



March 19, 2014

Richard Neil Snyder
Post Office Box 989
Belvedere, California 94920

Dear Mr. Snyder:

Re: Angel Island Ferry Service

Thank you for your letter addressed to Major General Anthony L. Jackson, USMC (Ret), Director of the California Department of Parks and Recreation ("Department"), Assistant Deputy Director Brian Cahill, and Deputy Director Vicky Waters. I have been asked to respond to your letter on behalf of the Department. I note that your letter is divided in two parts: (1) a request to suspend a Request for Proposal ("RFP") for the time being and (2) a request to consider several points and comments in the event the Department decides to continue with an RFP. I have summarized your questions and provided responses to each as follows:

1. "The issuance of any new RFP for the route should be deferred until after the Legislature has had the opportunity to act upon recommendations anticipated to be made by Parks Forward within the next 18-24 months."

The recommendations by the Parks Forward Commission ("Commission") are not expected to impact the Department's decision in relation to whether or not an RFP is issued. If that were the case, there would be no concession contracts negotiated or awarded pending the outcome of the Commission's recommendations.

Your letter also questions the basis for issuing an RFP at this time and suggests the RFP incorporate recommendations of the Dornbusch study. Ferry service contracts are essential to park visitation at Angel Island State Park, and it is not in the State's best interest for these concession contracts to operate on a month-to-month basis. Under such terms, an operator could cease operations with only a 30-day notice. Recommendations within the Dornbusch study will be considered within the RFP.

2. "At the January 16, 2014 public meeting held at Mill Valley, California, the representative from DPR stated that if there were a second party interested in a concession, that state law precluded entering into a concession contract under Resources Code §5080.16. There is neither statutory nor regulatory authority for that position."

During the public input meeting at Mill Valley, the Department's representative explained that Public Resource Code ("PRC") sections 5080.03-5080.07 require a competitive bid process for concession contracts. "All contracts authorizing occupancy of any portion of the state park system for a period of more than two years shall be awarded to the best responsible bidder." (PRC §5080.05.) "For any contract authorizing occupancy by the concessionaire for a period of more than two years of any portion of the state park system, the department shall prepare an invitation to bid..." (PRC §5080.06).

In response to the suggestion that PRC §5080.16(a) provides authority to negotiate a contract, the provision applies when the RFP process fails such as when there is no competitive interest.

For example, in 2008, there was no competitive interest to the advertised Angel Island-Tiburon Ferry ("AITF") RFP, so the Department extended a formal offer to AITF to negotiate a contract pursuant to the authority in PRC §5080.16(a). However, AITF declined to submit a proposal and challenged the economic feasibility of terms in the 2008 RFP. As a result, the Department invested in the new 2012 feasibility study, which recommended new terms. Those new terms have not been vetted through a competitive process, and the feasibility study specifically described potential interest from multiple parties. The new contract terms have not "failed to produce a best responsible bidder" which is required by PRC §5080.16(a) prior to renegotiating a contract.

Furthermore, section 5080.16 gives the Director discretion to negotiate or renegotiate a contract under specific conditions; it does not require the Director to do so.

You asked the Department to address the "10%" rule. This variance, used within the negotiation process, was considered reasonable and acceptable to control agencies to meet the requirement for no material changes within the contract which was advertised in the RFP. It is more efficient and less costly to the Department to exercise the Department's authority, pursuant to section 5080.16(a), to negotiate a contract following the unsuccessful RFP rather than execute a new RFP process. If a negotiated contract does not closely align with the contract offered for competitive bid, the substantially revised contract terms and conditions become subject to a new competitive bid.

3. "The financial data and projections used by the Legislative Accounting Office in formulating its reports and projections with regard to any proposed RFP come from the DPR. Those data and projections are themselves not verified. Consequently, the data and projections upon which an RFP and feasibility study are based, are flawed. Consequently, any RFP should be deferred until such time as verified, audited data are supplied to the LAO, so that the LAO may properly advise the Legislature, and any RFP projected on such flawed data should be taken off calendar, and wait until the Legislature acts upon an LAO report based on verified data. It is scandalous that the LAO depends entirely on the self-reported data provided by agencies, without any attempt at verifying those numbers. And in the case of the DPR submitting data to the LAO, those data have been historically erroneous and flawed, resulting in numerous failed RFPs."

There is no justification to defer the RFP for an audit by a "Legislative Accounting Office." Before the RFP may be advertised, it receives review and approval by the California Legislature. The general concept of this RFP has already received such approval, with an additional review when it is finalized. In addition, RFPs receive an internal DPR audit review before they are advertised.

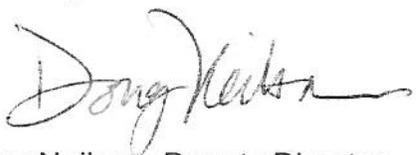
4. Should DPR proceed with an RFP, you proposed that the following points and comments be incorporated:
 - a. The scoring matrix should be modified
 - b. Even the playing field
 - c. Calculation of percentage fees
 - d. Parking and bathroom facilities
 - e. Collection of admission fees
 - f. EIR needed on deep hull boats on the raccoon straights
 - g. Concessionaire to provide adequate staging area for passengers and their equipment
 - h. Park volunteers to be narrowly construed
 - i. Special events on Angel Island are to be encouraged
 - j. No ineligible subcontractors
 - k. Reduction of points
 - l. Reliability factor
 - m. Model 2 operator
 - n. Fares
 - o. Frequency of service

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The Department appreciates your suggestions for the RFP content, along with many from other interested parties with the community. The Department will consider each point in the development of the RFP but cannot respond with specifics pertaining to what the Department plans to incorporate from each stakeholder.

Thank you for taking the time to express your concerns regarding Angel Island ferry service.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Neilson".

Doug Neilson, Deputy Director
Marketing and Business Development Division

cc: Major General Anthony L. Jackson, USMC (Ret), Director
Liz McGuirk, Deputy Director, Legislation Office
Vicky Waters, Deputy Director, Communications Office
Brian Cahill, Assistant Deputy Director, Park Operations