or otherwise terminate and/or allows the total secured amount to fall below the security required pursuant to this contract, Concessionaire shall pay to State an amount equal to five percent (5%) of the required security or five hundred dollars (\$500), whichever is greater. The parties agree that this charge represents a fair and reasonable estimate of the costs State will incur. Acceptance of this charge by State shall not constitute a waiver of Concessionaire's default, nor prevent State from exercising the other rights and remedies available to it under this contract or applicable law, including the right to terminate this contract and seek the payment of damages.

_____ **[Initials of concessionaire(s)]**

7. **INSURANCE**

A. Concessionaire shall provide before entering the Premises and shall maintain in force throughout the term of this contract the following insurance:

- 1) Liability Insurance:
 - Commercial General Liability
 - Products Liability
 - Automobile Liability (for all owned, non-owned, and hired vehicles used by Concessionaire in the conduct of business under this contract)

Each policy of liability insurance described above shall be in an amount of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damages combined.

- 2) Workers' Compensation Insurance: A program of workers' compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California. Such insurance shall include employer's liability coverage of One Million Dollars (\$1,000,000) and shall specifically cover all persons providing services by or on behalf of the Concessionaire and shall cover all risks to such persons under this contract.

B. In the event of destruction, loss, or damage by fire or other cause of any of the State-owned buildings, improvements, or fixtures located on the Premises that the State determines (1) to be essential to the continued operation of the contract and (2) cannot be repaired within one-hundred-eighty (180) days of the occurrence, the State may terminate this contract. A decision by the State to terminate the contract under this provision shall be communicated in writing to Concessionaire as soon as practicable. If the contract is so terminated, State shall be entitled to the proceeds payable under any applicable insurance policies pertaining to the loss as its interest may appear. Receipt of such proceeds by State shall be in addition to the right of State to pursue whatever other remedies it may have to recover any losses due to the occurrence. If the State determines not to terminate the contract, then, in State's discretion, any buildings, improvements, or fixtures built in replacement of any damaged or destroyed property shall be subject to the terms and provisions of this contract as if they had existed at the onset. In no event shall the provisions of this paragraph be deemed or construed to relieve Concessionaire from the requirement to repair or replace any damaged or destroyed property except as specifically excepted by express terms of this contract.

C. Each policy of liability insurance shall contain additional named insured endorsements in the name of the State of California, through its Department of Parks and Recreation, as to all insurable interests of the State including, but not limited to, the premises and all contents as follows:

- 1) State of California, its officers, employees, and servants are included as additional insured but only insofar as operations and facilities under this contract are concerned;
- 2) The insurer will not cancel or reduce the insured's coverage without thirty (30) days prior written notice to State.

D. No cancellation provision in any insurance policy shall diminish the responsibility of Concessionaire to furnish continuous insurance throughout the term of this contract. Each policy shall be underwritten to the satisfaction of the State. A signed certificate of insurance with each endorsement required shall be

The address to which notices shall or may be mailed as aforesaid by either party shall or may be changed by written notice given by such party to the other, but nothing in this paragraph shall preclude the giving of any such notice by personal service.

10. RECORDS AND REPORTS

Concessionaire shall keep separate true and accurate books and records showing all of Concessionaire's business transactions under this contract in a manner that conforms to industry standards and practices and in a manner acceptable to State. Concessionaire shall keep all records for a period of at least four years.

In accordance with Public Resources Code Section 5080.18(b), copies of all sales and use tax returns submitted by Concessionaire to the California State Board of Equalization, the Employment Development Department, the Franchise Tax Board, or any other governmental agency shall be concurrently submitted to State no later than May 1st of each year during the term of this agreement.

In accordance with Public Resources Code Section 5080.18(c), State shall have the right through its representative and at all reasonable times to conduct such audits as it deems necessary and to examine and copy Concessionaire's books and records including all tax records and returns. Concessionaire hereby agrees to make all such records, books, and tax returns available to State upon State's request therefor. Concessionaire further agrees to allow interviews of any employees who might reasonably have information related to such records.

Concessionaire will submit to State, no later than May 1st of each year during the term of this contract, a verified profit and loss statement for the previous calendar year. Such statement shall be submitted on Form DPR 86, "Concessionaire's Financial Statement", attached hereto as **Exhibit E**, or in a format previously approved by the State, and shall contain an appropriate certification that all gross receipts during the yearly accounting period covered by said statement shall have been duly and properly reported to the State. Within forty-five (45) days of the expiration or termination of this contract, Concessionaire shall submit to the State a profit and loss statement for the period of operation not previously reported prepared in the manner stated above.

Concessionaire shall obtain and install cash registers or other accounting equipment acceptable to the State, through which Concessionaire shall record all gross receipts from the operation of the concession. This equipment shall be non-resettable and shall supply an accurate recording of all sales on tape and produce a receipt for each transaction. All such equipment shall have a customer display that is visible to the public. Concessionaire shall make all cash register tapes available to the State upon State's request. Concessionaire shall provide a cash register receipt to each customer setting forth the full amount of a sale.

11. GROSS RECEIPTS

The term "gross receipts", wherever used in this contract, is intended to and shall mean all moneys, property, or any other thing of value received by Concessionaire and any sub-concessionaire or operator, if other than Concessionaire, through or in connection with the operation of the concession, including any concession related business carried on through the internet or catalog sales, or from any other business carried on or in connection with the Premises, or from any other use of the Premises, and/or of any business of any kind that uses the names licensed by this contract, or that associates with or implies an endorsement by State, all without deduction. The term "gross receipts" shall not include any sales taxes imposed by any governmental entity and collected by Concessionaire.

12. RATES, CHARGES, AND QUALITY OF GOODS AND SERVICES

Concessionaire shall staff, operate, manages and provide all goods, services, and facilities offered in a first-class manner and comparable to other high quality concessions providing similar facilities and services. State reserves the right to prohibit or modify the sale or rental of any item, accommodation, or service for public safety and/or to ensure that the public receives, in the State's view, fair pricing, proper service, and appropriate quality. State reserves the right to prohibit the sale or use of non-recyclable containers or plastics. A competent person shall be on the premises at all times while the concession is in operation. If the on-site manager is other than the Concessionaire, State reserves the right to approve such manager.

