

City of Grover Beach  
GROVER BEACH IMPROVEMENT AGENCY

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

# **REQUEST FOR PROPOSALS GROVER BEACH LODGE**



**Pismo State Beach  
Grover Beach, California**

**August 24, 2007**

# REQUEST FOR PROPOSALS

## Grover Beach Lodge

### Pismo State Beach

**Opening Date**  
**August 24, 2007**

**Closing Date**  
**December 10, 2007**

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY  
154 SOUTH EIGHTH STREET  
GROVER BEACH, CA 93433



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



**Notice of Request for Proposals**  
**All Proposals shall be kept confidential until a “Notice of Intent to Award Contract” is published.**

## NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that the City of Grover Beach and the California Department of Parks and Recreation, collectively referred to herein as the Joint Authority, are now accepting proposals for the concession development and operation described below.

Concession Name:	Grover Beach Lodge
Park Unit:	Pismo State Beach
Proposal Closing Time & Date:	December 10, 2007 at 2:00pm
Proposal Submission Location:	City of Grover Beach – City Hall 154 South Eighth Street, Grover Beach, CA 93433
Concession Type:	Lodge and Conference Facility
Concessionaire Capital Outlay:	Minimum of Twenty Million Dollars (\$20,000,000) to Plan, Design, Permit, Construct, Furnish, Equip, and Operate a 135 to 150 Room Lodge and Conference Facility in accordance with RFP Requirements and Proposer's Facility Development & Operations Plans.
Contract Term:	Fifty (50) Years
Minimum Rental Bid:	Annual Guaranteed Rent of Two Hundred Thousand Dollars (\$200,000) or Six Percent (6%) of Annual Gross Sales, whichever amount is greater
Facility Renovation Fund:	Five Percent (5%) of Gross Sales
Proposal Bond (due at time of proposal submission):	Fifty Thousand (\$50,000) Dollars
Performance Bond (due at time of Contract execution):	One Year's Rental as Bid
Proposer's Minimum Years of Relevant Experience:	Five (5) Years Experience
Mandatory Pre-Proposal Meeting:	September 19, 2007 at 10:00am

**In order to participate in the RFP process, prospective proposers or designated representative(s) must attend the mandatory Pre-Proposal Meeting at 10:00 a.m. on September 19, 2007 at the Grover Beach City Hall, 154 South Eighth Street, Grover Beach, California.**

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## **SECTION 1 - PROJECT SUMMARY**

### **1.1 GOAL & OBJECTIVES**

This opportunity to develop and operate a Lodge and Conference Facility concession is the result of a Joint Powers Agreement between the City of Grover Beach acting through the Grover Beach Improvement Agency (City), and the State of California acting through the California Department of Parks and Recreation (State).

Pursuant to this Joint Powers Agreement, it is the intent of the City and State to engage a concessionaire to develop a first class Lodge and Conference Facility at Pismo State Beach that will serve as a gateway to Pismo State Beach, provide lodging opportunities to enhance recreational experiences for park visitors, be environmentally sensitive, and enhance development of the western end of the City of Grover Beach.

To this end the City and State, hereinafter for the purposes of this Request for Proposals (RFP) referred to as the "Joint Authority," are offering a fifty (50) year contract for a concessionaire/developer to plan, design, permit, construct, equip, furnish, operate and maintain a 135 to 150 room lodge and conference facility to be sited on State property at Pismo State Beach.

Such development must adhere to and compliment the missions of the City of Grover Beach/Grover Beach Improvement Agency and the State of California/California Department of Parks and Recreation.

#### **City of Grover Beach/Grover Beach Improvement Agency Mission**

The mission of the Grover Beach Improvement Agency is to revitalize the City's business district, strengthen the City's image as a tourist destination, and remove several infrastructure inadequacies and barriers to the development of job centers in a way that will promote the economic vitality of the City of Grover Beach and its residents.

#### **California State Park System 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.

### **1.2 GENERAL INFORMATION**

#### **Site Description**

The proposed lodge site is located within Pismo State Beach and the City of Grover Beach in San Luis Obispo County.

Pismo State Beach incorporates 1,343 acres of beach frontage, coastal dunes, and lands situated between State Highway 1 and the Pacific Ocean. Developed facilities include 185 campsites, a 500 space parking lot and picnic area and includes a restaurant and nine-hole, executive style golf course. The 7.50± acre lodge site is bounded by Grand Avenue on the south, Fins Restaurant and a park day-use parking

area to the west, the Pismo State Beach Golf Course to the north, and privately owned property abutting California State Highway 1 to the east.

The proposed lodge site is also adjacent to Oceano Dunes State Vehicular Recreation Area. This 3,600 acre off-highway recreational area is among the most popular and unique of California State Parks. The 5.5 miles of beach is open to vehicular use and the sand dunes are available for off-highway motor vehicle recreation. These attractions draw visitors from throughout the United States. Oceano Dunes SVRA is the only California State Park where vehicles may be driven on the beach. Park attendance during Fiscal Year 2005/06 was 1,976,119.

The proposed lodge site is also located within the City of Grover Beach. Grover Beach covers an area of 2.25 square miles and is located along the beautiful Central Coast of California, 92 miles north of Santa Barbara and 150 miles south of Monterey. Tourists are drawn to the area for a variety of activities that include: dune hiking, fishing, surfing, clamming, golfing, horseback riding, cycling, wine tasting, off-roading, and sightseeing.

### **Current State Park Concession Operations**

The adjacent Fins Restaurant and nine-hole, executive style Pismo State Beach Golf Course are currently operated by a Concessionaire under a contract with the California Department of Parks and Recreation that extends through August of 2012. Visitor attendance and revenue data for Pismo State Beach and these concession operations over the last five years has been as follows:

<b><u>Fiscal Year</u></b>	<b><u>Visitation</u></b>	<b><u>Gross Receipts</u></b>	<b><u>Rent to State</u></b>
2002/2003	461,500*	\$1,391,665	\$ 170,692
2003/2004	430,325*	\$1,492,456	\$ 182,679
2004/2005	530,884*	\$1,209,712	\$ 147,916
2005/2006	616,585*	\$1,531,923	\$ 186,802
2006/2007	621,127*	\$1,840,917	\$ 219,000

\* Estimated

**NOTE:** The proceeding is for general information only and no guarantee as to absolute accuracy is made. It is recommended that Proposers investigate the proposed concession site and the surrounding environs.

### 1.3 CONTRACT SUMMARY

It is critical that Proposers be familiar with and fully understand all the terms and conditions of the Sample Concession Contract (included herein). Proposals should be based on the requirements of this contract in its entirety. If a contract is awarded, the successful Proposer shall be provided thirty (30) days to review and sign the awarded contract. The successful Proposer shall be expected to accept the provisions of the Sample Concession Contract as written. If necessary, minor clarifications, approved by City and State counsel, the Department of General Services, and the Attorney General may be made prior to contract execution. The intent of the contract is to develop high-quality facilities and provide the public with high quality, reasonably priced, goods and services in a manner and atmosphere that will enhance visitor experiences and the educational, natural, and cultural resources of Pismo State Beach. The term of the contract shall be for a period of fifty (50) years, commencing upon the date of opening of the Lodge facility for public use as approved in writing by Joint Authority.

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

**At a minimum, the successful Proposer will be required to:**

1. Accept and acknowledge that the concession contract will be issued under and be subservient to provisions of the December 20, 2006 Joint Powers Agreement between the City of Grover Beach and the California Department of Parks and Recreation (Exhibit "B" of the Sample Contract) .
2. At Proposer's sole cost and expense, Proposer must expend a minimum of Twenty Million Dollars (\$20,000,000) to plan, design, permit, construct, equip, and furnish a **135 to 150 room lodge and conference facility** with typical complementary visitor serving amenities in accordance with the "Scope of Work" and design criteria set forth in the RFP. Such facilities, furnishings, and equipment shall become State property at the conclusion of the 50-year contract term. Facility construction shall include relocation of existing RV Waste Facilities and Equestrian Staging Area to alternate locations acceptable to the Joint Authority.
3. Manage, operate, and maintain the lodge facilities year round throughout the 50-year contract term in full accordance with requirements of the concession contract.
4. Pay as rent the greater of an "Annual Guarantee" or percentage of gross sales, as bid by Proposer. The **minimum rental offer** for this contract is:

**Annual Rental Guarantee:** Two Hundred Thousand Dollars (\$200,000)

**Percentage Rental:** Six Percent (6%) of Annual Gross Receipts (paid monthly)

5. Provide and carry out, an Operations Plan and Facility Development Plan as specified in the RFP Proposal Instructions. Such documents must clearly demonstrate Proposer's plan for the provision of fully accessible facilities and

services that comply with all applicable provisions of state and federal law pertaining to disabled access, fulfill the goals of this RFP, and adhere to the missions of both the City of Grover Beach and the California Department of Parks and Recreation. These plans will become part of and specific requirements under the contract subject to the review and approval by the Joint Authority.

6. Maintain the premises, facilities, furnishings, and equipment in good condition throughout the term of the contract in accordance with contract terms and accepted hotel industry standards.
7. Establish, fund, and administer a Facility Renovation Fund to periodically provide for the renovation, refurbishment, and upgrade of Lodge facilities, equipment, and furnishings. To accomplish these goals, five percent (5%) of gross sales shall be deposited monthly in a separate account established and maintained to fund and accomplish such renovation projects.
8. Provide a continuing Performance Bond in the amount equal to one year's Annual Rental Guarantee.
9. Pay all taxes applicable to the operation of the concession, including possessory interest and transit occupancy taxes.
10. Pay for all utility services as required by the contract.
11. Provide liability, fire, and other insurance as required by the contract.
12. 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.
13. Comply with the letter and spirit of current and subsequent guidelines or plans for Pismo State Beach, including General Plan amendments or updates, management and interpretive plans, and others.
14. Demonstrate compliance with labor laws as specified in the RFP.

**The successful Proposer will not:**

1. Provide or sell items or services considered inappropriate, deemed objectionable, or denied by the Joint Authority.
2. Promote or participate in activities that are incompatible with the rules, regulations, guidelines, or the mission of the City of Grover Beach, the California Department of Parks and Recreation, or the Joint Authority.

**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

#### Tentative Proposal Dates

August 24, 2007 .....	Opening Date – RFP Publication
September 19, 2007 .....	Mandatory Pre-Proposal Meeting
October 3, 2007 .....	Proposer Questions - Last date for Proposers to submit written questions
October 2007 .....	Answers – Joint Authority provides written responses to Proposer questions
December 10, 2007 .....	Closing Date - Deadline for proposal submission
By February 2008 .....	Investigation and evaluation of submitted proposals
March 2008 .....	Notification of “Intent to Award Contract”
April 2008 .....	Award, preparation, and execution of contract
May 2008 .....	Contract Commences

**Note:** This schedule does not consider unforeseen factors that could impact the timing of the project. It is the intent of the Joint Authority 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.

#### Mandatory Pre-Proposal Meeting

Prospective Proposers or Proposers' designated representatives must attend the mandatory Pre-Proposal Meeting at 10:00 a.m. on September 19, 2007 at the Grover Beach City Hall, 154 S. Eighth Street, Grover Beach, California . Failure to attend the entire meeting shall be cause for proposal rejection. There will be no exceptions to this requirement. The meeting provides an equitable forum for all potential Proposers to:

- Meet City and State staff;
- Learn about the RFP process, including procedures for questions and answers, proposal submission, and contract award;
- Inspect the proposed lodge site and receive information on Pismo State Beach, the City of Grover Beach, and proposed plans for the lodge and the surrounding area;
- Review the RFP document.

#### RFP Content Questions

Questions regarding this RFP must be submitted in writing by mail or fax and received no later than 5 p.m. on October 3, 2007. 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 must be submitted in writing by mail or fax at the address and phone numbers 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:

City of Grover Beach  
154 S. Eighth Street  
Grover Beach, California 93433  
Attention: Robert Perrault, City Manager  
Fax: (805) 489-9657

### **Proposal Bond**

Proposals must be accompanied by a Proposal Bond or cashier's check payable to the City of Grover Beach in the amount of **Fifty Thousand Dollars (\$50,000)**. By submitting a proposal bond the Proposer agrees that the bond or cashier's check may be cashed and retained by the Joint Authority 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 Joint Authority 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 Joint Authority for failure of the Proposer to execute and proceed with the contract upon notification of contract award. Bonds will be returned to all Proposers once a contract is awarded and fully executed.

### **Proposal Submission**

Proposals, including the Proposal Bond, must be received by 2:00 p.m. on December 10, 2007 at:

City of Grover Beach  
154 S. Eighth Street  
Grover Beach, California 93433  
Attention: Robert Perrault, City Manager

### **Proposal Format & Content**

Proposal packages or boxes must be sealed and clearly marked on the outside with **"Proposal for Grover Beach Lodge."** Please submit **an original plus eight (8)** copies of the 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 shall become the property of the Joint Authority and are subject to the requirements of the California Public Records Act (California Government Code Section 6250 et seq.). 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. Proposers claiming exemption must include the following statement in their proposal:

*The Proposer agrees to indemnify and hold harmless the City of Grover Beach, the State of California and the Joint Authority, their officers, employees, and agents from any claims, liability, or damages against the City, State or Joint Authority and to defend any action brought against the City, State or Joint Authority for Proposer's refusal to disclose such material, trade secrets, or other proprietary information to any party.*

Failure of a Proposer to include this statement and/or identify in writing the claimed exempt material 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.

### **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 its duly authorized representative for the withdrawal of such proposal is submitted to the address specified for submission of proposals. 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 passed, proposals shall be irrevocable.

## **2.2 EVALUATION PROCESS**

### **Verification of Proposal Information**

The Joint Authority will obtain credit reports and verify tax form information to further establish the qualifications of any Proposer. All Proposers may be subject to a personal interview and inspection of their business premises prior to award. Proposers should notify bank and business references in writing that representatives from the Joint Authority may be contacting them concerning the financial and credit information furnished as part of their proposal.

### **Right to Reject Proposals, Waive Defects and Requirements**

The Joint Authority 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 their benefit, so long as such waiver does not give any Proposer a material advantage over other Proposers. Proposers shall not be relieved of their proposals nor shall any change be made in their proposals due to Proposer error.

### **Supplemental Information**

At its sole discretion, the Joint Authority 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 Joint Authority may obtain credit reports and/or make background inquiries to further establish the qualifications of any Proposer. Proposers may be subject to personal interview and inspection of their business premises prior to award. Proposers may be required to appear before a Concession Contract Award Board appointed by the Joint Authority.

### **Proposal Evaluation**

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

### **Contract Award Board**

The Contract Award Board will be selected and appointed by the Joint Authority to review, evaluate, and rate each proposal received and make a recommendation regarding selection of the "Best Responsible Proposer." The Contract Award Board for this contract may include City and State Officials with pertinent expertise, representatives from other public agencies, and representatives from the private sector.

### **Contract Award**

If an award is made, the award for the concession contract will be to the "Best Responsible Proposer" in accordance with specifications of this RFP. The "Best Responsible Proposer" will be the entity whose proposal passes each of the required elements of the RFP and receives the highest total score as determined by the Contract Award Board and recommended for approval to the Joint Authority. Final approval of the Award Board recommendation and execution of the awarded concession contract is subject to approval by the City Council of the City of Grover Beach, the Director of the California Department of Parks and Recreation, and controlling agencies of the State of California, which include the Department of General Services and the Office of the Attorney General. The awarded contract will not be binding on the Joint Authority, the City of Grover Beach, the California Department of Parks and Recreation, or the successful Proposer until all such approvals are obtained.

### **Protest of Award**

Based on Title 14, California Code of Regulations, Chapter 3, Section 4400 and Department of Park and Recreation 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 days of the awarding of the contract (publication of the "Notice of Intent to Award") with the Director of the Department of Parks and Recreation 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 the following:

City Manager  
City of Grover Beach  
154 S. Eighth Street  
Grover Beach, California 93449  
Fax: (805) 489-9657

**and**

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, 11<sup>th</sup> 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 Joint Authority will prepare a final contract for execution. The contract will contain "exhibits" developed from the selected proposal including the proposal's Operations and Facility Development Plans. Minor changes or modifications to the contract, proposal plans, and contract exhibits may be made prior to execution based on agreement between the Joint Authority and the Proposer. However, no material changes 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 in the RFP may be treated as a refusal to execute, if the Joint Authority so elects. Subsequently, the Joint Authority may retain 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 Joint Authority so elects. In such an event the City of Grover Beach, on behalf of the Joint Authority, may retain

the Proposer Bond and the Joint Authority may then select the next Best Responsible Proposal.

## SECTION 3 - THE PROPOSAL

### 3.1 INSTRUCTIONS FOR THE CONCESSION PROPOSAL

A completed Concession Questionnaire and Proposal and a Proposal Bond will constitute the proposal. All sections must be fully completed, responses provided to all questions, and responses provided for all blanks of the form. Inapplicable questions or blanks must be marked "N/A" or "Not Applicable". Failure to properly complete the Concession Questionnaire and Proposal form may result in proposal disqualification.

Proposals must be clear, unambiguous, and unconditional. They must clearly commit the Proposer to entry into a contract with the City of Grover Beach and the California Department of Parks and Recreation that will provide the concession improvements, amenities, and other services as required by this RFP and as offered in the completed proposal.

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

## I. PROPOSER INFORMATION

### A. Proposer Identification

Provide requested information regarding identification of the proposing entity and a primary contract person for purposes of follow-up to the proposal submission.

### 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 conditioned on receiving the contract.

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, 1<sup>st</sup> 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.

### **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.

Provide a narrative describing in detail the duration, extent, and quality of proposing entity's education and business experience with special emphasis on experience related to the subject concession. Be specific with respect to the type and dates of experience, 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 the ability to successfully operate the proposed concession. Be sure to demonstrate how the required Proposer qualifications will be met. Attach additional information as needed.

For the purposes of this RFP, Proposers must have a minimum of **five (5) years** experience developing, owning, managing, and/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 types and years of relevant experience as verified by references. In addition, points may be awarded for experience contracting with public agencies.

### **D. Statement of Financial Capability**

Proposers must present satisfactory evidence demonstrating their ability to finance, plan, construct, operate, and maintain the concession facilities as proposed. For the purposes of this RFP, Proposers must demonstrate the ability to unconditionally access a minimum of Twenty Million Dollars (\$20,000,000) to undertake construction, equipping, furnishing, and operation of the lodge and conference facility. The 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 the proposing entity will use to undertake the project as proposed. If funds are to be used from outside sources (i.e., parent company, third



party, LLC partners, etc.), provide documentation, such as recent bank statements, balance sheets, income statements, and/or other supporting documents, to demonstrate that these funds are, or will be, available and unconditionally committed to this concession project. If funds are to be borrowed to finance any portion of the total investment, 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, must be provided. The loan commitment may contain the qualification that the loan will be consummated only upon award of an agreement by the Joint Authority; otherwise, the commitment must be irrevocable and unconditional.