13. PERFORMANCE EVALUATIONS AND INSPECTION

As part of its administration of this contract, State will conduct periodic inspections of concession facilities, equipment, services, and programs and prepare written performance evaluations based upon its observations. A "Concessionaire Performance Rating" (DPR Form 531) attached hereto as **Exhibit F**, or other similar format(s) as may be adopted by the State will be utilized for evaluation purposes. State further reserves the right of ingress and egress without notice to inspect concession operations for the purposes of evaluating Concessionaire's performance of the terms and conditions of this contract; to inspect, investigate, and/or survey the Premises; and to do any work thereon of any nature necessary for preservation, maintenance, and operation of the State Park System. Concessionaire agrees to cooperate with State in all respects related to the implementation of State's Concession Performance Evaluation program and with State's activities on the Premises. State shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of State's entry in the Premises as provided herein., except damage resulting from the active negligence or willful misconduct of State or its authorized representatives.

14. HOLD HARMLESS AGREEMENT

Concessionaire hereby waives all claims and recourse against the State, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this contract, except claims arising from, and to the extent of, the sole gross negligence or willful misconduct of the State, its officers, agents, or employees. Concessionaire shall protect, indemnify, hold harmless, and defend State, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, attorneys fees, expert costs and fees, or liability costs arising out of the development, construction, operation, or maintenance of the Premises property described herein and compliance with all laws, including but not limited to the Americans With Disabilities Act of 1990 as provided for herein, except for liability arising out of, and to the extent of, the sole gross negligence or willful

misconduct of State, its officers, agents, or employees or other wrongful acts for which the State is found liable by a court of competent jurisdiction.

15. TAXES

A. By signing this contract, Concessionaire acknowledges that occupancy interest and rights to do business on state property being offered Concessionaire by this agreement may create a possessory interest as that term is defined in Revenue and Taxation Code Section 107.6, which possessory interest may subject Concessionaire to liability for the payment of property taxes levied on such possessory interest.

B. Concessionaire agrees to pay all lawful taxes, assessments, or charges that at any time may be levied by the State, County, City, or any tax or assessment levying body upon any interest in or created by this contract, or any possessory right that Concessionaire may have in or to the premises covered hereby, or the improvements thereon by reason of Concessionaire's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by Concessionaire in or about the Premises.

16. MODIFICATIONS, ADDITIONS, TITLE TO IMPROVEMENTS

In the event that Concessionaire desires to make modifications, improvements, or additions to the Premises or any part of the Premises, including changes to structural design, required accessibility barrier removal work, landscape design, or interior or exterior fixtures, design, and/or furnishings, (collectively "Alteration(s)"), the approval in writing of State shall be obtained prior to the commencement of any Alterations. State shall dictate the plan approval process.

Once any Alteration has been approved by State and the work has begun, Concessionaire shall, with reasonable diligence, prosecute to completion all approved Alterations. All work shall be performed in a good and workmanlike manner, shall substantially comply with plans and specifications submitted to State as required herein, and shall comply with all applicable governmental permits, laws, ordinances, and

regulations. It shall be the responsibility of Concessionaire, at its own cost and expense, to obtain all licenses, permits, and other approvals necessary for the construction of approved Alterations.

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.

17. PERSONAL PROPERTY

Except to the extent covered by **Paragraph 16**, 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.

18. 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, 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.

- 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, dusting, wiping, washing, hosing, and other general care or cleaning of interior and exterior floors, walls, ceilings, doors, windows, facility fixtures, and all adjacent grounds and walks. Concession housekeeping shall conform to State Park standards.

B. Maintenance and Repairs: Concessionaire shall maintain all concession facilities and personal property and equipment on the Premises in good condition and repair at Concessionaire's sole cost and expense at all times during the term of this contract. Such maintenance shall conform to State Park standards. For the purposes of this contract, the term "maintenance" is defined as all repair and preservation work necessary to maintain concession facilities and personal property and equipment in a good state of repair, as well as to preserve them for their intended purpose for an optimum useful life.

Should Concessionaire fail, neglect, or refuse to undertake and complete any required maintenance, State shall have the right to perform such maintenance or repairs for Concessionaire. In this event, Concessionaire shall promptly reimburse State for the cost thereof provided that State shall first give Concessionaire ten (10) days written notice of its intention to perform such maintenance or repairs. State shall not be obligated to make any repairs to or maintain any improvements on the Premises. Concessionaire hereby expressly waives the right to make repairs at the expense of State and the benefit of the provisions of Sections 1941 and 1942 of the Civil Code of the State of California relating thereto if any there be. State has made no representations respecting the condition of the Premises, except as specifically set forth in this contract.

C. Removal and Restoration. At the expiration or sooner termination of this contract, Concessionaire at its own expense shall remove all personal property 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.

19. UTILITIES AND SERVICES

Concessionaire shall pay to State \$750 per month for the costs associated with the provision of all utilities and refuse disposal services necessary to and used in connection with the Premises. Removal and disposal of all rubbish refuse, and garbage resulting from concession's operations shall be removed from the Concessionaire's camp site location and disposed of in a dumpster in accordance with applicable laws and local ordinances. All trash containers and/or trash bins shall be adequately screened to the satisfaction of State. When installing facilities, no trees shall be trimmed or cut without permission of State.

20. 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:

B. Concessionaire shall comply with State's resource management and preservation mandates in the conduct of all activities that impact cultural, natural, or scenic resources. These mandates include the Public Resources Code Sections 5024 and 5097 et seq. the Department's Resource Management Directives and the Secretary of the Interior's Guidelines for Historic Preservation.

21. HAZARDOUS SUBSTANCES

A. Use of Premises: On the premises, Concessionaire shall not:

- 1) Keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous;
- 2) Carry-on any offensive or dangerous trade, business, or occupation;
- 3) Use or operate any machinery or apparatus that shall injure the premises or adjacent buildings in any way; or
- 4) Do anything other than is provided for in this contract.
- 5) Nothing in this paragraph shall preclude Concessionaire from bringing, keeping, or using on or about said premises such materials, supplies, equipment, and machinery as is appropriate or customary in carrying-on Concessionaire's business.
- 6) Gasoline, oil, and other materials considered under law or otherwise to be hazardous to public health and safety shall be stored, handled, and dispensed as required by present or future regulations and laws.