Business Financial Statement: Use the Business Financial Statement to describe the current and true condition of Proposer's business' assets, liabilities, and net worth. Round off figures to the nearest dollar. If the business is a partnership or joint venture, each general partner or participant in the joint venture must individually submit a Business Financial Statement. Copies of forms filed with the Internal Revenue Service may be provided, where applicable.

#### **E. Credit Worthiness**

Proposers must present evidence of credit worthiness. At a minimum, evidence shall include a credit report issued by a nationally recognized credit bureau current within 60 days of the proposal due date. 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 **at least two** references for each reference type required below. However, to adequately substantiate the claims made in the proposal, Proposer's are encouraged to provide at least three references that are familiar with Proposer's business and performance history. Proposer references should be notified in writing that representatives from the Joint Authority may be contacting them.

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

- Financial References: Include banks, savings and loans, or other financial institutions.
- Client or Business References: Name businesses, clients, or other persons or entities that most accurately reflect Proposer's past performance and ability to fulfill contractual obligations with other entities for the provision of facilities, goods, and services similar to those required by this RFP.
- Vendor References: Please provide merchant or vendor references that document current or past business relationships.

#### **G. Client/Contract History**

Recent history of client and contractual relationships will aid in evaluating and rating Proposer's experience. For the purposes of this RFP, Proposer's are required to provide the following information:

- A listing of all former or past clients and related information where Proposer has closed or terminated a contract since 7-1-2002.
- A listing of all contracts that Proposer or Proposer's affiliates have closed, surrendered, or that have been terminated for any reason since 7-1-2002.

## **II. CONCESSION PROPOSAL INFORMATION**

Provide Operations and Facility Development Plans that address each of the checked elements in the Concession Questionnaire and Proposal. Each element of the Concession Questionnaire and Proposal is described below. Additional information to fully describe and enhance the proposal may be submitted at Proposer's option.

### **A. Operations Plan**

As a condition of the contract award, the successful Proposer may be required to revise or further develop the Operations Plan to the satisfaction of the Joint Authority and prior to the execution of the contract. If and when it is accepted, the final plan will be incorporated as Exhibit "F" of the contract and become an obligation of the concessionaire thereunder. In addition to the Operations Plan, the successful Proposer also must adhere to the operational requirements as prescribed in the contract.

**At a minimum the Operations Plan must address each of the following elements:**

#### Vision/Mission Statement

The Vision/Mission Statement should provide a clear philosophy to guide concession operations and serve as an outline for achievement of the goals and objectives of the City of Grover Beach and the California State Park System, as well as those of the Proposer.

#### Organizational Structure

Provide an organization chart and staffing plan that will guide the operation and ongoing management of the concession business. The plan should identify and define the job classifications to be used along with 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.

#### Business Start-Up Plan

Describe Proposer's plan, methodology, and timeline for the start up of concession operations.

#### Customer Service Plan

The plan should articulate Proposer's methodology, ability, and commitment to successfully implement an effective customer service program. It should include, but not be limited to, previously established and effective customer service program models, adequate employee staffing and management oversight, and a customer satisfaction feedback survey program.

#### Employee Staffing and Training Plan

The employee policies and training program should include, but not be limited to, personnel policies; hiring practices; health, safety, and grievance policies and procedures; uniform policies and requirements; business orientation; job training; and park orientation training. Such programs must provide sufficient staffing with the skills, capabilities, and training to ensure the provision of uninterrupted, high-quality services.

#### Marketing and Advertising Plan

The marketing plan should include, but is not limited to, proposed approaches, methodologies, media, advertising materials, schedules, and budget allocations.

#### Community Involvement Plan

Provide a plan for, and commitment to, creating added value and benefits for residents of City of Grover Beach and other surrounding communities and for visitors to both Pismo State Beach and the City of Grover Beach. This plan may include special events, educational programs, and community service activities. In addition, Proposers should identify the special skills, knowledge, and resources needed and available to implement the plan.

#### Products, Merchandise, and Services Plan

Provide a detailed description of the proposed menu and other products, merchandise, and services to be provided through the concession operation. Food and other sales items must be high quality and varied selection. The products and services offered should meet or exceed the needs of the facility users, and be compatible with, and complimentary to, the mission of the City of Grover Beach and Pismo State Beach.

#### Prices and Pricing Policies

Provide a rate schedule for a representative sample of the services and products proposed. The plan must include a definitive description and explanation of the policies to be used to establish prices for rooms, conference facilities, food, beverages, products, and services. The policies shall clearly demonstrate the relationship of pricing to service and product quality and scope. Implementation of these policies must provide customers with quality services and products at reasonable prices considering the competition of comparable markets for similar products and services.

#### Conservation and Recycling Plan

Outline Proposer's 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 lodge operation. The plan should clearly commit to a program that will minimize negative impacts on the environment and encourage lodge patrons and park visitors to do the same.

#### Accessibility Plan

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

### Interpretive Plan

The interpretive plan should include the following elements:

- Business' Interpretive Theme: Describe the interpretive themes that will be incorporated into the business (elements could include environmental, cultural, historical, etc. aspects of Pismo State Beach and the City of Grover Beach).
- Interpretive Displays, Programs, and Activities: Describe plans for interpretive décor, interpretive displays, literature, programs, and activities. Displays and activities should reflect, illustrate, and connect lodge facilities and operations to the natural values and/or recreational activities of Pismo State Beach.
- Diversity Plan: Describe Proposer's plan to develop, operate, or provide an interpretive program for multi-ethnic, multi-generational visitors.
- Business' Ambiance Plan: Describe your plan to develop and implement an interpretive ambiance including such things as environmental ambiance, uniforms, furnishings, signs, wall treatments, window coverings, displays, etc.

### **B. Facility Development Plan**

After Joint Authority review and approval, the Facility Development Plan from the successful proposal shall be included as Exhibit "D" of the contract. In addition to the approved Facility Development Plan, the successful Proposer must also adhere to all facility requirements set forth in the contract.

Proposer's plan must include all of the "Minimum Required Elements for a Qualifying Proposal" as set forth in Chapter 2 of Exhibit "C" (Scope of Work) of the Sample Contract.

### **At a minimum, Proposer's Facility Development Plan must include the following:**

Failure to meet this requirement will result in proposal rejection.

### Facility Development Plan Overview

#### Capital Improvement Plan

Describe plans for capital improvements incremental to those required by the RFP. Include the resumes of the proposed architects and contractors to be used and descriptions and/or schematic renderings of the work to be accomplished and furnishings, equipment, and amenities to be developed and installed. Lists, drawings, pictures, and diagrams may be submitted to illustrate and clarify the plans. Proposer's plan must include all of the "Minimum Required Elements for a Qualifying Proposal" as set forth in Chapter 2 of Exhibit "C" (Scope of Work) of the Sample Contract. Failure to meet this requirement will result in proposal rejection.

### Scope of Project Statement (as outlined in Exhibit "C", Scope of Work, Chapter 2):

#### Part 1 – Project Team Structure

Outline Proposer's experience and qualifications as related to like or similar projects.

## Part 2 – Written Description

Provide a brief summary and overview of Proposer's program for planning, design, permitting, construction, equipping, and furnishing the Lodge and Conference facility.

Part 3 – Submit a Conceptual Site Plan with a graphic representation of proposed facilities on a scaled site plan (1" = 100 feet).

### Furnishings Plan

Describe the intended physical facilities of the concession including furnishings, equipment, décor, and layout. Implementation of Proposer's plan should provide high-quality lodge and conference facilities that are consistent with and will enhance park values, public service, and park experiences.

### Accessibility Plan

Describe how facilities will conform to provisions of the American's with Disabilities Act of 1990, the Rehabilitation Act of 1973, and California Government Code Sections 4450 et. seq. and 7250.

### Maintenance and Housekeeping Plan

Provide a comprehensive plan to maintain the concession facilities in a high-quality condition throughout the term of the contract. Maintenance plan criteria should include budget allocations, staff skills and qualifications, staffing patterns, and housekeeping and maintenance schedules.

### Ongoing Renovation Plan

Provide a plan for the periodic renovation and upgrade of Lodge and Conference facilities, equipment, and furnishings. The plan should include a description of the type and scope of projects to be periodically undertaken, including timetables and budget commitments. To fund and accomplish this work, Proposers will be required to establish a separate Facility Renovation Account at the onset of the contract and deposit a minimum of five percent (5%) of gross sales to the account each month throughout the term of the contract.

### Implementation Plan

Describe your plan, method, and commitment for implementation of the Facility Development Plan. Specify the timelines for planning, permitting, construction, and completion of capital improvements and installation of décor, equipment, and furnishings prior to commencement of operations.

### Cost Estimates

Provide a detailed cost breakdown for the Facility Development Plan including the component elements of the plan. Proposer's plan must commit a minimum of Twenty Million Dollars (\$20,000,000) to plan, design, obtain permits, construct, equip, and furnish the lodge and conference facility

## **C. Rental Offer**

The concessionaire will be required to pay as rent a Guaranteed Annual Rent or a Percentage of Gross Sales, whichever amount is greater. Proposers shall bid both the

Guaranteed Annual Rent and the Percentage of Gross Sales rent as specified in the Concession Questionnaire and Proposal. For the purposes of this RFP, the Guaranteed Annual Rent proposal must be at least **Two Hundred Thousand Dollars (\$200,000)** and the Percentage of Gross Sales rental proposal must be at least **Six Percent (6%)** of annual gross sales (paid monthly).

#### **D. Concession Feasibility**

Document the Proposer's ability to successfully initiate the proposed concession in a financially responsible manner, in accordance with the terms and conditions of the sample contract and the Operations and Facility Development Plans, as proposed. This information must substantiate the ability to: plan, design, permit, develop, furnish, equip, operate and maintain the concession in a high-quality manner; provide the public with quality services and products at reasonable and competitive prices; pay the Joint Authority the rental as offered; and provide a reasonable return on Proposer's investment. Fiscal documentation to be considered in awarding points includes: the financial pro forma; statement of assets and liabilities; business, vendor, bank, and/or financial references; and other associated documents. Information in addition to that required by the may be provided at Proposer's discretion. However, do not alter the Concession Questionnaire and Proposal format in any way. Responses must be provided to each item in the order listed with the information requested or marked as N/A.

### **III. PROPOSAL SUMMARY**

The Proposal Summary should summarize Proposer's relevant experience, knowledge, and expertise, as well as the substance of the Operations and Facility Development Plans. The summary should not exceed 250 words.

### **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. Proposers 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. Proposers with more than one such finding will be disqualified.

#### **B. Proposer Certification**

A completed certification is required. Non-compliance with this requirement will result in proposal disqualification.

#### **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 a 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 Proposer is necessary.

## 3.2 PROPOSAL EVALUATION CRITERIA

A rating of “Fail” in any category will result in proposal disqualification.

### LEVEL I

**All elements and information as required by the RFP must be submitted in full accordance with the RFP instructions.**

**Pass/Fail**

### LEVEL II

All requirements of the RFP must be met to receive a “Pass” rating.

- A. Rent Proposed Meets/Exceeds Minimum Requirements**
- B. Ability to Finance**
- C. Credit Worthiness**
- D. Compliance with National Labor Relations Act**

**Pass/Fail**  
**Pass/Fail**  
**Pass/Fail**  
**Pass/Fail**

### LEVEL III

#### A. PROPOSER INFORMATION

##### **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.

##### **Experience**

**20 Points**

For the purposes of this RFP, Proposers must have a minimum of five (5) years of experience developing, owning, managing, and/or operating a business of similar size, type, and scope as the lodge and conference center concession operations set forth and envisioned by this RFP. **Proposers that do not meet the minimum experience requirement will be disqualified.** Proposers will be rated according to the years of relevant experience as verified by references and the quality of that experience as it relates to the project described in this RFP. In addition, points are awarded for experience in contracting with public agencies.

#### B. PROPOSER INFORMATION

##### **Operations Plan**

**20 Points**

Points will be awarded based upon the degree to which the proposal addresses each of the required elements of the Operations Plan (as identified in the Concession Questionnaire and Proposal) and demonstrates an understanding of and commitment to achieving the objectives of this RFP. In addition, points will be awarded based upon the Proposer’s demonstrated ability to implement the components of the plan. More points will be awarded to proposals that provide high-quality services and products that are consistent with the intent of the RFP and the missions of the City of Grover Beach, California State Parks, and the Pismo State Beach park unit.



### **Facility Development Plan**

**35 Points**

Points will be awarded based upon the degree to which the proposal addresses each of the required elements of the Facility Development Plan (as identified in the Concession Questionnaire and Proposal) and meets or exceeds the objectives of this RFP. More points will be awarded to proposals that will provide lodge and conference facilities that are high-quality, unique in design, compatible with surrounding park resources, and are fully accessible. Plans that include additional desirable elements will also be awarded additional points. **Plans that do not offer all of the “Minimum Required Elements for a Qualifying Proposal” as set forth in Chapter 2 of Exhibit “C” (Scope of Work) of the Sample Contract or commit a minimum of Twenty Million Dollars (\$20,000,000) to complete the lodge and conference facility will be rejected.**

### **Rental Offer**

**25 Points**

For the purpose of assigning Proposal Evaluation points, the highest acceptable\* rental offer for each category of rent (Guaranteed Annual Rent and Percentages of Gross Sales) will be assigned the maximum points available for that category. All other rental offers will be assigned points in relation to the highest rental proposal offer as follows:

Guaranteed Annual Rent (Minimum bid is \$200,000)

$$\frac{(\text{Bid Amount}) \text{ minus } (\$200,000)}{(\text{Highest Bid Amount}) \text{ minus } (\$200,000)} \times 10 \text{ points} = \underline{\hspace{2cm}} \text{ points}$$

Percentage of Gross Sales (Minimum bid is 6%)

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

\*Note: the highest bids received may not be considered acceptable. Proposers may be required to prove to the satisfaction of the Joint Authority their ability to operate a successful business under their rental offer and proposal conditions. Failure to substantiate this ability will be cause for proposal disqualification. In this case, the second highest acceptable bid will be used to calculate points awarded.

### **C. CONCESSION FEASIBILITY**

**PASS/FAIL**

Proposers must satisfactorily document and justify the economic feasibility of the concession development and operation set forth in their Operation Plan and Facility Development Plan. The information provided must substantiate the ability to: plan, design, permit, develop, furnish, equip, operate and maintain the concession in a high-quality manner; provide the public with quality services and products at reasonable and competitive prices; pay the Joint Authority the rental as offered; and provide a reasonable return on Proposer’s investment. Failure to do so will result in rejection of the proposal.

### 3.3 PROPOSAL EVALUATION SHEET

#### LEVEL I COMPLIANCE WITH RFP REQUIREMENTS

#### CONCESSION QUESTIONNAIRE AND PROPOSAL SUBMISSION

##### 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)
- G. Client/Contract History \_\_\_\_\_ (pass/disqualify)

##### II. PROPOSAL INFORMATION

- A. Operation Plan \_\_\_\_\_ (pass/disqualify)
- B. Facility Development Plan \_\_\_\_\_ (pass/disqualify)
- C. Rental Offer \_\_\_\_\_ (pass/disqualify)
- D. 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
- Small Business Preference \_\_\_\_\_ / 5 Points
- Experience \_\_\_\_\_ / 20 Points
- B. Proposal Information
- Operation Plan \_\_\_\_\_ / 20 Points
- Facility Development Plan \_\_\_\_\_ / 35 Points
- Rental Offer \_\_\_\_\_ / 25 Points
- C.     Concession Feasibility \_\_\_\_\_ / Pass/Fail

**GRAND TOTAL** \_\_\_\_\_ / **105 Points**

Comments:

Award Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

### **3.4 CONCESSION QUESTIONNAIRE AND PROPOSAL**

The Concession Questionnaire and Proposal is a nineteen (19) page document that, when completed, shall include Proposer background, financial and credit information, Proposer's concession Operations plan, Facility Development Plan, rental offer, project feasibility analysis and various other items of proposal information.

# **Concession Proposal and Questionnaire**

The PDF version of the Grover Beach Lodge Request for Proposals does not include the Concession Proposal and Questionnaire.

To submit a proposal the Proposer must purchase a Request for Proposals from the City of Grover Beach and attend the mandatory Pre-Proposal Meeting on September 19, 2007 at 10:00am at the Grover Beach City Hall, 154 S. Eighth Street, Grover Beach, California 93433

# Section Four

<b>SECTION 4 – SAMPLE CONTRACT .....</b>	
<b>4.1 SAMPLE CONTRACT .....</b>	

CONCESSION CONTRACT

FOR

GROVER BEACH LODGE

AT

PISMO STATE BEACH

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY  
154 SOUTH EIGHTH STREET  
GROVER BEACH, CA 93433



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



## Grover Beach Lodge Concession Contract

## CONCESSION CONTRACT

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**CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY**

**STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION**

**CONCESSION CONTRACT**

For

**Grover Beach Lodge**

Located In

Pismo State Beach

San Luis Obispo County

THIS CONTRACT is made and entered into by and between the STATE OF CALIFORNIA, acting through the Department of Parks and Recreation ("STATE"), the CITY of GROVER BEACH, a municipal corporation, acting by and through the Grover Beach Improvement Agency ("CITY"), collectively referred to hereinafter as "**Joint Authority**" and **ConcessionaireName DBA: ConcessionName** of \_\_\_\_ **City**\_\_\_\_, \_\_\_\_ **State**\_\_\_\_, hereinafter referred to as "Concessionaire";

**RECITALS**

**WHEREAS**, The Department of Parks and Recreation is authorized under Public Resources Code §5003 to administer, protect, develop and interpret the property under its jurisdiction for the use and enjoyment of the public; and

**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 the state park system lands and facilities and;

**WHEREAS**, The City of Grover Beach is authorized under state law as a municipal corporation to develop property located within its boundaries; and

**WHEREAS**, the Joint Authority desires to proceed with developing a Lodge Facility on State of California property within Pismo State Beach that shall: (a) enhance concession facilities at Pismo State Beach near Grand Avenue and Highway 1 in the City of Grover Beach; (b) enhance visitor opportunities and experiences at Pismo State Beach from a state-wide and local perspective; (c) serve as a gateway to the Pismo State Beach park unit and increase the number and type of lodging options available for park visitors; (d) compliment efforts to enhance the western end of the City of Grover Beach; and (e) be environmentally sensitive. The General Plan for Pismo State Beach provides for development of the Lodge Facility; and

**WHEREAS**, Public Resources Code §5003.02.1 authorizes the term of a contract entered into by the Department of Parks and Recreation and the City of Grover Beach with a Concessionaire for the development of new facilities at Pismo State Beach to be for a period not to exceed fifty (50) years if the contract also provides that the rent be reviewed and adjusted at least every five (5) years to reflect market rates and economic conditions prevailing in the area in which the concession is located; and

**WHEREAS**, The Department of Parks and Recreation and the City of Grover Beach have entered into a Joint Powers Agreement (JPA) dated December 20, 2006 for the development of a Lodge/Conference

Facility at Pismo State Beach whereby the Department of Parks and Recreation shall provide the real property building site for the project and the City of Grover Beach shall serve to oversee the planning, permitting, design, construction, equipping, furnishing, operation, maintenance and ongoing refurbishment of the Lodge facility, it being understood that Department of Parks and Recreation shall have final review and approval authority for many provisions and conditions of facility development and operations; and

**WHEREAS**, it is the intent of all parties to perform and implement this contract consistent with the provisions of the JPA with the City of Grover Beach serving as the contract manager; 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 Joint Authority for and in consideration of the agreements hereinafter stated, grants to Concessionaire for the purposes stated herein, the right, privilege, and duty to plan, design, develop, permit, construct, equip, furnish, operate and maintain a nonexclusive concession on an approximately 7.50± acre lodge site which includes an approximately 6.67 acre developable parcel of State of California owned property within Pismo 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, in itself, shall constitute acknowledgment that the Premises are in good and sufficient condition for the purposes for which Concessionaire is entering into this contract. Concessionaire agrees to accept Premises in their presently existing condition, "AS IS", and that the Joint Authority shall not be obligated to make any alterations, additions, or betterments to the Premises except as otherwise provided for in this contract.