B. Storage of Hazardous Materials: Concessionaire shall comply with all applicable laws pertaining to the use, storage, transportation, and disposal of hazardous substances. Concessionaire shall protect, indemnify, defend, and hold harmless the State or any of its affiliates, successors, principals, employees, or agents against any liability, cost, or expense, including attorney's fees and court costs, arising from illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, by Concessionaire. Where Concessionaire is found to be in breach of this provision due to the issuance of a government order directing Concessionaire to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition directly caused by Concessionaire or any person acting under Concessionaire's direct control or authority, Concessionaire shall be responsible for all cost and expense of complying with such order, including any and all expenses imposed on or incurred by the State in connection with or in

response to such government order. Notwithstanding the foregoing, in the event a government order is issued naming Concessionaire, or Concessionaire incurs any liability during or after the term of the contract in connection with contamination that preexisted the Concessionaire's obligations and occupancy under this contract or prior contracts, or that were not directly caused by Concessionaire, the State shall be solely responsible as between Concessionaire and the State for all expenses and efforts in connection therewith, and State shall reimburse Concessionaire for all reasonable expenses actually incurred by Concessionaire therewith.

C. Certification: Upon termination of this contract, when requested by State, Concessionaire shall provide certification prepared by a Certified Industrial Hygienist that there is no hazardous waste contamination and/or damage to the Premises.

D. Pest Control: All pest control activities, chemical and non-chemical, shall be approved by the State prior to action by the Concessionaire. Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a DPR 191, "Pest Control Recommendation" (or equivalent) to the State for approval. The State has fourteen (14) days to approve or deny the request. Such approval shall be solely for compliance with State's policies and in no way shall relieve Concessionaire or its contractors, employees, agents or representatives from compliance with all laws and regulations concerning such activities and from carrying out the work in a workmanlike manner.

Concessionaire, or the pest control business acting on behalf of Concessionaire, shall submit a report of completed work for each pest management action to the State no later than seven (7) days after performance of the work. The report may be submitted on a DPR 191, "Pest Control Recommendation" (or equivalent information).

22. EQUIPMENT

Concessionaire, at Concessionaire's own expense, shall completely equip the concession improvements described herein and shall keep the same equipped in a safe and first-class manner throughout the term of this contract.

23. SIGNS AND ADVERTISING

No signs, logos, names, placards, or advertising matter shall be inscribed, painted, or affixed upon Premises, circulated, or published without prior written consent of the State and only consistent with the purposes of the contract.

24. PHOTOGRAPHY

State may grant permits to persons or corporations engaged in the production of still and motion pictures and related activities for the use of the Premises for such purposes when such permission shall not interfere with the primary business of Concessionaire. Such permits shall not be deemed to be a competitive activity with regard to Concessionaire's rights to possession and operation under this contract.

25. INTELLECTUAL PROPERTY RIGHTS

Any names, logos, trademarks, and/or copyrights developed during and/or pursuant to this contract that will in any way associate with, identify, or implicate an affiliation with California State Parks shall be approved by State, shall belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this contract. Further, any works developed pursuant to this contract by Concessionaire, including all related copyrights and other proprietary rights therein, shall belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this contract.

26. PARTICIPATION IN STATE PARK MARKETING PROGRAMS

Concessionaire acknowledges that the State has an established advertising and marketing program designed to promote additional revenue for the State and to deliver a consistent and positive image to the public, and Concessionaire agrees to cooperate

in this program in the manner described below without compensation from the State for such cooperation.

- A. Concessionaire agrees to honor all statewide graphic standards, licensing, and merchandising agreements entered into with corporate sponsors of the Department of Parks and Recreation.
- B. Concessionaire agrees to place on the Premises any advertising that the State approves under this program. Any advertising approved by the State under this program will be placed at State's expense.
- C. Concessionaire agrees to rent or sell, along with all other items of merchandise that are part of the Concessionaire's normal and customary inventory, any item of merchandise that the State approves under this program, provided that Concessionaire is authorized to sell or rent it under the terms of the contract, and the Concessionaire receives reasonable compensation for its sale.

27. DEFAULT BY CONCESSIONAIRE

- A. Defaults: The occurrence of any one of the following shall constitute a default and breach of this contract by Concessionaire:
 - 1) Failure to Pay Rent: Any failure of Concessionaire to timely pay any rent due or any other monetary sums required to be paid hereunder where such failure continues for a period of ten (10) consecutive days after such sums are due.
 - 2) Absence from Premises: Any complete absence by Concessionaire or its agents and employees from the Premises for sixty (60) consecutive days or longer. The Premises shall be deemed abandoned after State has followed the procedures set forth in Civil Code Section 1951.3.
 - 3) Nuisance: Should Concessionaire create or allow to be created a nuisance on the Premises, State may declare an immediate event of default and enter upon and take possession and/or demand an assignment of the right to operate the Premises without notice to Concessionaire. Concessionaire shall immediately vacate the Premises

and remove all personal property within thirty (30) days after State's declaration of default.

4) Failure to Observe Other Provisions: Any failure by Concessionaire to observe or perform another provision of this contract where such failure continues for twenty (20) consecutive days after written notice thereof by State to Concessionaire; this notice shall be deemed to be the notice required under California Code of Civil Procedure Section 1161. However, if the nature of Concessionaire's default is such that it cannot reasonably be cured within the twenty (20) day period, Concessionaire shall not be deemed to be in default if it is determined at the sole discretion of State that Concessionaire has commenced such cure within the twenty (20) day period and thereafter continues to diligently prosecute such cure to completion to the satisfaction of State.