## **3. JOINT POWERS AGREEMENT (JPA)**

All provisions of the Joint Powers Agreement (JPA) dated December 20, 2006, shall apply to this Contract, which is attached to and made a part of this contract as Exhibit "B". If there is a conflict between the JPA and this Contract, provisions of the JPA shall prevail.

The concession contract for development of the Lodge Facility shall be entered into by both the Department of Parks and Recreation and the City of Grover Beach, herein referred to as "Joint Authority." However, the City of Grover Beach shall serve as contract manager for the Joint Authority and shall be responsible for ensuring that the Concessionaire fully complies with the terms and conditions of the concession contract, unless otherwise provided for herein.

In cooperation with the Department of Parks and Recreation, the City of Grover Beach, shall be responsible for the planning, design, development, construction, operation, maintenance and improvement of the Lodge Facility

on the Premises in accordance with the terms and conditions contained in the JPA and this contract.

The Department of Parks and Recreation shall have the right, but not the obligation, to enforce the concession contract in the event the City of Grover Beach fails to do so after a material breach of the concession contract by the City of Grover Beach under provisions in the JPA and this contract.

#### **4. TERM**

The term of this contract shall be for a period of fifty (50) years, commencing upon the date of opening of the Lodge Facility for public use as approved in writing by Joint Authority. However, this contract shall not be effective until all required approvals are provided by the Department of Parks and Recreation, the City of Grover Beach, 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 Joint Authority, 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 (1) 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.

#### **5. FINANCIAL REQUIREMENTS**

- A. Facility Improvements: Concessionaire shall plan, design, develop, permit, construct, equip, furnish, and complete all concession facility improvements as described in the "Scope of Work" and Concessionaire's "Facility Development Plan", which are attached to and made a part of this contract as **Exhibit "C"**

and **Exhibit "D"**, without cost to Joint Authority and with a minimum expenditure of Twenty million dollars (\$20,000,000). Any penalties, lien charges, and/or costs to resolve construction related disputes shall not be included in the minimum expenditure amount. After completion of all concession facility improvements and acceptance by Joint Authority, if there remains an unspent balance of the Twenty million dollars (\$20,000,000), Concessionaire shall pay this unspent balance to Joint Authority as an additional rental payment within thirty (30) days from Joint Authority's acceptance of the concession facility improvements.

B. Separate Funds:

Facility Renovation and Improvement Account: Concessionaire shall establish and administer a fund for the renovation and improvement of Lodge Facilities in accordance with **Paragraph 21, "Housekeeping, Maintenance, Repair and Removal,"** of the contract. Concessionaire shall dedicate no less than five percent (5%) of annual gross sales to the Facility Renovation and Improvement Account throughout the term of the contract.

**6. RENT**

Concessionaire shall pay, without offset, deduction, prior notice, or demand, as rent, the greater of a "Guaranteed Annual Rent" in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_) or the following percentage(s) of annual gross receipts, whichever total sum is greater:

\_\_\_\_\_ percent (\_\_\_\_%) of Gross Receipts.

Beginning with contract year six (6) and with each subsequent five (5) year period thereafter, (contract year eleven (11) and sixteen (16), etc.), the Guaranteed Annual Rent shall be adjusted to reflect changes in the



Consumer Price Index (CPI). Such CPI adjustments shall be made in accordance with the procedure set forth in the "Consumer Price Index Adjustment Formula", **Exhibit "E"**, attached to and made a part of this contract.

Concessionaire shall make payment of Rent and other payments to Joint Authority in lawful money of the United States. However, if any payment made by a check, draft, or money order is returned to Joint Authority due to insufficient funds or otherwise, Joint Authority 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 (15<sup>th</sup>) day of the month following the opening of the concession for business, and on or before the fifteenth (15<sup>th</sup>) day of each month thereafter, Concessionaire shall furnish to Joint Authority a verified statement of the concession's gross receipts for the preceding month. Such statement shall be in a format provided by Joint Authority 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 Joint Authority the appropriate rental fee for the preceding calendar month as prescribed above. Payments to Joint Authority shall be made to the order of the City of Grover Beach and delivered to the office of the City Manager identified herein below or at such other location as may from time to time be designated by Joint Authority. 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 Guaranteed Annual Rent required for that contract year, the difference shall be remitted to Joint Authority with the last monthly sales statement for the contract year. Payments must be received by Joint Authority on or before the fifteenth (15<sup>th</sup>) day of the month as described above. Any late payment shall constitute a breach of contract, giving rise to Joint Authority's remedies as set forth below. Further, any late

payment shall 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 Joint Authority shall incur because of late payment. Acceptance of the late charge by Joint Authority shall not constitute a waiver of Concessionaire's default for the overdue amount, nor prevent Joint Authority 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 Joint Authority, if not paid within five (5) days following the due date, shall 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 Joint Authority demonstrating unusual or extenuating circumstances causing the late payment, the Joint Authority, 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 Nature or other reasons beyond Concessionaire's control, and when requested in writing in advance by Concessionaire, Guaranteed Annual 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 Joint Authority.

If this contract is terminated by Joint Authority because of Concessionaire's default, and if Concessionaire becomes liable for any deficiency in rent and/or fees 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 below, then from and after the time of the breach causing this termination, or from and after the time of the cessation of business, all unpaid rent and/or fees prior to the breach causing termination or cessation of business shall become due and payable. The amount due shall be deemed to be the greater of: (a) the Guaranteed Annual Rent provided herein, or (b) an amount based upon the average of the payments that have accrued to Joint Authority 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.

## **7. USE OF PREMISES**

The Lodge Facility shall be planned, designed, constructed, equipped, furnished, managed, operated, and maintained as a high-quality 135-150 room lodge/conference facility along with related visitor-serving amenities that shall be accessible and subject to the use and enjoyment of the general public. The Lodge Facility shall be comparable in uniqueness of style and design and in quality of construction to lodge facilities located within the Asilomar Conference Grounds in Pacific Grove and the Fess Parker complex in Santa Barbara.

The use of Premises shall be consistent with the Joint Authority approved "Facility Development Plan" and "Operations Plan", proposed by Concessionaire and modified by Joint Authority as is reasonable and necessary to meet the intention of the Joint Authority for this concession operation and the missions of both the Department of Parks and Recreation and the City of Grover Beach. The approved "Facility Development Plan", **Exhibit "D"** and "Operations Plan", **Exhibit "F"** are incorporated herein and made a part of this contract.

Once opened for public use, Concession services shall be provided 24 hours per day, each day throughout the term of the contract. In the event of extreme adverse weather or other operating conditions, Joint Authority may permit the concession to close at any time during the term of this contract. Concessionaire shall not use or permit the Premises to be used in whole or in part during the term of this contract for any purpose other than as herein set forth without the prior written consent of Joint Authority. Concessionaire's operation of the Lodge and Conference Facility shall not unreasonably interfere with the Department of Parks and Recreation's concession operations at the Pismo State Beach restaurant and golf course, any other activities or programs of State of California, or the public's reasonable use and enjoyment of Pismo State Beach.

## **8. BONDS**

A. All bonds required under this contract must be in a form satisfactory to Joint Authority, 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 Joint Authority, 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 an amount equal to one (1) year's Guaranteed Annual Rent payable to the Department of Parks and Recreation and the City of Grover Beach. 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 Joint

Authority. 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 Joint Authority . Within 15 days of Joint Authority request, Concessionaire shall furnish Joint Authority with a signed and complete copy of the valid bond or financial instrument.

Beginning with contract year two (2), and on the first day of every other contract year thereafter, the required bond amount 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 the "Consumer Price Index Approved Formula", **Exhibit "E"**, attached to and made a part of this contract.

C. Construction Payment Bond: Prior to the commencement of construction required hereunder, Concessionaire shall furnish Joint Authority with a bond, listing Concessionaire's contractor(s) as principals, in a sum not less than **fifty percent (50%)** of the total cost of the construction. The bond shall guarantee payment by Concessionaire of all materials, provisions, provender, supplies, and equipment used in, upon, for, or about the performance of said construction, and protect the Department of Parks and Recreation and the City of Grover Beach from any liability, losses, or damages arising therefrom. In no event shall Concessionaire allow the imposition of a mechanics' lien or other lien on the concession property, and at its sole expense shall take all steps to remove such liens or the threat of such liens.

D. Construction Performance Bond: Prior to the commencement of construction required hereunder, Concessionaire shall furnish Joint Authority with a bond, listing Concessionaire's contractor(s) as principals, in a sum not less than **fifty percent (50%)** of the total cost

of the construction. The bond shall guarantee faithful performance of the construction by Concessionaire.

E. 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 shall cause Joint Authority to incur costs and significant risks not contemplated by this contract, the exact amount of which shall 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 Joint Authority an amount equal to ten percent (10%) of the required security or ten thousand dollars (\$10,000), whichever is greater. The parties agree that this charge represents a fair and reasonable estimate of the costs Joint Authority shall incur. Acceptance of this charge by Joint Authority shall not constitute a waiver of Concessionaire's default, nor prevent Joint Authority 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)]**

## **9. 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

- Liquor Liability (where the sale of alcohol is permitted)
- 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 Two Million Dollars (\$2,000,000) 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 Two Million Dollars (\$2,000,000) 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.

3) Fire Insurance: Fire insurance with extended coverage endorsements thereon on all improvements located on the Premises, whether furnished by the Department of Parks and Recreation, the City of Grover Beach, the Joint Authority or constructed upon the Premises by Concessionaire, in an amount equal to the full replacement cost and/or value thereof. This policy shall contain a replacement cost endorsement naming the Concessionaire as the insured provided that if there is a lender on the security of the improvements so insured, the proceeds of any such policy or policies may be made payable to such lender.

4) Business Interruption Insurance: Guarantees Joint Authority's rental revenue stream during any period of non-operation or any period of curtailed operation not solely

attributable to Joint Authority. Policy shall guarantee such compensation for a minimum period of one (1) year.

B. In the event of destruction, loss, or damage by fire or other cause of any of the State of California and/or City of Grover Beach owned buildings, improvements, or fixtures located on the Premises that the Joint Authority 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, Joint Authority may terminate this contract. A decision by Joint Authority to terminate the contract under this provision shall be communicated in writing to Concessionaire as soon as practicable. If the contract is so terminated, Joint Authority 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 Joint Authority shall be in addition to the right of Joint Authority to pursue whatever other remedies it may have to recover any losses due to the occurrence. If the Joint Authority determines not to terminate the contract, then, in Joint Authority'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 the Department of Parks and Recreation, the City of Grover Beach, through the Grover Beach Improvement Agency and the Joint Authority as to all insurable interests of Joint Authority including, but not limited to, the Premises and all contents as follows:



- 1) State of California, City of Grover Beach and the Joint Authority, 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 shall not cancel or reduce the insured's coverage without thirty (30) days prior written notice to Joint Authority.

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 Joint Authority. A signed certificate of insurance with each endorsement required shall be submitted to Joint Authority at the time this contract is executed, showing that the required insurance has been obtained. Further, at least thirty (30) days prior to the expiration of any such policy, Concessionaire shall submit to Joint Authority a signed and complete certificate of insurance with all endorsements required by this paragraph, showing to the satisfaction of Joint Authority that such insurance coverage has been renewed or extended. Within fifteen (15) days of Joint Authority request, Concessionaire shall furnish Joint Authority with a signed and complete copy of the required policy.

#### **10. ALCOHOLIC BEVERAGES**

Concessionaire may sell or provide beer, and wine, and/or distilled spirits for on-premises consumption in the conjunction with provision of conference services. No other alcoholic beverages shall be sold. A competent adult person twenty-one (21) years of age or over shall be on the Premises at all times to supervise the sale of alcoholic beverages. Further, the sale of alcoholic beverages shall be subject to any regulations established for the State Park System by the Director of the Department of Parks and

Recreation, the City of Grover Beach and the regulations established by the Department of Alcoholic Beverage Control.

All Concessionaire employees involved in the sale and service of alcoholic beverages shall be trained by Concessionaire in effective alcohol awareness, which includes training based on any applicable law of the California Department of Alcoholic Beverage Control. This training may include, without limitation, policies and procedures developed by Concessionaire dealing with alcohol management and a nationally recognized program such as "Techniques for Effective Alcohol Management " ("TEAM") or "Techniques for Intervention Procedures by Servers of Alcohol" ("T.I.P.S.").

## **11. CONSTRUCTION AND COMPLETION OF IMPROVEMENTS**

A. Facility Development Plan: Concessionaire, at Concessionaire's sole cost and expense, shall be responsible for the planning, design, permitting, development, construction, completion, and installation of facility improvements, landscaping, décor, equipment, fixtures, and furnishings as described in the "Scope of Work", **Exhibit "C"**, and in the Concessionaire's "Facility Development Plan", **Exhibit "D"**, attached to and made a part of this contract. All schematics, preliminary plans and working drawings shall be submitted to Joint Authority for approval in accordance with "Definitions and Procedures for Approval of Schematics", "Preliminary Plans" and "Working Drawings", **Exhibit "G"**, attached to and made a part of this contract. Implementation of the plan shall be as follows:

1) Program Confirmation: Within two (2) months of the execution of this contract, Concessionaire shall meet with Joint Authority to modify and amend the "Facility Development Plan" as is reasonable and necessary to meet the intention of Joint Authority for this concession operation and the mission of Joint

Authority. This shall include a) a Program statement describing qualitative and quantitative requirements for the project, including sustainable design goals, together with b) a site “bubble” diagram showing use, layout, access, infrastructure development, including roads, bridges and utilities, site circulation, landscape, relocation or redesign of existing uses; c) proposed massing; d) a written description of project plan and schedule, including plan for securing all required building and environmental permits.

2) Schematic Design: Within four (4) months of amending the “Facility Development Plan”, Concessionaire shall provide to Joint Authority for its review and approval a Schematic Design. Joint Authority shall not unreasonably withhold such approval. The objective of the Schematic Design is to clearly define the “Facility Development Plan” as amended and should include a site plan, building floor plans, all building elevations, outline specification, floor area usage, exterior color and material boards, updated schedule and permitting plan and Preliminary Statement of Probable Construction Cost. If Joint Authority disapproves any element of the program statement, Concessionaire shall promptly submit to Joint Authority all necessary modifications and revisions.

3) Public Involvement and Environmental Permits: Within twenty-four (24) months of the execution of this contract, Concessionaire shall complete the following items:

- a. Public input on design (workshops for the public and business community) as well as public hearings before Planning Commission and City Council
- b. CEQA and associated studies
- c. FEMA hydrologic study and CLOMR to adjust the Zone A floodplain

- d. Coastal Development Permit
  - e. California Department of Fish & Game Streambed Alteration Permit
  - f. US Army Corps Section 404 Permit
  - g. Meetings with California Department of Transportation in preparation for applying for an Encroachment Permit
- 4) Design Development: Within four (4) months of Joint Authority's approval of Concessionaire's Schematic Design, Concessionaire shall submit the Design Development for Joint Authority's review and approval. Joint Authority shall not unreasonably withhold such approval. The objective of the Design Development is to define and describe all the important aspects of the Facility Development project and should include the necessary details of each element of the Schematic Design to adequately convey key conditions of major improvements. In addition, the Design Development should include Reflected Ceiling Plans, Schedules, Structural Requirements, Plumbing, Mechanical, and Electrical Plans, Food Service Requirements, Color Boards, Material and Systems Specifications, Outline Specifications, and an updated Preliminary Statement of Probable Construction Cost. If the Joint Authority disapproves any element of the Design Development, Concessionaire shall promptly submit necessary modifications and revisions.
- At the conclusion of the Design Development Phase, all environmental permits shall be in progress or secured and approved.
- 5) Working Drawings: Within twelve (12) months of Joint Authority's approval of Concessionaire's Design Development, Concessionaire shall submit completed Working Drawings with periodic reviews, for Joint Authority's review and approval. Joint Authority shall not unreasonably withhold such approval. The

objective of the Working Drawings is to set forth in detail the requirements for construction of the "Facility Development Plan" including bidding and contracting. At a minimum, the drawings should include all Design Development elements plus: complete documentation of quantities, qualities, and relationships of all work required to construct the "Facility Development Plan"; documentation of decisions made in the Design Development phase; all documentation needed for obtaining regulatory and Joint Authority approvals; and the final Estimate of Probable Construction Cost. If Joint Authority disapproves any drawings, plans or specifications, Concessionaire shall promptly submit necessary modifications and revisions. Once approved, the Working Drawings shall be made a part of the "Facility Development Plan" and incorporated as Exhibit "D" in this contract. No changes or alterations shall be made to the approved Working Drawings without prior written approval of Joint Authority.

Within four (4) months after approved Working Drawings and after a construction contract has been secured, Concessionaire shall submit a schedule of values and construction timeline, including the mitigation plan as required. Concessionaire may also be required to submit other information such as submittals, shop drawings, manufacturer's cut sheets, product data or mockups as required by and for approval by Joint Authority. Additionally, an equipment schedule, furniture list and catalog cut sheets, including but not limited to, equipment, manufactured and custom items, fixtures, furnishings and décor shall also be required for approval by Joint Authority.

- B. Use of Consultants: Concessionaire shall employ licensed contractor(s) in the completion of all required construction work.

Additionally, Concessionaire shall utilize professional contractors and consultants, including architects(s) and engineer(s), acting in accordance with the latest American Institute of Architects' standards of practice to develop comprehensive construction plans, including schematic design plans, design development plans, and working drawings, and to conduct independent inspections and monitoring of all construction. Concessionaire agrees to select contractors and consultants who are fully licensed to practice in the State of California and are acceptable to Joint Authority. However, in no event shall Joint Authority be deemed to have control of or be responsible for Concessionaire's final hiring decisions, the day-to-day management of the project, or administration of contracts with contractors or consultants. Contracts between Concessionaire and any contractor or consultant must be approved in writing by Joint Authority in advance of execution by Concessionaire.

C. Joint Authority Approval/Acceptance of Plans and Work: Joint Authority approval of the work and plans shall be for the purpose of determining that such work conforms in scope and quality to Joint Authority policies and standards, and in no way shall relieve Concessionaire or its contractors or subcontractors of the responsibility to perform and complete the work (1) in accordance with generally accepted industry standards, (2) faithfully adhering to the approved plans, specifications, and drawings, and (3) in accordance with all applicable codes, laws, regulations, mitigations or other requirements, including but not limited to, the standards contained in this contract.

D. Permits: At its sole cost and expense, including reviews and mitigation costs, Concessionaire shall obtain all permits, licenses, and other approvals necessary for the construction and completion of the "Facility Development Plan", Exhibit "D". Such permits and approvals may include, but are not limited to, those required under the Public Resources Code 5024, County Fire Department, California Coastal

Act, California Building Code, State Fire Marshal, Americans with Disabilities Act (ADA), County Health Department, California Department of Industrial Relations (elevator), City of Grover Beach Municipal Code, all permits and approvals required under Paragraph 11B(3) above and all other approvals required by the JPA, Exhibit "B." Concessionaire shall reimburse Joint Authority for all costs associated with plan reviews, including but not limited to, architectural, structural, mechanical, seismic, State Fire Marshall and ADA review and approval. Joint Authority may also hire an independent construction manager to represent the interest of the Joint Authority during the construction project which cost shall be reimbursed by Concessionaire. Concessionaire shall reimburse Joint Authority for all costs incurred by Joint Authority on behalf of Concessionaire in association with acquisition of said permits. Joint Authority shall produce records of such costs for review by Concessionaire on a monthly basis. The Joint Authority shall cooperate with Concessionaire with respect to securing said permits including the execution of documents required by a governmental authority to be initiated by Joint Authority. In the event Concessionaire, having exercised all due diligence in applying for and seeking all approvals, cannot secure all required permits within three (3) years from Concessionaire's taking possession of the Premises, the Joint Authority shall have the option to terminate this contract.

Prior to entering into a construction contract, Concessionaire shall secure all permits and required approvals.

E. Alterations: It is the intent of this contract and the contracting parties that the concession facilities contemplated herein shall not only be constructed in accordance with the requirements herein, but in coordination with Joint Authority's development of the unit. The Joint Authority, in its discretion after consultation with Concessionaire, may alter the "Facility Development Plan" and Working Drawings, and/or the construction timeline to agree with its—schedule of development for

the unit. Any changes to the timeline shall not be earlier than the dates set forth in the Working Drawings, as approved by Joint Authority, except with concurrence of Concessionaire.

F. Completion of Improvements: Upon approval of the Working Drawings, review of bid costs and schedule by Joint Authority and receipt of all required permits, licenses, and other approvals, Concessionaire shall commence construction to the facility as described herein, and prosecute the same to completion with all due diligence and within **twenty-four (24) months**. Such time shall be extended as reasonably necessary in the event of delays caused by fire, earthquakes, wars, strikes, adverse weather, or other calamity beyond Concessionaire's control. Concessionaire shall hold monthly or more frequent status meetings throughout the period of construction, which shall include representatives of the general contractor, appropriate subcontractors, representatives of Concessionaire, and representatives of the Joint Authority.

Upon completion of construction, Concessionaire shall (1) file a Notice of Completion of Construction with the County Recorder with a copy to Joint Authority; (2) submit evidence that all improvements are clear of any mechanic's liens; (3) have work certified by the architect or engineer of record to be in compliance with the Working Drawings as approved by Joint Authority and all applicable buildings or other laws, codes, or regulations; (4) provide Joint Authority with a complete set of "as-built" plans for all improvements in a format acceptable to Joint Authority; (5) submit an account of the cost for all facility improvements, excluding equipment and trade fixtures that are the personal property of Concessionaire; (6) provide copy of an occupancy permit at completion of construction.

The cost accounting as required by item (5) above shall include cost statements and substantiating invoices for all project expenses including labor and materials. After such accounting has been



examined by Joint Authority, Joint Authority in its sole discretion shall establish in a reasonable and fair manner the cost of facilities and improvements for the purposes of evaluating Concessionaire's compliance with the facility development expenditure requirements of this contract. In the event such accounting is not filed by Concessionaire at the time specified, Joint Authority shall estimate the cost of the project and serve notice of same on Concessionaire in the manner provided herein.

When Concessionaire has received written acceptance from Joint Authority of the Notice of Completion, subject to other provisions of this contract, Concessionaire shall have the right to commence concession business operations.

G. General Construction Guidelines: Except as provided by law or regulations, the latest adopted versions or the 2001 California Building Code (Title 24, California Code of Regulations,) 2004 Edition of the California Fire Code, Health and Safety Section of the 2001 Edition of the California Building Code pertaining to California Accessibility Standards shall apply.

Concessionaire shall use the Construction Specifications Institute (CSI) Master Guide Specifications in the planning, design and construction and documents for all concession facility improvements approved by Joint Authority and included in "Scope of Work", **Exhibit "C"** and "Facility Development Plan", **Exhibit "D"**.

Concessionaire shall place great importance on quality assurance by complying with all governing codes and regulations, providing products of acceptable manufacturers which have been in satisfactory use in similar service for three (3) years. The Concessionaire shall also use experienced installers and deliver, handle and store materials in accordance with manufacturer's instructions.

An independent inspector(s), including all required special inspections, (i.e. concrete placement, welding, etc.) shall verify that all construction is in conformance with current CBC (California Building Code).

Copies of all inspection reports shall be furnished to and consented to in writing by Joint Authority, which consent shall not be unreasonably withheld.

Concessionaire's construction activities shall not unreasonably interfere with the Department of Parks and Recreation's concession operations at the Pismo State Beach restaurant and golf course, any other activities or programs of State of California, or the public's reasonable use and enjoyment of Pismo State Beach.

Notwithstanding any other provision of this Contract, Joint Authority shall have the right to halt work or other activities and demand mitigation measures at any time in the event it is determined that such work or activities pose a threat to the health and safety of the public or other persons., natural and cultural resources including human remains as detailed in **Paragraph 4** of the JPA.

## **12. CONTRACT NOTICE**

Any notices required to be given or that may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid, and addressed as follows:

Concessionaire at:           CT-ConcessionaireName  
  CT-ConcessionContactAddress  
  CT-ConcessionCityState CT-ConcessionZip  
  CT-ConcessionairePhone

State at:                         District Superintendent  
  Department of Parks and Recreation

Oceano Dunes District  
340 James Way, Suite 270  
Pismo Beach, CA 93449  
(805) 773-7170

City at: City Manager  
City of Grover Beach  
154 S. Eighth Street  
Grover Beach, California 93433  
(805) 473-4567

Copy to: Department of Parks and Recreation  
Concessions & Reservations Division  
P.O. Box 942896  
Sacramento, California 94296-0001

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.

### **13. 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 Joint Authority. 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 Joint Authority.

In accordance with Public Resources Code Section 5080.18(c), Joint Authority shall have the right through its representatives 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 Joint Authority upon Joint Authority's request therefor. Concessionaire further agrees to allow interviews of any employees who might reasonably have information related to such records.

Concessionaire shall submit to Joint Authority, 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 or other twelve (12) month period approved by Joint Authority. Such statement shall be submitted on Form DPR 86, "Concessionaire's Financial Statement", **Exhibit "H"**, attached to and made a part of this contract, or in a format previously approved by Joint Authority, 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 Joint Authority. Within forty-five (45) days of the expiration or termination of this contract, Concessionaire shall submit to Joint Authority 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 Joint Authority, 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 Joint Authority upon Joint Authority's request. Concessionaire shall provide a cash register receipt to each customer setting forth the full amount of a sale.

**14. 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 or owed to 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 Joint Authority, all without deduction. The term "gross receipts" shall not include any sales taxes imposed by any governmental entity and collected by Concessionaire. Bad debt losses, including, but not limited to, counterfeit currency, bad checks and employee embezzlements shall not be deducted from gross receipts.

**15. RATES, CHARGES AND QUALITY OF GOODS AND SERVICES**

Concessionaire shall staff, operate, manage, 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. Joint Authority 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 Joint Authority's view, fair pricing, proper service, and appropriate quality. Joint Authority 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, Joint Authority reserves the right to approve such manager.

A fee schedule for room rates approved by Joint Authority shall be included as part of this contract as **Exhibit "I"**, attached to and made a part of this contract.

**16. PERFORMANCE EVALUATIONS AND INSPECTION**

As part of its administration of this contract, Joint Authority shall 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), **Exhibit "J"**, attached to and made a part of this contract, or other similar format(s) as may be adopted by Joint Authority shall be utilized for evaluation purposes. Joint Authority 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 Joint Authority in all respects related to the implementation of the Concession Performance Evaluation program and with Joint Authority activities on the Premises. Joint Authority shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Joint Authority's entry onto the Premises as provided herein, except damage resulting from the active negligence or willful misconduct of Joint Authority or their authorized representatives.

**17. HOLD HARMLESS AGREEMENT**

Concessionaire hereby waives all claims and recourse against the State of California, the City of Grover Beach and the Joint Authority, 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 of California, the City of Grover Beach and the Joint Authority, its officers, agents, or employees. Concessionaire shall protect, indemnify, hold harmless, and defend the State of California, the City

of Grover Beach and the Joint Authority, 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 the State of California, the City of Grover Beach and the Joint Authority, its officers, agents, or employees or other wrongful acts for which the Joint Authority is found liable by a court of competent jurisdiction.

**18. 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.

**19. 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 Joint Authority shall be obtained prior to the commencement of any Alterations. Joint Authority shall dictate the plan approval process.

Once any Alteration has been approved by Joint Authority 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 Joint Authority 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, including equipment, furnishings, and fixtures existing or hereafter erected or placed on the Premises, regardless of who constructs or installs such improvements, shall immediately become Department of Parks and Recreation property at the end of the Contract Term and 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, Department of Parks and Recreation 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 Department of Parks and Recreation 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.



**20. PERSONAL PROPERTY**

Except to the extent covered by **Paragraph 19**, "Modifications, Additions, Title To Improvements," title to personal property provided by Concessionaire shall remain in Concessionaire. Concessionaire shall not attach any personal property to any building without first obtaining Joint Authority's written approval. Unless approved in writing by Joint Authority, all property attached to real property shall be considered a real property improvement and shall become property of the Department of Parks and Recreation at the time this contract is terminated.

**21. 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 Industry Standards for the operation of high-quality hotels.

B. Maintenance and Repairs: Concessionaire shall maintain all concession facilities, landscaping 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 Industry Standards

for the operation of high-quality hotels. For the purposes of this contract, the term “maintenance” is defined as all repair and preservation work necessary to maintain concession facilities, landscaping 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.

Pest inspections shall be performed regularly. Concessionaire shall remedy all pest infestations in a timely manner. Concessionaire shall provide to Joint Authority copies of all pest inspection reports or other professional assessments of the condition of the facilities.

Should Concessionaire fail, neglect, or refuse to undertake and complete any required maintenance, Joint Authority shall have the right to perform such maintenance or repairs for Concessionaire. In this event, Concessionaire shall promptly reimburse Joint Authority for the cost thereof provided that Joint Authority shall first give Concessionaire ten (10) days written notice of its intention to perform such maintenance or repairs. Joint Authority 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 Joint Authority 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. Joint Authority has made no representations respecting the condition of the Premises, except as specifically set forth in this contract.

C. Landscaping and Grounds Maintenance:

- 1) Concessionaire shall conduct business and daily activities in such a manner as to minimize impacts on the surrounding natural environment, including protection for native vegetation and erosion control.
- 2) Concessionaire shall prepare and submit for approval by Joint Authority a comprehensive Landscape Plan. The

Plan shall provide for the installation, care and maintenance of all landscaped areas, located within the Premises. The Plan must identify the species of all existing and proposed plantings. Wherever practical, use of local, native vegetation is preferred. All landscaping shall employ xeriscape techniques to the greatest extent possible. Large volume watering requirements are inconsistent with historical landscaping, native plants, and modern resource management practices. The approved Landscape Plan shall be incorporated into the "Facility Development Plan", **Exhibit "D"**.

- 3) Concessionaire must receive approval from Joint Authority prior to undertaking any landscaping activities not identified in the approved Landscape Plan.

D. Facility Renovation and Improvement Account: As set forth in **Paragraph 5** "Financial Requirements," Concessionaire shall allocate a minimum of five percent (5%) of annual gross receipts for the renovation and improvement of concession facilities during each contract year throughout the term of this contract. Concessionaire shall within thirty (30) days after the end of each contract year submit to Joint Authority an itemized statement, including copies of vendor receipts, as applicable, documenting expenditures for renovations and improvements to Joint Authority owned concession facilities during the previous contract year. If Concessionaire's total annual facility renovation and improvement expenditures as documented by the itemized statement, is less than five percent (5%) of annual gross receipts for that contract year, the Concessionaire shall pay to Joint Authority the unspent balance as an additional concession rental payment. Such payment shall be made within thirty (30) days after the end of each contract year. Nothing

herein shall release the Concessionaire from the obligation to annually expend an amount greater than five percent (5%) of annual gross receipts should the facility renovation and improvement requirements set forth in this contract necessitate a greater expenditure.

Notwithstanding the aforementioned, the Joint Authority may grant an exception for any unused balance of the five percent (5%) facility renovation and improvement requirement, but only as follows: In lieu of additional rental payment(s), and with prior written approval by Joint Authority, Concessionaire may carry over all or part of the unspent portion of the facility renovation and improvement allocation for expenditure on facility renovations and improvements in future year(s). If any portion of the facility renovation and improvement allocation is held over, the Concessionaire shall establish, within thirty (30) days, after approval by Joint Authority, a joint interest bearing impound account requiring the signature of the Joint Authority to withdraw funds from the account for facility renovation and improvement monies with a financial institution licensed to conduct business in San Luis Obispo County. A copy of the monthly interest bearing impound account statement shall be forwarded to the Joint Authority. It is understood, however, that Concessionaire shall make such requests in writing and that Joint Authority, at its sole discretion, reserves the right to approve or disapprove such requests. After the termination of the contract Concessionaire shall pay to Joint Authority all unspent facility renovation and improvement funds including all accrued interest as an additional concession rental payment within thirty (30) days after termination of contract.

Funds expended by the Concessionaire for facility maintenance, housekeeping activities and repairs to Concessionaire's personal property shall not be used to fulfill the above stated facility renovation and improvement expenditure requirement under this contract.

E. 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.

## **22. UTILITIES AND SERVICES**

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

## **23. 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 of California and the City of Grover Beach. Accordingly,

Concessionaire shall prepare and execute a program, subject to the prior written approval of Joint Authority, designed to reduce environmental impacts that result from concession operations. This program shall address, but not be limited to: solid waste management, including reduction, reuse and recycling; water and energy conservation, pest management, grease removal and disposal, hazardous materials handling and storage, and air quality. Specifically, the program must include the following:

1) Recycling and Beverage Container Programs: The Concessionaire shall implement a source reduction and recycling program designed to minimize concession and patron use of disposable products, per Public Contract Codes Sections 12161 and 12200 et seq. Reusable and recyclable products are preferred over "throwaways". Where disposable products are needed, products that have the least impact on the environment shall be selected. No Styrofoam containers or other non-biodegradable containers are to be used or sold by Concessionaire. The use of "post-consumer" recycled products is encouraged wherever possible.

The Concessionaire shall participate fully in the California beverage container redemption/recycling program. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetal, plastics, aluminum and glass. At the start of each contract year, Concessionaire and Joint Authority shall review items sold, and containers or utensils used or dispensed by Concessionaire, and, whenever possible, eliminate the use of non-returnable or non-recyclable containers or plastics.

2) Water and Energy Conservation: The Concessionaire shall implement water and energy conservation measures. As new technologies are developed, Concessionaire shall explore the possibility of integrating them into existing operations where

there is potential for increased efficiency, reduced water or energy consumption, and/or reduced impacts on the environment.

3) Erosion Control/Water Quality/Environmental Sensitivity:

The Concessionaire shall comply with all requirements set forth by various oversight agencies that have jurisdiction and oversight authority relating to the Premises and surrounding properties, including, but not limited to, erosion control, water quality and environmental sensitivity standards.

4) Sustainable Design:

The Concessionaire shall comply with all provisions of State of California, Executive Order S-20-04.

B. Concessionaire shall comply with Joint Authority 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.

**24. 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 and best practices pertaining to the use, storage, transportation, and disposal of hazardous substances. Concessionaire shall protect, indemnify, defend, and hold harmless Joint Authority 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 Joint Authority 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 Department of Parks and Recreation shall be solely responsible as between Concessionaire and the Department of Parks and Recreation for all expenses and efforts in



connection therewith, and Department of Parks and Recreation shall reimburse Concessionaire for all reasonable expenses actually incurred by Concessionaire therewith.

C. Certification: Upon termination of this contract, when requested by Department of Parks and Recreation or the City of Grover Beach, 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 Activities: All pest control activities, chemical and non-chemical, shall be approved by Joint Authority 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 Joint Authority for approval. The Joint Authority has fourteen (14) days to approve or deny the request. Such approval shall be solely for compliance with Department of Parks and Recreation and the City of Grover Beach 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 Joint Authority 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).

## **25. 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.

**26. 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 Joint Authority and only consistent with the purposes of the contract.

**27. PHOTOGRAPHY**

Joint Authority 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.

**28. INTELLECTUAL PROPERTY RIGHTS**

Any names, logos, and/or trademarks developed during and pursuant to this contract that will in any way associate with, identify, or implicate an affiliation with California State Parks, the City of Grover Beach and/or any facilities, operations or properties owned and/or authorized by either entity, including but not limited to, "The Grover Beach Lodge," shall be approved by Joint Authority, but, whether or not so approved, shall be deemed to have been developed pursuant to this Agreement and licensed hereunder to Concessionaire for the term of this Agreement only; shall belong to State upon creation; and shall continue in State's exclusive ownership upon termination of this Agreement, and all goodwill and other rights in said marks shall inure to the benefit of State as the mark owner. Further, any original works of authorship in which copyright resides, and any other proprietary rights, including without limitation trade secrets and know-how, which are developed during and/or pursuant to this contract, shall be deemed to be works made for hire in consideration of Concessionaire's rights and benefits

hereunder, or alternatively Concessionaire agrees to assign such copyrights to the, State, and shall be owned by State; shall belong to State upon creation; and shall continue in State exclusive ownership upon termination of this Agreement. These works shall include, but are not limited to, all drawings, designs, reports, specifications, notes, and other work developed in the performance of this Agreement. Further, Concessionaire shall deliver to State upon request the disk or tape that contains the design or other such files containing such information, and shall specify the supplier of the software and hardware necessary to use the files of any work that is performed with the assistance of Computer Aided Design and Drafting Technology. Concessionaire intends and agrees to assign to State all right, title, and interest in and to such materials, as well as all related copyrights and other proprietary rights therein, unless otherwise agreed to in writing.