5) Involuntary Assignments, Bankruptcy: State and Concessionaire agree that neither this contract nor any interest of Concessionaire hereunder in the Premises shall be subject to involuntary assignment or transfer by operation of law in any manner whatsoever, including, without limitation, the following: (a) transfer by testacy or intestacy; (b) assignments or arrangements for the benefit of creditors; (c) levy of a writ of attachment or execution on this contract; (d) the appointment of a receiver with the authority to take possession of the Premises in any proceeding or action in which Concessionaire is a party; or (e) the filing by or against Concessionaire of a petition to have Concessionaire adjudged a bankrupt, or of a petition for reorganization or arrangement under any law relating to bankruptcy. Any such involuntary assignment or transfer by operation of law shall constitute a default by Concessionaire and State shall have the right to elect to take immediate possession of the Premises, to terminate this contract and/or invoke other appropriate remedies as set forth below, in which case this contract shall not be treated as an asset of Concessionaire.

B. Notices of Default: Notices of default shall specify the alleged default and the applicable contract provision and shall demand that Concessionaire perform the provisions of this contract within the applicable time period or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this contract unless State specifically so states in the notice.

28. STATE'S REMEDIES

In the event of default by Concessionaire, State shall have the following remedies. These remedies are not exclusive; they are cumulative and are in addition to any other right or remedy of State at law or in equity.

A. Collection of Rent: In any case where State has a cause of action for damages, State shall have the privilege of splitting the cause to permit the institution of a separate suit for rent due hereunder, and neither institution of any suit, nor the subsequent entry of judgment shall bar State from bringing another suit for rent; it being the purpose of this provision to provide that the forbearance on the part of State in any suit or entry of judgment for any part of the rent reserved under this contract, to sue for, or to include in, any suit and judgment the rent then due, shall not serve as defense against, nor prejudice a subsequent action for, rent or other obligations due under the contract. The claims for rent may be regarded by State, if it so elects, as separate claims capable of being assigned separately.

B. Right of Entry as Agent (Maintain Contract in Effect): In any case in which provision is made herein for the termination of this contract by the State or in the case of abandonment or vacating of the Premises by Concessionaire, the State, in lieu of declaring a forfeiture, may enter upon the Premises. To such end, Concessionaire hereby irrevocably appoints the State as Concessionaire's agent to remove any and all persons or property on the Premises and place any such property in storage for the account of and at the expense of Concessionaire and to enter into such other contracts for operation of the Premises as the State, in its sole discretion, may deem appropriate. Until the Premises are relet and/or assigned, if at all, Concessionaire shall pay to State all amounts required to be

paid by Concessionaire hereunder. Further, if a sufficient sum shall not be realized through efforts to relet, after paying expenses of such reentry and contracting, to satisfy the rent and other sums herein agreed to be paid by Concessionaire, such shortage of rent and expenses shall be paid by Concessionaire. Concessionaire agrees to save the State harmless from any loss or damage or claim arising out of the action of the State in accordance with this paragraph. Notwithstanding that State fails to elect to terminate this contract initially, State, at any time while any default of Concessionaire has not been cured, may elect to terminate.

C. Continued Performance: At State's option, Concessionaire shall continue with its responsibilities under this contract during any dispute.

D. Termination of Concessionaire's Right to Possession: State may terminate Concessionaire's right to possession of the Premises at any time. However, no act by State, other than giving specific notice of termination to Concessionaire, shall terminate this contract. Acts of maintenance, efforts to relet and/or assign rights to possession of the Premises, or the appointment of a receiver on State's initiative to protect State's interest under this contract shall not constitute a termination of Concessionaire's right to possession. On termination, State has the right to recover from Concessionaire: the worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of Concessionaire's possession; the worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of Concessionaire's possession until the time of the award exceeds the amount of loss of rent that Concessionaire proves could have reasonably been avoided; the worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of the loss of rent that Concessionaire proves could have been reasonably avoided; and any other amount necessary to compensate State for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this contract, which, without limiting the generality of the foregoing, includes any cost and expenses incurred by the State in recovering

possession of the Premises, in maintaining or preserving the Premises after such default, in preparing the Premises for a new concessionaire, in making any repairs or alterations to the Premises necessary for a new concessionaire, in making any repairs or alterations to the Premises, and costs of clearing State's title of any interest of Concessionaire, commissions, attorneys' fees, architects' fees, and any other costs necessary or appropriate to make the Premises operational by a new concessionaire. "The worth, at the time of the award," as used herein above shall be computed by allowing interest at the lesser of a rate of ten percent (10%) per annum or the maximum legal rate.

E. Assignment at State's Direction: In the event of a default by Concessionaire, when cure is not received and acknowledged by State after having provided notice of the breach as provided herein above, Concessionaire shall, in addition to the damages provided for herein, be obligated to assign all rights to occupy, possess, and operate on and in the Premises to State's designee within thirty (30) days of receipt of written demand by State. Concessionaire shall further remove itself and its personal property from the Premises within the same time frame. Concessionaire agrees to execute all documents necessary to effectuate and implement this provision. Upon such assignment, all rights of Concessionaire under the contract shall transfer to the assignee.

Any designated assignee, as provided for herein, shall take and operate the concession under the same terms and conditions as those set forth herein, except for requirements that have already been performed and are no longer applicable. However, Concessionaire shall not be relieved of obligations incurred. An assignment of the contract pursuant to the terms hereof shall not cause the contract to terminate and shall not work a merger.

F. Receiver: If Concessionaire is in default of this contract, State shall have the right to have a receiver appointed to collect rent and conduct Concessionaire's business or to avail itself of any other pre-judgment remedy. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by State to terminate this contract.

G. Right to Cure Concessionaire's Default: At any time after Concessionaire commits a default, State can cure the default at Concessionaire's cost. If State, at any time by reason of Concessionaire's default, pays any sum or does any act that requires the payment of any sum, the sum paid by State shall be due immediately from Concessionaire to State, and if paid at a later date shall bear interest at the rate of ten percent (10%) per annum from the date the sum is paid by State until State is reimbursed by Concessionaire. Any such sum shall be due as additional rent.

H. Personal Property of Concessionaire: In the event any personal property or trade fixtures of Concessionaire remain at the Premises after State has regained possession or after an assignment is accomplished, that property or those fixtures shall be dealt with in accordance with the provisions for Surrender of the Premises provided below.