Concessionaire warrants that it has the full right, power, and authority over and is the sole exclusive owner of all tangible and intangible property deliverable to State in connection with this Agreement and that title to such materials conveyed to State shall be delivered free and clear of all claims, liens, charges, judgments, settlement, encumbrances, or security interests.

Concessionaire agrees not to incorporate into or make any deliverables dependent upon any original works of authorship or Intellectual Property Rights of third parties without first (i) obtaining State's prior written permission, and (ii) granting to or obtaining for State a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform, publicly and privately display and distribute any such prior works for any purpose whatsoever.

Concessionaire further warrants that all deliverables do not infringe or violate any patent, copyright, trademark, trade secret, or any other intellectual property rights of any person, entity, or organization. Concessionaire agrees to execute any documents reasonably requested by State in connection with securing State's registration of patent and/or copyrights, or any other statutory protection in such work product, including an assignment of copyright, in all

deliverables. Concessionaire further agrees to incorporate these provisions into all of its contracts with architects, engineers, and other consultants or contractors.

Concessionaire, at its sole expense, shall hold harmless, protect, defend, and indemnify State of California, City of Grover Beach and Joint Authority against any infringement action and/or dispute brought by a third party in connection with any deliverable hereunder. Concessionaire shall pay all costs, expenses, losses and damages, judgments and claims including reasonable attorney's fees, expert witness fees and other costs.

## **29. PARTICIPATION IN JOINT AUTHORITY MARKETING PROGRAMS**

Concessionaire acknowledges that the Department of Parks and Recreation and the City of Grover Beach have or may establish advertising and marketing programs designed to promote additional revenue and to deliver a consistent and positive image to the public. Concessionaire agrees to participate in this program in the manner described below without compensation from the Department of Parks and Recreation and the City of Grover Beach 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 and/or the City of Grover Beach.
- B. Concessionaire agrees to place on the Premises any advertising that the Joint Authority approves under this program. Any advertising approved by the Joint Authority under this program shall be placed at Joint Authority 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 Joint Authority 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.

**30. 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 thirty (30) consecutive days or longer. The Premises shall be deemed abandoned after Joint Authority 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, Joint Authority 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 Joint Authority's declaration of such 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 Joint Authority 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 Joint Authority 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 Joint Authority.

5) Involuntary Assignments, Bankruptcy: Joint Authority, 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 Joint Authority 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 Joint Authority specifically so states in the notice.

### **31. DEFAULT REMEDIES**

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

A. Collection of Rent: In any case where Joint Authority has a cause of action for damages, Joint Authority 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 Joint Authority from bringing another suit for rent; it being the purpose of this provision to provide that the forbearance on the part of Joint Authority 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 Joint Authority, if it so elects, as separate claims capable of being assigned separately.

B. Maintain Contract in Effect: The Joint Authority has the remedy described in California Civil Code 1951.4 (lessor may continue lease in effect after lessee's breach or abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations). The following do not constitute a termination of the Concessionaire's right to possession: (1) Acts of maintenance or preservation or efforts to relet the Premises; (2) The appointment of a receiver upon initiative of the Joint Authority to protect Joint Authority's interests under the Contract; (3) Withholding consent to a subletting or assignment so long as such consent is not unreasonably withheld.

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

D. Termination of Concessionaire's Right to Possession: Upon an event of default, and Concessionaire's failure to cure such default within the time limits specified herein, Joint Authority may terminate Concessionaire's right to possession of the Premises at any time by written notice to Concessionaire. In the absence of such written notice from Joint Authority, no act by Joint Authority, including, but not limited to, acts of maintenance, efforts to relet and/or assign rights to possession of the Premises, or the appointment of a receiver on Joint Authority initiative to protect the interests of Joint Authority under this contract shall constitute an acceptance of Concessionaire's surrender of the Premises, or constitute a termination of this contract or of Concessionaire's right to possession of the Premises. Upon such termination, Joint Authority has the right to recover from Concessionaire:

- 1) the worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this contract;
- 2) 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 this contract until the time of the award exceeds the amount of loss of rent that Concessionaire proves could have reasonably been avoided;
- 3) 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
- 4) any other amount necessary to compensate Joint Authority 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 Joint Authority 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 Joint Authority'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 Joint Authority Direction: In the event of a default by Concessionaire, when cure is not received and acknowledged by Joint Authority 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 the designee of Joint Authority within thirty (30) days of receipt of written demand by Joint Authority. 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, Joint Authority 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 Joint Authority to terminate this contract.

G. Right to Cure Concessionaire's Default: At any time after Concessionaire commits a default, Joint Authority can cure the default at Concessionaire's cost. If Joint Authority, 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 Joint Authority shall be due immediately from Concessionaire to Joint Authority, 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 Joint Authority until Joint Authority 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 Joint Authority 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) Joint Authority Obligations After Default: Joint Authority 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 Joint Authority 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 of California 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. Joint Authority shall have such rights and remedies for failure to pay such monetary obligations as Joint Authority would have if Concessionaire failed to pay rent due. The remedies provided in this contract are in addition to any other remedies available to Joint Authority 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 Joint Authority 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.

### **32. DEFAULT BY JOINT AUTHORITY**

Joint Authority 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 Joint Authority specifying the alleged default and the applicable contract provision giving rise to the obligation. However, if the nature of Joint Authority's obligation is such that more than thirty (30) days is required for its performance, then Joint Authority shall not be deemed in

default if it shall commence performance within such 30-day period and thereafter diligently prosecute the same to completion.

**33. JOINT AUTHORITY BUY-OUT PROVISIONS**

A. Notwithstanding any other provision in this contract and in addition to any other remedy available to Joint Authority, upon twelve (12) months written notice, Joint Authority shall have the option to terminate the contract and to pay Concessionaire the then depreciated cost of the facilities placed, created, or developed by Concessionaire on the Premises.

B. It is expressly understood that this paragraph does not apply to the situation where Joint Authority may terminate this contract for any breach on the part of the Concessionaire under **Paragraph 30**, "Default by Concessionaire", or where the contract is terminated at Concessionaire's request. Where there has been a breach on the part of the Concessionaire, under any terms of this contract, the Joint Authority shall not be obligated to pay the Concessionaire before or after taking possession of the Premises.

In the event of breach, bankruptcy, insolvency, abandonment, or the contract is determined at Concessionaire's request, the buy-out provisions contained herein are not to be considered as an obligation of Joint Authority.

C. For the purposes of this paragraph, such facilities shall be deemed to be the structures Concessionaire is expressly required to construct, create, or develop under **Paragraph 11**, "Construction and Completion of Improvements", or later adds, exclusive of Concessionaire's personal property. The cost of such facilities for the purposes of this paragraph shall be those values established under **Paragraph 11(F)**, "Construction and Completion of Improvements", above.

D. The amount to be paid as the then depreciated cost of the facilities in the event of termination under this paragraph shall be based on a Eight Percent (8%), Fifty (50) year capital recovery schedule, which shall provide Eight Thousand One Hundred Seventy Four Dollars (\$8,174) for each One Hundred Thousand Dollars (\$100,000) of beginning cost, multiplied by the remaining years of the contract.

E. In the event there is an assignment of this contract for security and as consented to by Joint Authority, then any payments made pursuant to this paragraph shall be used to satisfy such assignee to the extent of assignee's interest.

F. This paragraph shall only be operative when funds required by Joint Authority for such buy-out are lawfully available to Joint Authority, either through appropriation by the California State Legislature and/or the City of Grover Beach, or otherwise.

**34. 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 the Department of Parks and Recreation 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 34(A)** above 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 Joint Authority for any damage to Concessionaire resulting from Department of Parks and Recreation retention or disposition of Concessionaire's personal property.

Concessionaire shall be liable to the Department of Parks and Recreation for its 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 of California on the expiration, assignment, or within thirty (30) days after earlier termination of the term as required by this Section, Concessionaire shall hold Joint Authority 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 the express consent of Joint Authority, 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 annual rent of the last year prior to the expiration or earlier termination of the contract and in addition to any changes as the result of Consumer Price Index adjustments required by this Agreement, unless otherwise agreed to in writing by Joint Authority. Concessionaire shall pay such 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.

**35. NO RECORDATION; QUITCLAIM**

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

B. Quitclaim: Concessionaire shall execute and deliver to the Department of Parks and Recreation on the expiration or termination of this contract immediately on request by the Department of Parks and Recreation, 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 Department of Parks and Recreation. Should Concessionaire fail or refuse to deliver to such quitclaim deed or other documents as aforesaid, a written notice by the Department of Parks and Recreation 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.

**36. ATTORNEYS FEES**

Concessionaire shall reimburse Joint Authority 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 Joint Authority as a result of a breach or default under this contract. If Concessionaire becomes the prevailing party in any legal action brought by Joint Authority, Concessionaire shall be entitled to recover reasonable attorney fees and expenses incurred by Concessionaire and need not reimburse Joint Authority for any attorney fees and expenses incurred by Joint Authority.

**37. 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. The rules, regulations and

policies of State of California applicable to units of the State Park system shall be applicable to the Lodge Facility and the Premises. Concessionaire acknowledges and warrants that it is or shall 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, historic preservation, environmental impacts, and state and local building codes and regulations.

### **38. 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, Joint Authority shall have the right to terminate this contract, and any loss of revenue sustained by Joint Authority by reason thereof shall be borne and paid for by the Concessionaire.

### **39. 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 Joint Authority is required prior to implementation of any plans to comply with accessibility requirements.

**40. 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", **Exhibit "K"**, attached and made a part of this contract.

**41. 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.

**42. 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.

**43. 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.

#### **44. EMPLOYEE TRAINING**

All concession employees shall receive training to include an orientation on the State Park System, the City of Grover Beach and other 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, the City of Grover Beach and its visitors. Concessionaire's Employee Training/Orientation Program is subject to approval by the Department of Parks and Recreation and the City of Grover Beach.

#### **45. CONFLICT OF INTEREST**

Concessionaire warrants and covenants that no official, employee in the State of California civil service, other appointed state official, employee in the City of Grover Beach, other appointed city 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) shall be employed in the performance of this contract without the immediate divulgence of such fact to Joint Authority. In the event the Department of Parks and Recreation or the City of Grover

Beach 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, Joint Authority shall have the right both to annul this contract without liability and, in its discretion, recover from the Concessionaire the full amount of any compensation paid to such official, employee, or business entity.

**46. WAIVER OF CLAIMS**

The Concessionaire hereby waives any claim against the State of California, the City of Grover Beach and the Joint Authority, 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.

**47. 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 Joint Authority 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 Joint Authority of any breach. No option, right, power, remedy, or privilege of Joint Authority shall be construed as being exhausted by the exercise thereof in one or more

instances. The rights, powers, options, and remedies given to Joint Authority by this contract shall be deemed cumulative.

**48. 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.

**49. DURATION OF PUBLIC FACILITIES**

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

**50. TIME OF ESSENCE**

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

**51. 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 of California; provided however, that the Concessionaire shall be paid the book value of the construction, equipment, and furnishings described herein and any future modifications or additions thereto made by Concessionaire. Book value shall be the established cost of improvements as determined under **Paragraph 11(F), “Construction and Completion of Improvements”** above, less depreciation based on a straight-line method of depreciation on a life as established for such facilities, equipment, and furnishings by the United States Internal Revenue Service.

**52. TEMPORARY TENANCY**

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

**53. 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 of California, City of Grover Beach, and the Concessionaire or their successors in interest.

**54. 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.

**55. CONTRACT IN COUNTERPARTS**

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

**56. 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 Department of Parks and Recreation, the City of Grover Beach or the Joint Authority.

**57. ASSIGNMENTS AND SUBCONCESSIONS**

A. Assignment:

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 Joint Authority. Before Joint Authority considers such assignment, evidence must be given to Joint Authority 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.

Concessionaire shall pay to both the Department of Parks and Recreation and the City of Grover Beach a (Fifteen Thousand Dollars - (\$15,000) administrative fee for the processing of each request for assignment. Such payments shall be due and payable at the time the request is made.

B. Subconcessions:

With the prior written consent of Joint Authority, portions of this concession may be operated by others. The following conditions shall be met:

- (1) The subconcessionaire shall be fully qualified.
- (2) The subconcessionaire's interest shall be subordinate and in all ways subject to the terms of this contract.
- (3) The subconcessionaire contract shall have prior written approval of Joint Authority.
- (4) Concessionaire's gross receipts shall include all receipts of such subconcessionaire.

**58. 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 Department of Parks and Recreation, the City of Grover Beach and the Concessionaire, and approved in writing by the Department of General Services and the Attorney General of the State of California. The Joint Authority 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.

**59. 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.

**60. APPROVAL OF CONTRACT**

This contract, amendments, modifications, or termination thereof shall not be effective until approved by the relevant control agencies of the Department of Parks and Recreation and the City of Grover Beach.

**61. STATE OF CALIFORNIA'S DISTRICT SUPERINTENDENT**

For the purposes of this contract, the "District Superintendent" is the State of California representative in direct charge of Oceano Dunes District, Pismo State Beach, and other units as may be assigned. The "District Superintendent" is charged with State of California oversight and review of this contract and the Joint Powers Agreement, **Exhibit "B"**, and is the State of California's initial contact with the City of Grover Beach for information, contract performance and other issues as might arise. The "District



Superintendent” may delegate these responsibilities to a Sector or Park Superintendent or other individual.

**62. CITY OF GROVER BEACH’S CITY MANAGER**

For the purposes of this contract, the “City Manager” is the City of Grover Beach representative responsible for this contract. The “City Manager” is charged with the day-to-day administration of this contract and is the Concessionaire’s initial contact with the Joint Authority for information, contract performance, and other issues as might arise. The “City Manager” may delegate these responsibilities to another City of Grover Beach staff member.

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**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**

**CITY OF GROVER BEACH  
MAYOR**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED:**

**ATTORNEY GENERAL:**

**STATE OF CALIFORNIA  
DEPARTMENT OF PARKS & RECREATION  
DIRECTOR**

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

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

**Edmund G. Brown Jr., Attorney General  
of the State of California**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy Attorney General

**APPROVED:**

**DEPARTMENT OF GENERAL SERVICES**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

# EXHIBITS

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

State of California – The Resource Agency  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION

CONCESSION CONTRACT FOR GROVER BEACH LODGE  
AT PISMO STATE BEACH

**LIST OF EXHIBITS**

EXHIBIT "A":	Concession Premises
EXHIBIT "B":	Joint Powers Agreement
EXHIBIT "C":	Scope of Work
EXHIBIT "D":	Facility Development Plan <i>(Attached after approval by Joint Authority)</i>
EXHIBIT "E":	Consumer Price Index Adjustment Formula
EXHIBIT "F":	Operations Plan <i>(Attached after approval by Joint Authority)</i>
EXHIBIT "G":	Definitions and Procedures for Approval of Schematics, Preliminary Plans and Working Drawings
EXHIBIT "H":	Concessionaire Financial Statement (DPR 86)
EXHIBIT "I":	Joint Authority Approved Fee Schedule <i>(Attached after approval by Joint Authority)</i>
EXHIBIT "J":	Concession Performance Evaluation/Rating DPR 531
EXHIBIT "K":	Drug-Free Workplace Certification STD. 21

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

State of California – The Resource Agency  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION

CONCESSION CONTRACT FOR GROVER BEACH LODGE  
AT PISMO STATE BEACH

## **EXHIBIT “A”**

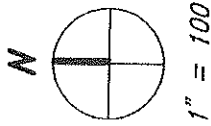
### **PROJECT SITE MAPS**

### **CONCESSION PREMISES**

**PARCEL 1**  
**EXHIBIT A-2**  
 A portion of:  
 The Grover and Gates Tract  
 Book A, Page 114 of Maps

# LEGEND

- LOT BOUNDARY
- CENTERLINE
- RIGHT OF WAY
- R1 = 13 PM 64
- R2 = LE SAGE RIVERA GENERAL PLAN
- M = MEASURED
- CALC. = CALCULATED
- FND. = FOUND



CALIFORNIA STATE HIGHWAY NO. 1

GROVER AND GATES TRACT  
 BLOCK 167

PARCEL B  
 13 PM 64

FND. Unmarked  
 3/4" Iron Pipe  
 With Plug; P.O.B.

Centerline  
 of Grand Avenue

**PARCEL 1**  
 Gross Area:  
 326,700.7 Sq. Ft.  
 7.50 Acres

40' PARK LANE

FND. Tack and Tag  
 RCE 6923, Set in  
 Railroad Tie

LE SAGE DRIVE

PARCEL A  
 13 PM 64

S69°03'11"W  
 28.00' (R1)

N20°56'49"W  
 25.00' (R1)

N69°03'11"E  
 28.00' (R1)

N23°13'07"W  
 48.69' (R1)

N24°51'00"W  
 69.90' (R1)

N30°30'13"W  
 52.58' (R1)

N32°46'10"W  
 145.19' (R1)

R = 520.00', Δ = 22°20'10" (R1)  
 L = 202.72'

N10°26'00"W  
 77.28' (R1)

N03°15'28"E  
 50.61' (Calc.)

S86°44'32"E  
 642.59' (Calc.)

Northerly R/W Line  
 of Grand Avenue

Centerline  
 of Grand Avenue

GRAND AVENUE

50.61'

57.66' (Calc.)

50.61' (Calc.)

191.92' (Calc.)