- 1) State's Obligations After Default: State shall be under no obligation to observe or perform any covenant of this contract on its part to be observed or performed that accrues after the date of any default by Concessionaire. Such nonperformance by State shall not constitute a termination of Concessionaire's right to possession nor a constructive eviction.
- 2) No Right of Redemption: Concessionaire hereby waives its rights under California Code of Civil Procedure Sections 1174 and 1179 or any present or future law that allows Concessionaire any right of redemption or relief from forfeiture in the event State takes possession of the Premises by reason of any default by Concessionaire.
- 3) Other Relief: All monetary obligations of the Concessionaire of any kind shall be considered rent. State shall have such rights and remedies for failure to pay such monetary obligations as State would have if Concessionaire failed to pay rent due. The remedies provided in this contract are in addition to any other remedies available to State at law, in equity, by statute, or otherwise.

4) No Buy-out: In accordance with Public Resources Code Section 5080.18 (h), where the contract has been terminated due to a breach on the part of the Concessionaire under any terms of this contract the State shall not be obligated to purchase any improvements made by Concessionaire or to pay the Concessionaire for said improvements before or after taking possession of the Premises.

29. DEFAULT BY STATE

State shall not be in default of the performance of any obligation required of it under this contract unless and until it has failed to perform such obligation for more than thirty (30) days after written notice by Concessionaire to State specifying the alleged default and the applicable contract provision giving rise to the obligation. However, if the nature of State's obligation is such that more than thirty (30) days is required for its performance, then State shall not be deemed in default if it shall commence performance within such 30-day period and thereafter diligently prosecute the same to completion.

30. SURRENDER OF THE PREMISES; HOLDING OVER

A. Surrender: On expiration or within thirty (30) days after earlier termination of the contract, Concessionaire shall surrender the Premises to State with all fixtures, improvements, and Alterations in good condition, except for fixtures, improvements, and Alterations that Concessionaire is obligated to remove. Concessionaire shall remove all of its personal property and shall perform all restoration required by the terms of this contract within the above stated time unless otherwise agreed to in writing.

1) Personal Property: All of Concessionaire's personal property remaining on the Premises beyond such time specified in Paragraph 3, shall be dealt with in accordance with California Code of Civil Procedure Section 1174 and California Civil Code Sections 1980, or such other laws as may be enacted regarding the disposition of Concessionaires' property remaining at the Premises. Concessionaire waives all claims against

State for any damage to Concessionaire resulting from State's retention or disposition of Concessionaire's personal property. Concessionaire shall be liable to State for State's costs in storing, removing, and disposing of Concessionaire's personal property or trade fixtures.

2) Failure to Surrender. If Concessionaire fails to surrender the Premises to State on the expiration, assignment, or within thirty (30) days after earlier termination of the term as required by this Section, Concessionaire shall hold State harmless for all damages resulting from Concessionaire's failure to surrender the Premises.

B. Holding Over: After the expiration or earlier termination of the term and if Concessionaire remains in possession of the Premises with State's express consent, such possession by Concessionaire shall be deemed to be a temporary tenancy terminable on thirty (30) days written notice given at any time by either party. During such temporary tenancy, the minimum monthly rent shall be increased by 10% over the monthly rent of the last month prior to the expiration or earlier termination of the contract, unless otherwise agreed to in writing by State. Concessionaire shall pay such monthly rent and all other sums required to be paid hereunder monthly on or before the fifteenth day of each month. All other provisions of this contract except those pertaining to the term shall apply to the month-to-month tenancy.

31. NO RECORDATION; QUITCLAIM

A. No Recordation: This contract shall not be recorded.

B. Quitclaim: Concessionaire shall execute and deliver to State on the expiration or termination of this contract immediately on State's request, a quitclaim deed to the Premises and the rights arising hereunder, in recordable form or such other document as may be necessary, to remove any claim of interest of Concessionaire in and to all property belonging to the State. Should Concessionaire fail or refuse to deliver to State a quitclaim deed or other documents as aforesaid, a written notice by State reciting the failure of the Concessionaire to execute and deliver said quitclaim deed as herein provided,

shall after ten (10) days from the date of recordation of said notice be conclusive evidence against the Concessionaire and all persons claiming under Concessionaire of the termination of this contract.

32. ATTORNEYS FEES

Concessionaire shall reimburse the State on demand for all reasonable attorney fees (including attorneys fees incurred in any bankruptcy or administrative proceeding or in any appeal) and expenses incurred by State as a result of a breach or default under this contract. If Concessionaire becomes the prevailing party in any legal action brought by State, Concessionaire shall be entitled to recover reasonable attorney fees and expenses incurred by Concessionaire and need not reimburse the State for any attorney fees and expenses incurred by the State.

33. COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES

Concessionaire shall comply with all applicable laws, rules, regulations, and orders existing during the term of this contract, including obtaining and maintaining all necessary permits and licenses. Concessionaire acknowledges and warrants that it is or will make itself through its responsible concession managers, knowledgeable of all pertinent laws, rules, ordinances, regulations, or other requirements having the force of law affecting the operation of the concession facilities, including but not limited to laws affecting health and safety, hazardous materials, pest control activities, historical preservation, environmental impacts, and State building codes and regulations.

34. NONDISCRIMINATION

During the performance of this contract, Concessionaire and its employees shall not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, or any member of the public because of sex, sexual orientation, race, color, religious creed, marital status, need for family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, need for pregnancy disability leave, or need for reasonable accommodation. Concessionaire

shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

Further, as part of compliance with the foregoing, Concessionaire and Concessionaire's employees shall not discriminate by refusing to furnish any person any accommodation, facility, service, or privilege offered to or enjoyed by the general public. Nor shall Concessionaire or Concessionaire's employees publicize the accommodation, facilities, services, or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any such person.

Concessionaire shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, §12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs, tit. 2, §7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990 (a)-(f), are incorporated into this contract by reference and made a part hereof as if set forth in full (Cal. Code Regs, tit. 2, §7285.0 et seq.). Concessionaire shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Concessionaire shall include the non-discrimination and compliance provisions of this clause in all contracts to perform work under and/or in connection with this contract.