S03°15'28"W

S03°15'28"W

S03°15'28"W

S03°15'28"W

### Parcel 1 Legal Description

Being a portion of the Grover and Gates Tract, recorded in Book A, Page 114 of Maps and filed in the Office of the County Recorder of the County of San Luis Obispo, more particularly described as follows:

**Beginning** at the intersection of the northerly line of Grand Avenue and the westerly line of Parcel A as described in Book 13, of Parcel Maps, Page 64, filed in the County Recorder's Office of said County, said point being a found  $\frac{3}{4}$  inch Iron Pipe with an unmarked plug;

**thence** northerly along the westerly line of said Parcel A, North  $10^{\circ}26'00''$  West, a distance of 77.28 feet to the beginning of a tangent curve, concave westerly, having a radius of 520.00 feet;

**thence** northerly and northwesterly along said westerly line and curve through a central angle of  $22^{\circ}20'10''$ , an arc distance of 202.72 feet;

**thence** continuing along last said westerly line tangent to last said curve, North  $32^{\circ}46'10''$  West, a distance of 145.19 feet;

**thence** continuing along last said westerly line, North  $30^{\circ}30'13''$  West, a distance of 52.68 feet;

**thence** continuing along last said westerly line, North  $24^{\circ}51'00''$  West, a distance of 69.90 feet;

**thence** continuing along last said westerly line, North  $23^{\circ}13'07''$  West, a distance of 48.69 feet;

**thence** continuing along last said westerly line, North  $69^{\circ}03'11''$  East, a distance of 28.00 feet;

**thence** continuing along last said westerly line, North  $20^{\circ}56'49''$  West, a distance of 25.00 feet;

**thence** continuing along last said westerly line, South  $69^{\circ}03'11''$  West, a distance of 28.00 feet;

**thence** continuing along last said westerly line, North  $23^{\circ}04'05''$  West, a distance of 54.04 feet to the southerly line of Le Sage Drive as shown on said Parcel Map 13 PM 64, said point being a found tack and tag marked RCE 6923 and set in a railroad tie;

**thence** leaving said westerly line and along the southerly line of Le Sage Avenue per an unrecorded plan titled Le Sage Riviera General Plan created by Pacific Engineers and



Surveyors, Inc. at the request of Le Sage Enterprises, Inc., surveyed by W. E. McLennan and approved by City Engineer R. Hickenbottom on September 29, 1962, South 69°03'00" West, a distance of 403.67 feet to the beginning of a tangent curve, concave southeasterly, having a radius of 170.00 feet;

**thence** southwesterly along said line and curve through a central angle of 31°49'41", an arc distance of 94.44 feet to a point of reverse curvature, concave northwesterly, having a radius of 230.00 feet;

**thence** southwesterly along said line and curve through a central angle of 17°41'56", an arc distance of 71.05 feet;

**thence** leaving said southerly line, South 03°15'28" West, a distance of 96.12 feet to the beginning of a tangent curve, concave northeasterly, having a radius of 30.00 feet;

**thence** southerly and easterly along said curve through a central angle of 90°00'00", an arc distance of 47.12 feet;

**thence** tangent to last said curve, South 86°44'32" East, a distance of 179.13 feet;

**thence** South 03°15'28" West, a distance of 191.92 feet to the northerly line of Grand Avenue;

**thence** along last said northerly line, North 86°44'32" West, a distance of 57.66 feet;

**thence** leaving last said northerly line, South 03°15'28" West, a distance of 50.61 feet to the centerline of Grand Avenue;

**thence** along the centerline of Grand Avenue, South 86°44'32" East, a distance of 642.59 feet, to a point 50.61 feet perpendicular distant from said ¾ inch Iron Pipe;

**thence** North 03°15'28" East, a distance of 50.61 feet to said ¾ inch Iron Pipe and the **Point of Beginning.**

Containing 7.50 Acres, more or less. (326,700.7 SqFt) which includes approximately 6.67 developable acres

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

State of California – The Resource Agency  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION

CONCESSION CONTRACT FOR GROVER BEACH LODGE  
AT PISMO STATE BEACH

**EXHIBIT “B”**

**JOINT POWERS AGREEMENT**

# **JOINT POWERS AGREEMENT**

with

**City of Grover Beach**

for

**Lodge and Conference Facility**

at

**Pismo State Beach**

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



# JOINT POWERS AGREEMENT

Pismo State Beach

Lodge and Conference Facility

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for  
DEVELOPMENT AND OPERATION OF LODGE/ CONFERENCE FACILITY  
at  
PISMO STATE BEACH

THIS JOINT POWERS AGREEMENT (Agreement) is made and entered into this 20<sup>th</sup> day of DECEMBER, 2006, by and between **STATE OF CALIFORNIA**, acting through the Department of Parks and Recreation, hereinafter referred to as "**STATE**", and the **CITY OF GROVER BEACH**, a municipal corporation, acting by and through the Grover Beach Improvement Agency, hereinafter called "**CITY**" (each a Party and collectively the Parties) for the purpose of setting forth the respective rights and obligations of the Parties in the development and operation of a 125 to 150-room lodge with ancillary conference facilities and amenities (hereinafter referred to collectively as the Lodge Facility) to be located on STATE-owned property at Pismo State Beach within the City of Grover Beach.

WHEREAS:

1. The STATE is authorized under Public Resources Code §5003 to administer, protect, develop and interpret the property under its jurisdiction for the use and enjoyment of the public; and
2. The CITY is authorized to develop property located within its boundaries; and
3. The STATE and CITY are authorized to enter into contracts with concessionaires for the lease of property; and
4. STATE and CITY have, since the early 1980's, jointly explored the concept and potential of developing a Lodge Facility at Pismo State Beach, and have now determined that it would be to their mutual advantage and the public benefit to exercise their common powers, coordinate their expertise and resources, and cooperate in the development, operation and maintenance of the property for recreational purposes, and that cooperation to undertake and implement this project will contribute to the fulfillment of common missions and goals that will benefit the State as a whole, Pismo State Beach, as well as the people of the City of Grover Beach; and

1           5.     STATE and CITY desire to proceed with developing a Lodge Facility  
2     that will: (a) enhance concession facilities at Pismo State Beach near Grand Avenue  
3     and Highway 1 in the City of Grover Beach; (b) enhance visitor opportunities and  
4     experiences at Pismo State Beach from a state-wide and local perspective; (c) serve  
5     as a gateway to the Pismo State Beach park unit and increase the number and type  
6     of lodging options available for park visitors; (d) compliment CITY efforts to enhance  
7     the western end of the City of Grover Beach; and (e) be environmentally sensitive;  
8     and

9  
10           6.     The General Plan for Pismo State Beach provides for development of  
11     the Lodge Facility; and

12  
13           7.     STATE has a ten-year concession contract with Superior Guest Care,  
14     Inc. of Arroyo Grande, effective through August 31, 2012, for the operation and  
15     maintenance of the Pismo State Beach Golf Course and Restaurant located adjacent  
16     to the project site and the Parties herein agree that the Lodge development will not  
17     interfere with said golf course and restaurant concession contract; and

18  
19           8.     Public Resources Code §5003.02.1 authorizes the term of a contract  
20     entered into by STATE and CITY with a concessionaire for the development of new  
21     facilities at Pismo Beach State Park to be for a period not to exceed 50 years if the  
22     contract also provides that the rent be reviewed and adjusted at least every five years  
23     to reflect market rates and economic conditions prevailing in the area in which the  
24     concession is located; and

25  
26           9.     THE STATE and CITY are authorized by California Government Code  
27     §6500 et seq. and Public Resources Code §5003.02.1 to enter into this agreement;

28  
29           **NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS**  
30     **CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:**

31  
32           **1.     PROPERTY.**

33  
34     The Lodge Facility shall be located at Pismo State Beach on an approximately 6.67-  
35     acre parcel (the Property), the boundaries of which are set forth in Exhibit A, attached  
36     hereto and hereby made a part of this Agreement.

37  
38           **2.     TERM.**

39  
40     This Agreement shall become effective on the date of approval by the  
41     California Department of General Services as shown below. The term of this  
42     Agreement shall be set out in two phases: the first for planning, design, and  
43     development of the Lodge Facility and the second for Lodge Facility operation. The  
44     initial phase of this Agreement shall be for a period of up to five (5) years and shall  
45     commence on DECEMBER 20, 2006 and end upon the opening of the Lodge  
46     Facility for public use, but no later than DECEMBER 19, 2011. A contract

1 for development of the Lodge facility will be executed within two (2) years of the  
2 commencement date of this Agreement. These timelines may be extended upon  
3 mutual agreement of the Parties, which shall not be unreasonably withheld.  
4

5 The second phase of this Agreement shall commence upon opening of the  
6 Lodge Facility for public use and shall terminate fifty (50) years after such date,  
7 unless sooner terminated in writing by mutual agreement of the Parties or as a  
8 consequence of default by either Party.  
9

### 10 **3. MANAGEMENT OF THE PROPERTY.**

11

12 During the planning, design, review, and permitting phase of the development  
13 of the Lodge Facility, STATE shall retain all possession, use, control, and operational  
14 and maintenance responsibility for the Property. At such time that construction of the  
15 Lodge Facility is scheduled to begin, STATE shall transfer responsibility for the  
16 control and management of the Property, including all operational and maintenance  
17 responsibility, to the CITY, subject to the terms and conditions contained herein.  
18 CITY shall accept the Property and all facilities covered by this Agreement "AS IS"  
19 with all faults for the full term of this Agreement, or as otherwise specified herein.  
20 STATE makes no representations or warranty respecting the condition of the  
21 Property, except as expressly stated herein.  
22

23 Fee title to the Property and all improvements to the Property existing at the  
24 time this Agreement becomes effective shall at all times remain in STATE, except as  
25 may be otherwise expressly provided with regard to specified improvements to the  
26 Property in any concession contract entered into between STATE, CITY and a  
27 concessionaire for lease of the Property or any portion thereof pursuant to this  
28 Agreement. Upon termination of this Agreement for any reason, CITY shall promptly  
29 return the Property and all such improvements to the control and management of the  
30 STATE, unless the concession contract provides otherwise, in the same or better  
31 condition as that which existed when CITY first assumed control and management of  
32 the Property, reasonable wear and tear excepted.  
33

### 34 **4. CITY RESPONSIBILITIES.**

35

36 The CITY agrees to do the following:  
37

38 A. Upon assuming control and management of the Property, CITY shall maintain  
39 the Property and all improvements on it in a good, clean, safe condition that is  
40 satisfactory to STATE and shall ensure that conditions on the Property do not create  
41 a dangerous condition on or cause damage to adjacent property.  
42

43 B. In cooperation with the STATE, CITY shall be responsible for the  
44 development, planning, design, construction, operation, maintenance and  
45 improvement of the Lodge Facility on the Property in accordance with the terms and  
46 conditions contained herein.



1  
2 C. The Lodge Facility shall be planned, designed, constructed, managed,  
3 operated, and maintained as a high-quality lodge/conference facility along with  
4 related visitor-serving amenities that shall be accessible and subject to the use and  
5 enjoyment of the general public. The Lodge Facility shall be comparable in  
6 uniqueness of style and design and in quality of construction to lodge facilities  
7 located within the Asilomar Conference Grounds and the Fess Parker complex in  
8 Santa Barbara. Any concession contract related to the Lodge Facility shall include  
9 specifications that meet this requirement.

10  
11 D. CITY shall be responsible for the Lodge Facility project planning and design,  
12 conducting all required environmental reviews, obtaining all required permits,  
13 overseeing the construction, and managing the concession contracts for the Lodge  
14 Facility project. CITY shall submit, or shall ensure that concessionaire submits, all  
15 plans, specifications, final drawings, materials, schedules, and methods of  
16 construction related to the design, development, construction, improvement, repair or  
17 alteration of the Lodge Facility or the Property to the STATE for review and approval  
18 before commencing construction or work. All records, permits and approvals by  
19 other entities or agencies related to the Lodge Facility project shall be subject to  
20 review at any time by STATE to determine CITY's conformity with this Agreement.

21  
22 E. STATE and CITY shall be jointly responsible for ensuring that any  
23 development, design, construction, operation, maintenance and improvement of the  
24 Lodge Facility and Property comply with all applicable STATE general planning  
25 requirements, STATE policies, and all federal, state, and local government laws and  
26 regulations, including, but not limited to, the State Park System Plan 2002, Pismo  
27 State Beach Implementation Plan, California Coastal Act, Grover Beach General  
28 Plan and amendments, the Local Coastal Program, the California Building Code, and  
29 the Americans with Disabilities Act of 1990. CITY shall coordinate with STATE's staff  
30 on defining the project and selecting qualified professionals to prepare plans, and  
31 shall conduct appropriate studies (i.e., biological, traffic, noise, etc.); undertake  
32 review of project in order to comply with the California Environmental Quality Act  
33 (CEQA), National Environmental Protection Act (NEPA) and the CITY's development  
34 review process; communicate with all affected agencies and stakeholders throughout  
35 the development process; and process the permits required by all relevant  
36 governmental agencies.

37  
38 F. Any contract entered into by STATE and CITY with a concessionaire for lease  
39 of the Property or a portion thereof shall include a provision requiring the  
40 concessionaire and any sub-concessionaires to indemnify STATE and CITY against  
41 all injuries and damages to persons and property resulting in connection with the  
42 concessionaire's development, construction, maintenance and operation of the  
43 Lodge Facility and/or lease of the Property, and shall include any other provisions  
44 that are necessary to enforce and implement the terms of this Agreement. CITY shall  
45 include the same such indemnity provision, and incorporate the relevant terms,  
46 conditions, and requirements contained herein, when contracting out all or any

1 portion of the work permitted hereunder. CITY shall be responsible for ensuring its  
2 contractors and subcontractors comply with the terms and conditions contained  
3 herein. Failure of CITY contractors or subcontractors to abide by the terms and  
4 conditions of this Agreement shall constitute default by CITY.  
5

6 G. In consultation with STATE, CITY shall be responsible for developing, bidding,  
7 executing, administering, managing and enforcing any contract with a concessionaire  
8 for lease of the Property or any portion thereof, subject to the terms and conditions  
9 contained in this Agreement. STATE must approve the terms and conditions of any  
10 such concession contract and shall be included as a party to any such concession  
11 contract, with all the corresponding rights to enforce the contract.  
12

13 H. CITY shall issue a Request for Proposals (RFP) for a concessionaire to lease  
14 the Property or a portion thereof and to plan, develop, construct, operate, and  
15 maintain the Lodge Facility. Any solicitation of proposals shall be consistent with  
16 competitive RFP requirements of STATE and the terms and conditions in any RFP  
17 for the Lodge Facility and Property shall be submitted to STATE for review and  
18 approval prior to issuance. No concession contract for the Lodge Facility shall be  
19 advertised for bid, negotiated, renegotiated, or amended in any material respect  
20 unless the California Legislature reviews and approves the proposed contract in the  
21 annual Budget Act.  
22

23 I. The concession contract for lease of the Property or any portion thereof for  
24 development of the Lodge Facility shall be entered into by CITY and STATE, but  
25 shall be managed by CITY, and CITY shall be responsible for ensuring that the  
26 concessionaire fully complies with the terms and conditions of the concession  
27 contract, unless otherwise provided for herein.  
28

29 STATE shall have the right, but not the obligation, to enforce the concession  
30 contract in the event CITY fails to do so after a material breach of the concession  
31 contract by the concessionaire. Failure by the CITY to enforce, at its sole expense,  
32 the concession contract against a defaulting concessionaire shall constitute default  
33 by the CITY of this Agreement, and if not cured as required by STATE's written  
34 30-day notification, shall entitle STATE to seek any and all remedies available,  
35 including reimbursement from CITY for all costs, including attorney fees, incurred by  
36 STATE in enforcing the concession contract against concessionaire, and at STATE's  
37 discretion, termination of this Agreement. Any concession contract entered into by  
38 CITY and STATE shall include the terms and conditions consistent with the terms  
39 and conditions contained herein.  
40

41 J. The concession contract may be for a period not to exceed 50 years and shall  
42 provide that the rent be reviewed by CITY and STATE and adjusted at least every  
43 five years, upon approval by CITY and STATE, to reflect market rates and economic  
44 conditions prevailing in the San Luis Obispo County coastal area in which the  
45 concession is located.  
46

1 K. The rules, regulations and policies of STATE applicable to units of the State  
2 Park System shall be applicable to the Lodge Facility and the Property; provided,  
3 however, CITY may adopt rules and regulations for the use and enjoyment of the  
4 Property by the public if they do not conflict with STATE rules, regulations and  
5 policies. Such proposed CITY rules and regulations shall be submitted to the State  
6 for review and shall not be implemented without the prior approval of STATE.  
7

8 L. CITY shall not use or permit the Lodge Facility or Property to be used in whole  
9 or in part during the term of this Agreement for any purpose whatsoever other than  
10 that permitted by this Agreement without the prior written consent of the STATE.  
11

12 M. CITY shall, directly or through the concession contract, be responsible for all  
13 costs associated with the development, design, planning, construction, operation and  
14 maintenance of the Lodge Facility and the Property, and STATE shall not be  
15 responsible for any other costs associated with the development, planning, design,  
16 construction operation or maintenance of the Lodge Facility or the Property. The  
17 obligation of STATE to provide any services, staffing, funds, property or any other  
18 resources in connection with the Lodge Facility and Property shall be subject to  
19 availability at STATE's sole discretion. STATE shall not be obligated to expend funds  
20 or other resources in excess of authorized appropriations. State shall be reimbursed  
21 for the costs associated with the STATE's staff review of the project to insure  
22 conformity with the terms of this Agreement, including, but not limited to, the cost of  
23 those activities provided for in Section 5(B) of this Agreement. STATE shall  
24 endeavor to control its costs and to submit to the City an estimated budget for each  
25 step of the review and development process. After City's approval, the STATE shall  
26 proceed with that part of the review process.  
27

28 N. CITY agrees that in constructing and operating the Lodge Facility, CITY shall  
29 not unreasonably interfere with STATE's concession operations at the Pismo State  
30 Beach restaurant and golf course, any other activities or programs of STATE, or the  
31 public's reasonable use and enjoyment of Pismo State Beach.  
32

33 O. Activities conducted on the Property shall comply with all State and Federal  
34 environmental laws, including, but not limited to, the Endangered Species Act,  
35 CEQA, and Section 5024 of the California Public Resources Code.  
36

37 CITY shall consult with STATE resource specialists (resource ecologist, historian,  
38 and archaeologist) to determine site-specific conditions and avoidance measures for  
39 the protection of natural and cultural resources. STATE will advise CITY if any new  
40 historical resources (including archaeological sites), special status species,  
41 Threatened/Endangered Species protocols, or other resource issues are identified  
42 within the proposed project site. CITY shall consult with STATE resource specialists  
43 to determine the appropriate level of avoidance/mitigation necessary to protect the  
44 resource(s) during future work.  
45

1 All excavation activities shall be available to the State archaeologist for  
2 observation and monitoring. During excavation, the State archaeological monitor  
3 may observe and report to the State on all excavation activities. State archaeological  
4 monitor shall be empowered to stop any construction activities in the event the  
5 monitor determines that significant cultural resource values are being disturbed. In  
6 the event that significant cultural resource values are being disturbed, all work within  
7 thirty feet (30') of the find shall be immediately halted.

8  
9 In the event that previously undocumented cultural resources are encountered  
10 during the project construction (including but not limited to dark soil containing  
11 shellfish, bone, flaked stone, ground stone, or deposits of historic trash), work within  
12 the immediate vicinity of the find would be temporarily halted or diverted until a State  
13 qualified cultural resource specialist has evaluated the find and implemented  
14 appropriate treatment and disposition of the artifact(s). Once any significant cultural  
15 resources are found in a project location, a qualified historian and/or archaeologist  
16 would monitor any ground-disturbing work in that area from that point forward.

17  
18 Should CITY's contractors or subcontractors, or a concessionaire find any cultural  
19 or historical resources in the absence of a STATE archaeologist, all work shall halt  
20 within thirty feet (30') of the find and immediately the State Park Archaeologist shall  
21 be notified. Work shall not resume in the area of the find until authorized by the State  
22 Park Archaeologist.

23  
24 In the event that human remains are discovered, work shall immediately cease in  
25 the area of the find and the project manager/site supervisor will notify the appropriate  
26 STATE personnel. Any human remains and/or funerary objects will be left in place or  
27 returned to the point of discovery and covered with soil. The STATE District  
28 Superintendent or authorized representative will notify the County Coroner, in  
29 accordance with California Health and Safety Code §7050.5 and the Native American  
30 Heritage Commission (NAHC) or Tribal Representative. If a Native American monitor  
31 is on site at the time of the discovery, the monitor will be responsible for notifying the  
32 appropriate Native American authorities.

33  
34 Work will not resume in the area of the find until proper disposition of the remains  
35 is complete (PRC §5097.98). No human remains or funerary objects will be cleaned,  
36 photographed, analyzed, or removed from the site prior to determination. If it is  
37 determined that the find indicates a sacred or religious site, the site will be avoided to  
38 the maximum extent practicable. Formal consultation with the State Historic  
39 Preservation Office and review by the Native American Heritage Commission/Tribal  
40 Cultural representatives shall also occur as necessary to define additional site  
41 mitigation or future restrictions.

1 Any CITY contractor or subcontractor, or concessionaire shall provide a written  
2 work schedule to STATE so that the STATE archaeological monitor can arrange to  
3 be on site on the necessary days. To the extent feasible, the STATE archaeologist  
4 shall be included in any pre-construction meetings with the prime or subcontractors.  
5 The archaeologist shall be provided at least two (2) weeks advanced notice of the  
6 commencement of work undertaken pursuant to this Permit.

7  
8 **5. STATE RESPONSIBILITIES.**  
9

10 STATE responsibilities pursuant to this Agreement are the following:  
11

12 A. STATE agrees to make the Property available to CITY for the development,  
13 design, planning, construction, operation and maintenance of the Lodge Facility  
14 during the term of this Agreement under the terms and conditions specified herein.  
15

16 B. STATE agrees to cooperate with CITY in all phases of the project  
17 development and operation, with particular emphasis on project definition and scope;  
18 selection of qualified professionals to prepare plans and conduct special studies;  
19 design, study and plan review; facilitation of legal and executive office review;  
20 development of RFP contract terms and conditions, including a concessionaire fee  
21 schedule; final approval of project proposal; and selection of a "best responsible"  
22 concessionaire.  
23

24 C. STATE shall retain primary responsibility for law enforcement within Pismo  
25 State Beach park boundaries, provided however, that the CITY shall assume primary  
26 law enforcement responsibility for the Property during any period when the CITY has  
27 control and management of the Property.  
28

29 D. STATE hereby grants CITY a right of entry on the Property to allow CITY to  
30 take any reasonable actions necessary to implement the provisions of this  
31 Agreement, provided, however, that at any time before commencement of Lodge  
32 Facility construction, CITY shall notify STATE of its intent to enter prior to undertaking  
33 any activities on the Property. The STATE, through its District Superintendent,  
34 Oceano Dunes District, may waive this notification requirement at any time. Upon  
35 commencement of Lodge Facility construction, CITY shall assume control and  
36 management of the Property and notification shall no longer be required. By granting  
37 CITY a right of entry, STATE does not assume any responsibility for liability to or  
38 claims of third parties arising out of the acts or omissions of, or occupation of the  
39 Property by, CITY, its officers, agents, employees, contractors and/or subcontractors.  
40  
41

1 E. At all times during the term of this Agreement, there shall be and is hereby  
2 expressly reserved to STATE and to any of its agencies, contractors, agents,  
3 employees, representatives or licensees, the right at any and all times, and any and  
4 all places, to temporarily enter upon said Property to survey, inspect, or perform any  
5 other lawful State purposes, including all purposes reasonably related to  
6 implementation and enforcement of this Agreement. CITY agrees to not interfere  
7 with State's right to enter.

8  
9 F. STATE shall not be obligated to make any alterations, additions, or  
10 improvements to the Property except as otherwise expressly provided for in this  
11 Agreement.

12  
13 G. Right to Halt Work. Notwithstanding any other provision of this Agreement,  
14 either Party shall have the right to halt work or other activities and demand mitigation  
15 measures at any time in the event it is determined that such work or activities pose a  
16 threat to the health and safety of the public or other persons.

17  
18 **6. REVENUE SHARING.**

19  
20 A. Following completion of construction of the Lodge Facility and upon opening of  
21 the Lodge Facility to the public, CITY shall pay STATE a monthly fee based on a  
22 revenue sharing of formula as follows:

23  
24 (1) An amount equal to thirty percent (30%) of all bed taxes (Transient  
25 Occupancy Taxes) imposed and collected by CITY on Lodge Facility room rentals;  
26 plus,

27 (2) The greater of:

28 (a) Three percent (3%) of the gross sales generated through Lodge  
29 Facility operations, or

30 (b) Fifty percent (50%) of all rental fees assessed to concessionaire(s)  
31 operating the Lodge Facility, any portions of the Lodge Facility, or on  
32 the Property or any portion thereof.

33 (3) In the event that CITY provides a reduction from the CITY's standard  
34 Transient Occupancy Tax rate or a waiver of transient occupancy taxes for the Lodge  
35 Facility, CITY shall calculate the transient occupancy taxes imposed and collected by  
36 the CITY as if the taxes had not been reduced or waived, for purposes of paying  
37 STATE the monthly fee prescribed in Section 6(A)(1) above.

38 (4) Any change in the fee structure shall be mutually agreed upon in writing by the  
39 Parties.

40  
41 B. A STATE approved fee schedule shall be included in the RFP and in any  
42 contract executed by CITY and STATE with a concessionaire for lease of the  
43 Property or a portion thereof.

1 C. CITY, directly or through the terms of the concession contract, shall insure that  
2 a percentage of the gross receipts generated through operation of the Lodge Facility  
3 are dedicated to ongoing renovation of the Lodge Facility. The specific requirement  
4 for renovation funding shall reflect industry standards and shall be approved by  
5 STATE.

## 6 7 **7. CONSTRUCTION** 8

9 A. Prior to the commencement of any construction on the Property or any  
10 improvements or alterations being made to the Property or Lodge Facility, all plans  
11 and specifications shall be submitted to STATE for approval. STATE shall be timely  
12 and responsive in the processing and the review of submitted plans and  
13 specifications, and shall complete such review within a reasonable time of submittal  
14 of completed plans. Any approvals shall not be unreasonably withheld. All  
15 construction shall be made in accordance with STATE's standards for Construction  
16 and Completion of Improvements. All work shall be performed in a professional  
17 manner and shall conform to the plans and specifications approved by STATE. CITY  
18 shall not unreasonably interfere with STATE's concession operations at the Pismo  
19 State Beach restaurant and golf course, any other activities or programs of STATE,  
20 or the public's reasonable use and enjoyment of Pismo State Beach.

21  
22 B. STATE agrees to cooperate with the CITY during construction, including  
23 issuance of "Right to Enter Permit" for use of any adjoining or contiguous property not  
24 a part of this Agreement, to the extent necessary and in the best interests of STATE  
25 and CITY.

26  
27 C. Upon completion of construction, CITY shall provide STATE with a copy of a  
28 Notice of Completion, a complete set of "as-built" plans for all improvements in a  
29 format acceptable to STATE, proof that all improvements are clear of any mechanics'  
30 liens.

## 31 32 **8. OWNERSHIP OF IMPROVEMENTS.** 33

34 Title to any improvements on the Property, shall, upon being attached to the  
35 Property, immediately vest in STATE, and, upon termination of this Agreement, title  
36 to the Property and all improvements thereon shall remain in STATE without  
37 compensation to CITY; provided, however, that the concession contract entered into  
38 by CITY and STATE may provide for title to the Lodge Facility developed,  
39 constructed, operated and maintained by the concessionaire to vest in STATE upon  
40 termination of the concession contract or as otherwise provided for in the concession  
41 contract.  
42  
43

1           **9.     MAINTENANCE**

2  
3     Should CITY or the concessionaire fail, neglect, or refuse to undertake and complete  
4     any required maintenance or repair of the Lodge Facility or the Property, STATE shall  
5     have the right to perform such maintenance or repairs for the CITY or  
6     concessionaire, provided, however, that STATE shall first give CITY ten (10) days  
7     written notice of its intention to perform such maintenance or repairs, unless time is of  
8     the essence to prevent further injury or damage to persons or property, in which case  
9     STATE shall notify CITY as soon as possible after it has undertaken the maintenance  
10    or repairs. In the event STATE undertakes maintenance or repairs that should have  
11    been made by CITY or the concessionaire, CITY shall promptly reimburse STATE for  
12    the cost thereof. STATE shall not be obligated to make any repairs to or maintain  
13    any improvement on the Property. CITY hereby expressly waives the right to make  
14    repairs at the expense of the STATE and expressly waives any benefit or rights it  
15    may have under Sections 1941 and 1942 of the California Civil Code relating thereto,  
16    if there be any. STATE has made no representations respecting the condition of the  
17    Property, except as specifically set forth in this Agreement.

18  
19           **10.    RECORDS**

20  
21    A.     At all times during the term of this Agreement, CITY shall keep separate, true,  
22    and complete books, records, and accounts of all income and fees received and all  
23    expenditures made in relation to concessions, events, special services, and all other  
24    matters related to or in connection with the development, construction, operation and  
25    maintenance of the Lodge Facility. CITY shall report said income and expenditures  
26    to STATE in a manner acceptable to STATE on an annual basis, under terms to be  
27    agreed upon in writing by the Parties. Upon expiration or termination of this  
28    Agreement, CITY shall provide STATE with a statement of income and expenditures  
29    for the period not previously reported, prepared as set forth above, and this obligation  
30    shall survive the expiration or termination of this Agreement.

31  
32    B.     The books, records, and accounts applying to the operation of the Lodge  
33    Facility and kept by CITY or by CITY concessionaires shall be open for audit or  
34    inspection by STATE at all reasonable times. All records shall be kept for a period of  
35    at least four (4) years.

36  
37           **11.    UTILITIES AND SERVICES**

38  
39     CITY, through a concessionaire and the concession contract to be executed  
40     between CITY, STATE, and concessionaire, shall be responsible for all expenses  
41     resulting from utilities supplied to the Premises related to the construction and  
42     operation of Lodge Facility, including distribution systems and all related expenses.

43  
44     If relocation of the RV sewer dump station located on the Property becomes  
45     necessary such relocation to an appropriate location shall become part of the project  
46     at no cost to the STATE.



1  
2           **12.     HOLD HARMLESS AGREEMENT**  
3

4           CITY shall indemnify, protect, save, hold harmless, and defend STATE, its  
5 officers, agents, and/or employees against any and all claims, demands, and legal  
6 actions for injury or damages to persons or property, or both, including, but not  
7 limited to, all costs, expenses, attorney fees, experts fees, and costs of suit, arising  
8 out of or in any way connected to the development, construction, operation,  
9 maintenance, management and/or control of the Property and/or the Lodge Facility  
10 by CITY, its officers, employees, agents, and/or contractors and subcontractors; the  
11 performance of this Agreement by CITY; or as a result of the acts or omissions of the  
12 CITY, its officers, employees, agents and/or contractors and subcontractors arising  
13 from or in any way connected with the CITY's implementation of this Agreement,  
14 provided, however, in no event shall CITY be obligated to defend or indemnify  
15 STATE with respect to the sole negligence or willful misconduct of STATE, its  
16 officers, employees, and/or agents. For purposes of this agreement, an agent shall  
17 not include a concessionaire leasing any portion of the Property.  
18

19           To the extent allowed by law, and subject to appropriation by the Legislature,  
20 STATE shall indemnify, protect, save, hold harmless, and defend CITY, its officers,  
21 agents, and/or employees against any and all claims, demands, and legal actions for  
22 injury or damages to persons or property, or both, including, but not limited to, all  
23 costs, expenses, attorney fees, experts fees, and costs of suit, arising out of or in  
24 connection with the sole negligence or willful misconduct of STATE, its officers  
25 employees, and/or agents in the implementation of this Agreement: provided,  
26 however, in no event shall STATE be obligated to defend or indemnify CITY with  
27 respect to the sole negligence or willful misconduct of CITY, its officers, employees,  
28 agents and/or contractors and subcontractors. For purposes of this agreement, an  
29 agent shall not include a concessionaire leasing any portion of the Property.  
30

31           **13.     NO ASSIGNMENT.**  
32

33           Any interest of CITY or a third party in the Property or any portion thereof,  
34 shall not be assigned, delegated, mortgaged, sublet, hypothecated, or transferred  
35 without the prior written consent of STATE. The Parties agree that only the STATE  
36 may grant real property rights in the Property.  
37

38           Neither the STATE nor CITY shall assign any of the rights or obligations  
39 granted to it by this Agreement, except as otherwise specified herein.  
40  
41

1           **14. NOTICES AND CONTACTS**

2  
3           Any notice and/or report required to be given or that may be given by either  
4 party to the other shall be deemed to have been fully given when made in writing and  
5 deposited in the United States Postal Service, postage prepaid, and addressed as  
6 follows:

7  
8           STATE:               District Superintendent  
9                               Department of Parks and Recreation  
10                              Oceano Dunes District  
11                              576 Camino Mercado  
12                              Arroyo Grande, California 93420  
13                              (805) 473-7230

14  
15          CITY:               City Manager  
16                              City of Grover Beach  
17                              154 S. Eighth Street  
18                              Grover Beach, California 93433  
19                              (805) 473-4567  
20

21           The above shall also be the contacts for each Party for purposes of  
22 implementing this Agreement.  
23

24           **15. DEFAULTS AND REMEDIES**

25  
26           Any failure of a Party to comply with the terms and conditions of this  
27 Agreement, if not cured within 30 days after receiving written notice from the other  
28 Party that a cure is necessary, shall constitute default and breach of this Agreement,  
29 provided, however, if the nature of the failure to comply with this Agreement is such  
30 that it cannot be reasonably cured within the thirty (30) day period, the offending  
31 party shall not be deemed to be in default if an effective cure is commenced within  
32 the thirty (30) day period and thereafter diligently prosecuted to completion.  
33

34    A.    Default by STATE: In the event of default or breach of this Agreement by  
35 STATE, CITY shall have the right to terminate this Agreement by providing written  
36 notice to STATE or, at its option, keep this Agreement in effect and initiate an action  
37 to recover all damages flowing from such breach. Upon termination, CITY shall  
38 immediately transfer control and management of the Property, and title to all  
39 improvements thereon, to STATE, in accordance with Section 3 above, except as  
40 otherwise provided in any concession contract between CITY, STATE and a  
41 concessionaire for lease of the Property or any portion thereof. In such an event,  
42 CITY shall be entitled to all rights and remedies at law and/or inequity including, but  
43 not limited to, costs and expenses incurred by CITY as a result of termination, and  
44 compensation for all damages suffered by CITY as a result of STATE's failure to  
45 perform its obligation under this Agreement.  
46

1 B. Default by CITY: In the event of default or breach of this Agreement by  
2 CITY, STATE shall have the right to terminate this Agreement or, at its option, keep  
3 this Agreement in effect and initiate an action to and recover all damages flowing  
4 from such breach. Upon receiving written notice of termination from STATE, CITY  
5 shall immediately transfer control and management of the Property, and title to any  
6 improvements thereon, to STATE, in accordance with Section 3 above, except as  
7 otherwise provided in any concession contract between CITY, STATE and a  
8 concessionaire for lease of the Property or any portion thereof. In such event,  
9 STATE shall be entitled to all rights and remedies at law and/or in equity, including  
10 but not limited to, costs and expenses incurred by STATE in recovering possession  
11 of and/or restoring the Property, and compensation for all damages suffered by  
12 STATE as a result of CITY's failure to perform its obligations under this Agreement.  
13

14 The concession contract entered into between STATE, CITY and  
15 concessionaire pursuant to this Agreement shall provide that upon termination of this  
16 Agreement, or termination of the concession contract as to CITY, as a result of  
17 default or breach by CITY, the amount of rent and the percentage of transient  
18 occupancy taxes that STATE receives from CITY in connection with the Lodge  
19 Facility may be adjusted as necessary, with STATE's approval, so that STATE  
20 continues to receive, during each year that this Agreement would have been in  
21 effect if not early terminated, at least the same total amount of revenue that it would  
22 have received under Section 6A(1) and (2) of this Agreement prior to the termination.  
23

24 In addition to the total revenue that will be paid to STATE under Section 6A(1)  
25 and (2) of this Agreement, and notwithstanding any other remedies that may be  
26 awarded to STATE for default or breach by CITY upon termination of this Agreement,  
27 or termination of the concession contract as to the CITY, CITY shall pay the STATE,  
28 during each year that the contract would have been in effect if this Agreement had  
29 not been terminated, an amount equal to 10% of the transient occupancy taxes due  
30 to the CITY from the Lodge Facility to cover STATE's additional costs for  
31 management of the Lodge Facility and concession contract as a result of CITY's  
32 default; provided, however, that CITY shall not be required to pay STATE such  
33 additional amount of the transient occupancy taxes if CITY is unable to collect the  
34 transient occupancy taxes by reason of default by the person or entity owing the  
35 taxes, until CITY actually collects such taxes; and provided that such payment to  
36 STATE shall be reduced by the amount of revenue that STATE receives from the  
37 Lodge Facility above the amount STATE would have received under Section 6A(1)  
38 and (2) if this Agreement had not been terminated for CITY's default, whether such  
39 revenue is paid by CITY or some third party. The CITY's payment obligation under  
40 this section will be suspended during any period that the Lodge Facility is not in  
41 operation. Notwithstanding any other provision herein, in the event that CITY  
42 provides a reduction from the standard CITY transient occupancy tax rate or waiver  
43 of transient occupancy taxes for the Lodge Facility, CITY shall calculate the transient  
44 occupancy taxes due to CITY as if the taxes had not been reduced or waived, for  
45 purposes of paying STATE the amount owed after termination for CITY's default.  
46

1           **16. DISPUTES**

2  
3           The Parties shall make a good faith effort to resolve disputes by negotiation.  
4           Disputes that cannot be resolved at the field level shall be presented to the DPR  
5           District Superintendent, Oceano Dunes District, and the CITY MANAGER for final  
6           resolution.

7  
8           **17. MODIFICATION**

9  
10          Modifications to this Agreement may be made by mutual written agreement of  
11          the Parties and shall become effective upon signature of the Parties, or upon  
12          approval by the CITY and California Department of General Services if such approval  
13          is required.

14  
15          **18. TERMINATION**

16  
17          The parties may terminate this Agreement at any time by written mutual agreement of  
18          the Parties. Upon termination by mutual agreement, CITY shall within 30 days of  
19          such termination, transfer control and management of the Property, and title to all  
20          improvements thereon, to STATE, except as otherwise expressly provided with  
21          regard to specified improvements to the Property in any concession contract between  
22          CITY, STATE and a concessionaire for lease of the Property or any portion thereof.  
23          The obligations of the Parties provided for in Section 12 herein shall survive the  
24          expiration or termination of this Agreement.