In the event of violation of this paragraph, the State will have the right to terminate this contract, and any loss of revenue sustained by the State by reason thereof shall be borne and paid for by the Concessionaire.

35. DISABILITIES ACCESS LAWS

Without limiting Concessionaire's responsibility under this contract for compliance with all laws, with regard to all operations and activities that are the responsibility of Concessionaire under this contract, Concessionaire shall be solely responsible for complying with the requirements of the Americans With Disabilities Act of 1990 ("ADA") [Public Law 101-336, commencing at Section 12101 of Title 42, United States Code (and including Titles I, II, and III of that law)], the Rehabilitation Act of 1973, and all related regulations, guidelines, and amendments to both laws.

With regard to facilities for which Concessionaire is responsible for operation, maintenance, construction, restoration, or renovation under this contract, Concessionaire also shall be responsible for compliance with Government Code Section 4450, et seq., Access to Public Buildings by Physically Handicapped Persons, and Government Code Section 7250, et seq., Facilities for Handicapped Persons, and any other applicable laws. Written approval from State is required prior to implementation of any plans to comply with accessibility requirements.

36. DRUG-FREE WORKPLACE

Concessionaire agrees to comply with Government Code Section 8355 in matters relating to the provision of a drug-free workplace. This compliance is evidenced by the executed Standard Form 21 entitled "Drug-Free Workplace Certification", attached hereto as **Exhibit G** and made a part of the contract.

37. UNION ORGANIZING

Concessionaire shall not use the Premises to hold a meeting with any employee(s) or supervisor(s) if the purpose of the meeting is to assist, promote, or deter union organizing. This provision does not apply if the Premises are equally available, without charge, to the general public for holding a meeting. Breach of this provision shall subject Concessionaire to civil penalties and damages pursuant to California Government Code §§ 16645.5 and 16645.8.

38. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

The Concessionaire, by signing this contract, does hereby swear, under penalty of perjury, that no more than one final, unappealable finding of contempt of court by a Federal Court has been issued against Concessionaire within the two-year period immediately preceding the date of this contract because of Concessionaire's failure to comply with a Federal Court order that Concessionaire shall comply with an order of the National Labor Relations Board.

39. CHILD SUPPORT COMPLIANCE ACT

In the event the annual gross income generated as a result of this contract shall exceed One Hundred Thousand Dollars (\$100,000.00), Concessionaire acknowledges that:

- A. The Concessionaire recognizes the importance of child and family support relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as obligations and shall fully comply with all applicable state and federal laws provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Concessionaire to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

40. EMPLOYEE TRAINING

All concession employees shall receive training to include an orientation on the State Park System, and local points of interest, provided by Concessionaire. Such orientation shall be sufficient to permit concession employees to reply adequately to inquiries from the visiting public. Training also shall include job or task-specific training necessary to ensure high-quality job performance in a manner consistent with the protection of the State Park System and its visitors. Concessionaire's Employee Training/Orientation Program is subject to approval by the State.

41. CONFLICT OF INTEREST

Concessionaire warrants and covenants that no official, employee in the state civil service, other appointed state official, or any person associated with same by blood, adoption, marriage, cohabitation, and/or business relationship: (a) has been employed or retained to solicit or aid in the procuring of this contract; (b) will be employed in the performance of this contract without the immediate divulgence of such fact to State. In the event State determines that the employment of any such official,

employee, associated person, or business entity is not compatible, Concessionaire shall terminate such employment immediately. For breaches or violation of this paragraph, State shall have the right both to annul this contract without liability and, in its discretion, recover the full amount of any compensation paid to such official, employee, or business entity.

42. WAIVER OF CLAIMS

The Concessionaire hereby waives any claim against the State of California, its officers, agents, or employees for damage or loss caused by any suit or proceeding directly or indirectly attacking the validity of this contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this contract null, void, or voidable, or delaying the same or any part thereof from being carried out.

43. WAIVER OF CONTRACT TERMS

Unless otherwise provided by this contract, no waiver by either party at any time of any of the terms, conditions, or covenants of this contract shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of the State to re-enter the Premises or to exercise any right, power, privilege, or option arising from any breach, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option or be construed as a waiver of such breach or a relinquishment of any right or acquiescence therein. No notice to the Concessionaire shall be required to restore or revive time as of the essence after the waiver by the State of any breach. No option, right, power, remedy, or privilege of the State shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to the State by this contract shall be deemed cumulative.

44. INTERPRETATION OF CONTRACT

This contract is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

45. DURATION OF PUBLIC FACILITIES

By entering into this contract, State makes no stipulation as to the type, size, location, or duration of public facilities to be maintained at this unit, or the continuation of State ownership thereof, nor does the State guarantee the accuracy of any financial or other factual representation that may be made regarding this concession.

46. TIME OF ESSENCE

Time shall be of the essence in the performance of this contract.

47. EMINENT DOMAIN

If, during the term of this contract, any property described herein or hereinafter added hereto is taken in eminent domain, the entire award shall be paid to State.

48. TEMPORARY TENANCY

This tenancy is of a temporary nature and the parties to this contract agree that no Relocation Payment or Relocation Advisory Assistance will be sought or provided in any form as a consequence of this tenancy.

49. AGREEMENT IN WRITING

This concession contract contains and embraces the entire agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally or by any agreement between the parties unless such agreement be expressed in writing, signed, and acknowledged by the State and the Concessionaire or their successors in interest.

50. PARAGRAPH TITLES

The paragraph titles in this contract are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of this contract, or in any way affect this contract.

51. CONTRACT IN COUNTERPARTS

This contract may be executed in counterparts, each of which shall be deemed an original.

52. INDEPENDENT CONTRACTOR

In the performance of this contract, Concessionaire and the agents and employees of Concessionaire shall act in an independent capacity and not as officers or employees or agents of the State.

53. ASSIGNMENTS AND SUBCONCESSIONS

No transfer, assignment, or corporate sale or merger by the Concessionaire that affects this contract or any part thereof or interest therein directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer, assignment, or corporate merger or sale is first consented to in writing by State. Before State considers such assignment, evidence must be given to State that the proposed assignee qualifies as a "best responsible bidder" under the terms of Section 5080.05 of the Public Resources Code or "best responsible person or entity submitting a proposal" under the terms of Section 5080.23 of the Public Resources Code and the Bid Prospectus or Request for Proposals under which this contract was awarded and executed. To be effective, any such assignment must comply with applicable law including, without limitation on generality, Public Resources Code Sections 5080.20 and 5080.23.

54. MODIFICATION OF CONTRACT

Notwithstanding any of the provisions of this contract, the parties may hereafter, by mutual consent expressed in writing, agree to modifications thereof, additions thereto, or terminations thereof, which are not forbidden by law. Such written modifications or additions to this contract shall not be effective until signed and acknowledged by the State and Concessionaire and approved in writing by the Department of General Services and the Attorney General of the State of California.

The State shall have the right to grant reasonable extensions of time to Concessionaire for any purpose or for the performance of any obligation of Concessionaire hereunder.

55. UNENFORCEABLE PROVISION

In the event that any provision of this contract is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this contract have force and effect and shall not be effected thereby.

56. APPROVAL OF CONTRACT

This contract, amendments, modifications, or termination thereof shall not be effective until approved by State's relevant control agencies.

57. STATE'S DISTRICT SUPERINTENDENT

For purposes of this contract, the "District Superintendent" is the State representative in direct charge of the San Diego Coast District. The District Superintendent or designee is charged with the day-to-day administration of this contract and is the Concessionaire's initial contact with the State for information, contract performance, and other problems as might arise.

IN WITNESS WHEREOF, the parties hereto warrant that they respectively have the requisite authority to enter this contract, binding the named parties for which they sign, and have executed this concession contract at the respective times set forth below.

CONCESSIONAIRE:

**STATE OF CALIFORNIA
DEPARTMENT OF PARKS & RECREATION
DISTRICT SUPERINTENDENT**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED:

APPROVED:

ATTORNEY GENERAL:

DEPARTMENT OF GENERAL SERVICES:

Approved as to legal sufficiency in accordance with the requirements of Sections 5080.02-5080.21 of the Public Resources Code.

**EDMUND G. BROWN, JR., Attorney General
of the State of California**

By: _____
Deputy Attorney General

Dated: _____

EXHIBIT A – THE PREMISES
SOUTH CARLSBAD STATE BEACH



EXHIBIT B – CONSUMER PRICE INDEX

In accordance with **Paragraph 4** of this contract, the minimum annual rent shall be adjusted at the beginning of **Contract Year Six (6)** to reflect increases in the Consumer Price Index (CPI) over the **first five years** of the contract. CPI calculations shall be based on increases in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for “All Urban Consumers, Los Angeles All Items, (1982-84=100).” Calculations shall employ the following formula:

"Base Index" = CPI Index published for the month preceding the commencement date of this contract.

"Base Rent" = Minimum rent during the first contract year.

"Year End Index" = CPI Index for the final month of the subject contract year.

Step #1: $\frac{\text{"Year End Index"} - \text{"Base Index"}}{\text{"Base Index"}}$ = % Increase

Step #2: % Change x Base Rent = Adjustment

Step #3: Base Rent + Adjustment = New Rent

EXHIBIT C – OPERATION PLAN

To be determined by the winning proposal.

SAMPLE

EXHIBIT D – INTERPRETIVE PLAN

To be determined by the winning proposal.

SAMPLE

EXHIBIT E – CONCESSIONAIRE FINANCIAL STATEMENT (DPR 86)

State of California - The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

CONCESSIONAIRE FINANCIAL STATEMENT

CONCESSIONAIRE NAME	CONCESSION NAME
PARK UNIT NAME	REPORTING PERIOD From: _____ To: _____

A. CASH FLOW STATEMENT

GROSS SALES/RECEIPTS

		\$ _____
Less Returned Sales and Allowances	\$ _____	
Less Sales Taxes	_____	
Net Sales for Period		\$ _____
Cost of Goods Sold:		
Inventory at Beginning of Period	\$ _____	
Add Purchases During Period	_____	
Merchandise Available for Sale	_____	
Less Inventory at Close of Period	_____	
Less Cost of Goods Sold		\$ _____
	GROSS PROFIT	\$ _____

LESS EXPENSES

Salaries & Wages <i>(do not include Concessionaire salaries)</i>	\$ _____	
Rent to State	_____	
Insurance	_____	
Materials & Supplies	_____	
Maintenance & Repairs	_____	
Utilities <i>(including telephone)</i>	_____	
Advertising	_____	
Taxes & Licenses <i>(other than income & sales)</i>	_____	
Legal & Accounting	_____	
Travel & Transportation	_____	
Interest	_____	
Security	_____	
Administrative Overhead	_____	
Depreciation <i>(equipment)</i>	_____	
Amortization <i>(improvements)</i>	_____	
Other: _____	_____	
	TOTAL EXPENSES	\$ _____
	NET PROFIT FROM OPERATIONS	\$ _____
	<i>(before income taxes)</i>	

CONCESSIONAIRE FINANCIAL STATEMENT

CONCESSIONAIRE NAME	CONCESSION NAME
PARK UNIT NAME	REPORTING PERIOD From: _____ To: _____

D. STATEMENT OF MONTHLY GROSS SALES/RECEIPTS

Jan 20	\$ _____	April 20	\$ _____	July 20	\$ _____	Oct 20	\$ _____
Feb 20	\$ _____	May 20	\$ _____	Aug 20	\$ _____	Nov 20	\$ _____
Mar 20	\$ _____	June 20	\$ _____	Sept 20	\$ _____	Dec 20	\$ _____

TOTAL MONTHLY GROSS SALES/RECEIPTS \$ _____

If the "Total Monthly Gross Sales/Receipts" above does not match the Cash Flow Statement "Gross Sales/Receipts," please explain below.

The undersigned declares and certifies that the above statement and the attached Cash Flow Statement, Schedule of Depreciation, and Balance Sheet are correct.

AUTHORIZED SIGNATURE

DATE



PRINTED NAME OF PREPARER

EXHIBIT F – CONCESSIONAIRE PERFORMANCE RATING (DPR 531)

CONCESSION PERFORMANCE RATING

State of California - The Resources Agency
CALIFORNIA STATE PARKS

DISTRICT		PARK UNIT					DATE	
CONCESSIONAIRE		TYPE OF CONCESSION						
CATEGORIES <i>Circle the appropriate points in each category. If category is not applicable, check not applicable (NA) box.</i>		EXCELLENT (E)	SATISFACTORY (S)	NEEDS IMPROVEMENT (NI)	NONCOMPLIANCE/ UNACCEPTABLE (NON)	COMPLIANCE (COM)	NOT APPLICABLE (NA)	COMMENTS <i>Explain items which are rated excellent, needs improvement or noncompliance/unacceptable. Make recommendations for correction for NI and NON rating. Attach additional sheets as necessary.</i>
ACCOUNTING	RENTAL PAYMENT	8	6	2	0			
	MONTHLY DPR 54 SUBMITTAL	4	3	1	0			
	ANNUAL DPR 86 SUBMITTAL	4	3	1	0			
	MAINTAINS REGISTER JOURNAL/\$ TRAIL				0	4		
	OTHER:				0	4		
BONDS/INSURANCE	PERFORMANCE BOND				0	4		
	LIABILITY INSURANCE				0	4		
	FIRE INSURANCE				0	4		
	AUTOMOBILE INSURANCE				0	4		
	OTHER:				0	4		
CONSTRUCTION	REQUIRED IMPROVEMENTS				0	4		
	TIME SCHEDULE				0	4		
	PAYMENT BOND				0	4		
	OTHER:				0	4		
USE OF PREMISES	OPERATING DAYS/HOURS	4	3	1	0			
	AUTHORIZED GOODS/SERVICES	4	3	1	0			
	APPROPRIATE SIGNAGE/ADVERTISING	4	3	1	0			
	OTHER:	4	3	1	0			
QUALITY ASSURANCE	GOODS	8	6	2	0			
	SERVICES	8	6	2	0			
	PRICES (COMPETITIVE/POSTED)	4	3	1	0			
	CUSTOMER SERVICE	8	6	2	0			
	OTHER:	4	3	1	0			
TOTAL POINTS PER COLUMN					0			
<i>PAGE 1 ONLY</i>								

CATEGORIES		E	S	NI	NON	COM	NA	COMMENTS
SAFETY	FIRE SAFETY/PREVENTION	4	3	1	0			
	GAS/ELECTRIC	4	3	1	0			
	GENERAL SAFETY	4	3	1	0			
	OTHER:	4	3	1	0			
FACILITY MAINTENANCE	INTERIOR - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	INTERIOR - FACILITY MAINTENANCE	4	3	1	0			
	EXTERIOR - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	EXTERIOR - FACILITY MAINTENANCE	4	3	1	0			
	GROUNDS - HOUSEKEEPING/CLEANLINESS	4	3	1	0			
	GROUNDS - FACILITY MAINTENANCE	4	3	1	0			
	MAINTENANCE PLAN	4	3	1	0			
	OTHER:	4	3	1	0			
INTERPRETIVE PROGRAM <i>(When Applicable)</i>	COSTUMES	4	3	1	0			
	MERCHANDISE AND INTERPRETIVE PLAN	4	3	1	0			
	FURNISHINGS AND INTERPRETIVE PLAN	4	3	1	0			
	EVENTS/ACTIVITIES AND INTERPRETIVE PLAN	4	3	1	0			
	IMPLEMENTATION OF INTERPRETIVE PLAN	4	3	1	0			
	OTHER:	4	3	1	0			
TOTAL POINTS PER COLUMN <i>PAGE 2 ONLY</i>					0	0		
TOTAL POINTS PER COLUMN <i>PAGE 1 + PAGE 2</i>					0			
TOTAL POINTS RECEIVED FROM ALL CATEGORIES		MAXIMUM POINTS POSSIBLE FOR RATED CATEGORIES		PERCENT RATING		ARE THERE ANY NONCOMPLIANCE OR UNACCEPTABLE RATINGS IN ANY CATEGORY?*		
()		x 100 = #DIV/0!		<input type="checkbox"/> Yes <input type="checkbox"/> No		
OVERALL RATING <i>(Based on percent rating)</i>								
<input type="checkbox"/> EXCELLENT (90% to 100%) <input type="checkbox"/> SATISFACTORY (70% to 89%) <input type="checkbox"/> NEEDS IMPROVEMENT (60% to 69%) <input type="checkbox"/> UNACCEPTABLE (less than 60%)								
RATER'S SIGNATURE			TITLE		DATE		RATER DISCUSSED REPORT WITH CONCESSIONAIRE?	
							<input type="checkbox"/> Yes. Date: _____ <input type="checkbox"/> No	
<i>In signing this report I do not necessarily agree with the conclusion of the rater.</i>								
CONCESSIONAIRE'S SIGNATURE				TITLE		DATE		

*NOTE: A rating of UNACCEPTABLE or NONCOMPLIANCE in any category will result in an overall rating of no higher than NEEDS IMPROVEMENT.

EXHIBIT G – DRUG-FREE WORKPLACE CERTIFICATION (STD 21)

STATE OF CALIFORNIA

DRUG-FREE WORKPLACE CERTIFICATION

STD. 21 (Rev. 12/93)(CA ST PKS, EXCEL 4/9/1999)

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized to legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

CONTRACTOR/BIDDER FIRM NAME		FEDERAL ID NUMBER
BY (Authorized Signature)		DATE EXECUTED
PRINTED NAME AND TITLE OF PERSON SIGNING		TELEPHONE NUMBER (Include Area Code)
TITLE		()
CONTRACTOR/BIDDER FIRM'S MAILING ADDRESS		

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
 - (a) The dangers of drug abuse in the workplace,
 - (b) The person's or organization's policy in maintaining a drug-free workplace,
 - (c) Any available counseling, rehabilitation and employee assistance programs, and
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that everyone who works on the proposed contract or grant:
 - (a) Will receive a copy of the company's drug-free workplace policy statement, and
 - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
4. At the election of the contractor or grantee, from and after the "Date Executed" and until _____^(DATE) (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.