25  
26          **19. ENVIRONMENTAL AWARENESS AND RESOURCE PROTECTION**

27  
28          CITY shall comply with STATE's resource management and preservation  
29          mandates in the conduct of all activities that impact cultural, natural, or scenic  
30          resources. These mandates include the California Public Resources Code Sections  
31          5024 et seq. and 5097 et seq., STATE's Resource Management Directives, and the  
32          United States Secretary of the Interior's Guidelines for Historic Preservation.

33  
34          A.       CITY shall comply with all laws, federal, state, or local, existing during the term  
35          of this Agreement pertaining to the use, storage, transportation, and disposal of any  
36          hazardous substance, as that term is defined in such applicable law. In the event the  
37          STATE or any of its affiliates, successors, principals, employees, or agents should  
38          incur any liability, cost, or expense, including attorney's fees and costs, as a result of  
39          the CITY'S illegal use, storage, transportation, or disposal of any hazardous  
40          substance, including any petroleum derivative, CITY shall protect, indemnify, defend,  
41          and hold harmless any of these individuals or entities against such liability. Where  
42          CITY is found to be in breach of this provision due to the issuance of a government  
43          order directing CITY to cease and desist any illegal action in connection with a  
44          hazardous substance, or to remediate a contaminated condition directly caused by  
45          CITY or any person acting under CITY direct control or authority, CITY shall be  
46          responsible for all costs and expenses of complying with such order, including any

1 and all expenses imposed on or incurred by the STATE in connection with or in  
2 response to such government order.

3  
4 B. Notwithstanding the foregoing, in the event a government order is issued  
5 naming CITY, or CITY incurs any liability during or after the term of the Agreement in  
6 connection with contamination that preexisted the CITY obligations and occupancy  
7 under this Agreement, or prior agreements or that were not directly caused by CITY,  
8 the STATE shall be solely responsible as between CITY and STATE for all expenses  
9 and efforts in connection therewith, and STATE shall reimburse CITY for all  
10 reasonable expenses actually incurred by CITY therewith.

11  
12 C. All major scale pest control activities, chemical and non-chemical, shall be  
13 approved by STATE prior to action by the CITY. CITY or the pest control business  
14 acting on behalf of CITY shall submit a DPR 191, Pest Control Recommendation, or  
15 equivalent to STATE for approval. STATE shall have fourteen (14) days to approve  
16 or deny the request. STATE review and approval shall be solely for compliance with  
17 STATE's policies and in no way shall relieve CITY or its contractors, employees,  
18 agents, or representatives from compliance with all laws and regulations concerning  
19 such activities, nor from carrying out the work in an appropriate manner.

20  
21 CITY or the pest control business acting on behalf of CITY shall submit a report of  
22 completed work for each pest management action to the STATE no later than seven  
23 (7) days after performance of the work. The report may be submitted on a DPR 191,  
24 Pest Control Recommendation, or equivalent.

## 25 26 **20. SIGNS AND ADVERTISING**

27  
28 No signs, logos, names, placards, or advertising matter shall be inscribed, painted, or  
29 affixed upon Property without STATE's prior written approval of the specific text,  
30 design and location. Approval will be granted only when said signs or advertising are  
31 consistent with the purposes of this Agreement and State Park policies.

32  
33 CITY shall provide and place signs in appropriate locations that recognize by  
34 appropriate wording that the Property is STATE-owned and CITY-managed.

## 35 36 **21. LIMITATION**

37  
38 This Agreement is subject to all valid and existing contracts, leases, licenses,  
39 encumbrances, and claims of title that may affect Property.

## 40 41 **22. PARAGRAPH TITLES**

42  
43 The paragraph titles in this Agreement are inserted only as a matter of  
44 convenience and reference and in no way define, limit, or describe the scope or  
45 intent of this Agreement or in any way affect this Agreement.

1  
2  
3 **23. AGREEMENT IN COUNTERPARTS**  
4

5 This Agreement may be executed in counterparts, each of which shall be  
6 deemed an original.  
7

8 **24. AGREEMENT IN WRITING**  
9

10 This Agreement contains and embraces the entire Agreement between the  
11 parties hereto and neither it nor any part of it may be changed, altered, modified,  
12 limited, or extended orally or by any Agreement between the parties unless such  
13 Agreement be expressed in writing, signed, and acknowledged by the STATE and  
14 CITY or their successors in interest.  
15

16 **25. PARTIAL INVALIDITY**  
17

18 If any term, covenant, condition, or provision of this Agreement is held by a  
19 court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of  
20 the provisions hereof shall remain in full force and effect and shall in no way be  
21 affected, impaired, or invalidated thereby.  
22

23 **26. TIME IS OF THE ESSENCE**  
24

25 Time shall be of the essence in the performance of this Agreement.  
26

27 **27. MISCELLANEOUS**  
28

29 A. Except as specifically provided in this Agreement, nothing in this Agreement  
30 shall be construed as giving any of the Parties the right or ability to bind the other or  
31 to create any joint liability with the other Party with regard to or as a result of the  
32 activities undertaken to implement this Agreement.  
33

34 B. Except as provided in this Agreement, none of the Parties waives any of the  
35 privileges and immunities from liability; exemptions from laws, ordinances and rules;  
36 all pension, relief, disability, workers' compensation and other benefits which apply to  
37 the activity of officers, agents or employees of any Party shall apply to them to the  
38 same extent while engaged in activities for the implementation of this Agreement.  
39 Any employee and/or agent of a Party shall remain the employee and/or agent of that  
40 Party while engaged in an activity for the implementation of this Agreement.  
41

42 C. Each Party agrees to act in good faith with regard to the other Party and any  
43 activities conducted in connection with or arising from the implementation of this  
44 Agreement.  
45

1 D. The Parties each warrant that they have the authority to execute this  
2 Agreement.  
3  
4

5 **28. WAIVER OF RIGHTS, CLAIMS, AND AGREEMENT TERMS**  
6

7 Unless otherwise provided by this Agreement, no waiver by either party at any  
8 time of any of the terms, conditions, or covenants of this Agreement shall be deemed  
9 as a waiver at any time thereafter of the same or of any other term, condition, or  
10 covenant herein contained, nor of the strict and prompt performance thereof. No  
11 delay, failure, or omission of the STATE to re-enter the Property or to exercise any  
12 right, power, or privilege, or option arising from any breach, nor any subsequent  
13 acceptance of rent then or thereafter accrued shall impair any such right, power,  
14 privilege, or option, or be construed as a waiver of such breach or relinquishment of  
15 any right or acquiescence therein.  
16

17 **29. INTERPRETATION OF AGREEMENT**  
18

19 This Agreement is made under and is subject to the laws of the State of California in  
20 all respects as to interpretation, construction, operation, effect, and performance.  
21 Any dispute between the parties in connection with this Agreement shall be venued  
22 in San Luis Obispo County.  
23

24 (signature page to follow)

1  
2 IN WITNESS WHEREOF, the parties have executed this Agreement the day  
3 and year first above written.  
4

5 CITY OF GROVER BEACH/GROVER  
6 BEACH IMPROVEMENT AGENCY  
7

STATE OF CALIFORNIA  
CALIFORNIA PARKS AND  
RECREATION

8  
9  
10 By: [Signature]

11 Larry Versaw

12 Title: Mayor / Chair

13  
14 Date: October 23, 2006

By: [Signature]

Title: DIRECTOR

Date: 12-6-06

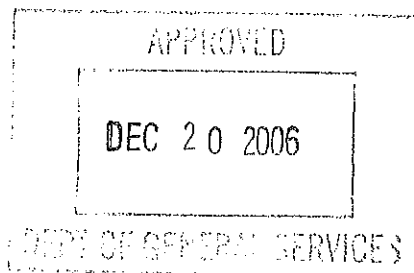
15  
16 Attest:

17  
18 [Signature]  
19 City Clerk/Agency Secretary

20  
21 Approved as to Form:

22  
23 [Signature]  
24 City Attorney/Agency Counsel  
25  
26  
27

28 APPROVED:  
29 DEPARTMENT OF GENERAL SERVICES



[Signature]



Joint Powers Agreement  
Pismo State Beach Lodge and Conference Facility

# PROPERTY

## EXHIBIT "A"

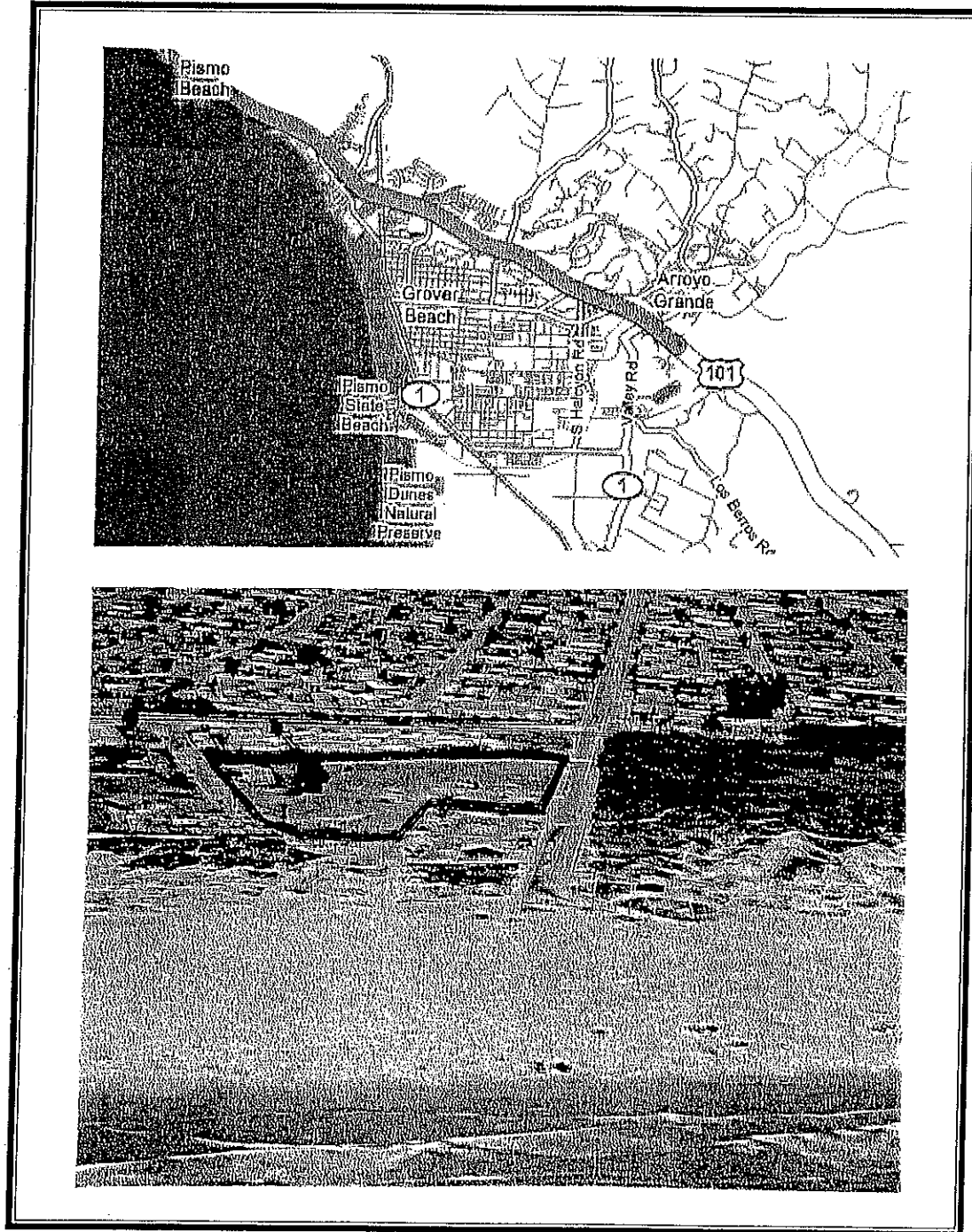


Exhibit "A"  
Page 1 of 2

Joint Powers Agreement  
Pismo State Beach Lodge and Conference Facility

# PROPERTY

## EXHIBIT "A"

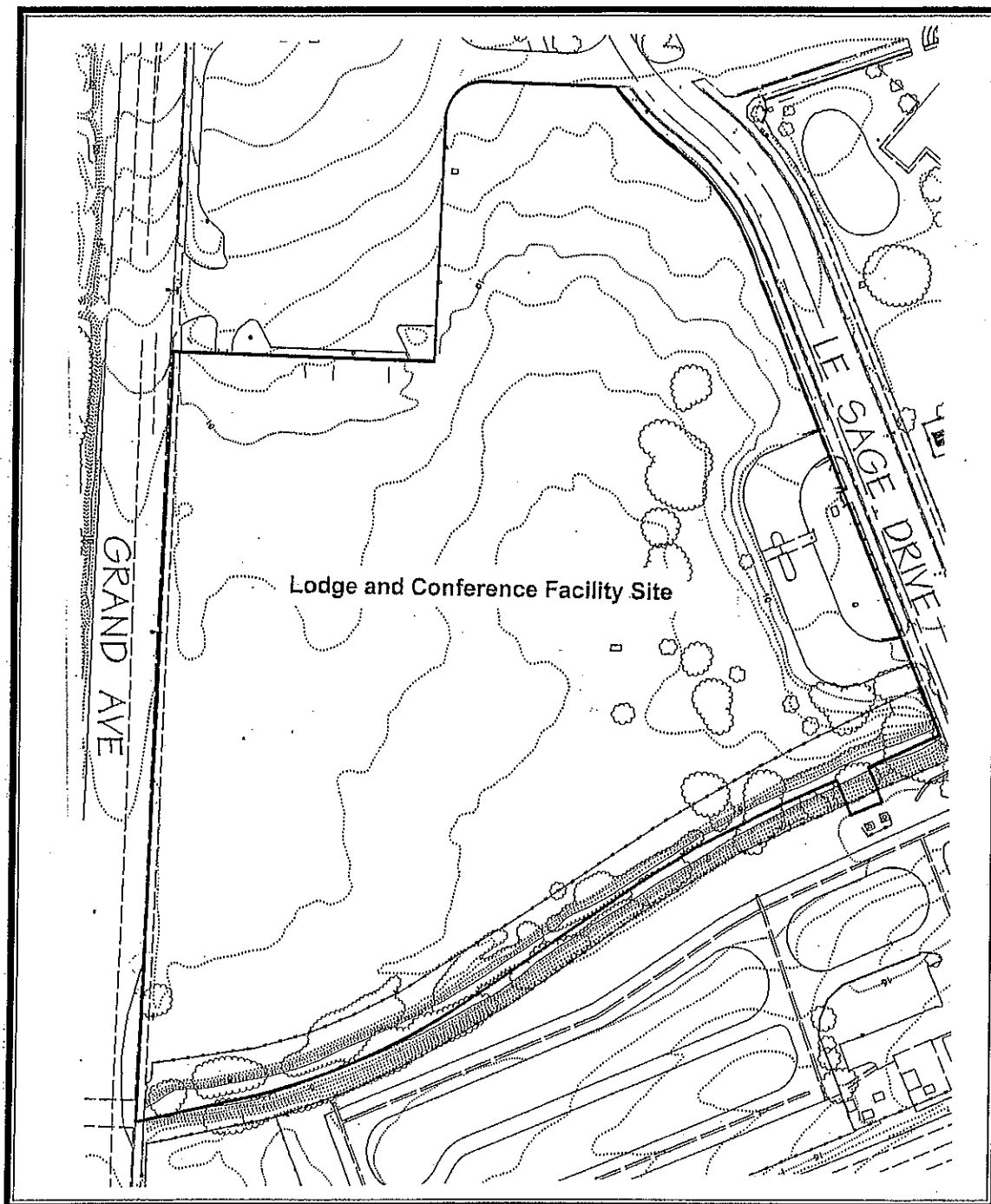


Exhibit "A"  
Page 2 of 2

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

State of California – The Resource Agency  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION

CONCESSION CONTRACT FOR GROVER BEACH LODGE  
AT PISMO STATE BEACH

## **EXHIBIT “C”**

### **SCOPE OF WORK**

Minimum Design Requirements

# EXHIBIT “C” SCOPE OF WORK

## Minimum Design Requirements

Exhibit “C”, “Scope of Work,” details the Joint Authority’s Minimum Design Requirements for the Proposer to plan, design, permit, construct, furnish, equip and complete all of the required and approved concession facility construction and improvements for the Grover Beach Lodge Project at Pismo State Beach.

The Proposer may propose additional design elements as outlined in Chapter 3, in addition to the Minimum Design Requirements, into their proposed Facility Development Plan (FDP). All additional design elements added by the Proposer shall be consistent with the Joint Authority’s vision for this project and comply with Paragraph 11, “Construction and Completion of Improvements” of the contract.

# Table of Contents

Chapter 1 The Property .....	1
Chapter 2 Minimum Required Elements for a Qualifying Proposal .....	2
Chapter 3 Additional Desirable Elements and Amenities.....	9
Chapter 4 General Design Standards .....	10
Chapter 5 Specific Design Requirements .....	13
Chapter 6 Entitlement Requirements .....	23

# EXHIBIT "C"

## SCOPE OF WORK

Joint Authority's Minimum Design Requirements

### GROVER BEACH LODGE

#### CHAPTER 1 – THE PROPERTY

##### 1.1 The Property

The designated property, Exhibit "A", Concession Premises, lies within the northern most section of Pismo State Beach, in Grover Beach, California. It is bound on the north by Le Sage Drive. Further to the north is the 9-hole, executive style, Pismo State Beach Golf Course. This area is designated for continued open space and low intensity public visitor-serving recreational facilities. Meadow Creek, a channelized perennial stream, engineered for flood control borders the property to the east. Beyond the creek is Highway 1 and private properties. The western boundary is shared with a California State Parks concession area that includes restaurant facilities, public parking and beach amenities. The existing beach access and public recreational facilities must be preserved. Grand Avenue, a city right-of-way and maintained street, borders the site to the south. The area south of Grand Avenue is occupied by the Oceano Dunes and the Pismo Dunes State Vehicular Recreation Area.

The property is accessed from Grand Avenue and Le Sage Drive. Grand Avenue serves as an entrance point to Pismo Dunes State Vehicular Recreation Area for about 40% of the recreational beach users. This entrance point/kiosk to the State Beach shall be maintained.

The City is in the process of re-constructing Meadow Creek Bridge, which was damaged in the Paso Robles Earthquake in 2004, to improve access and improve its physical appearance. Bridge enhancements shall include a sidewalk, stone veneer and pilasters, and decorative steel railings. Project construction shall begin immediately after Labor Day 2007 and shall be complete by June 2008 at an estimated cost of \$2.2 million.

Currently, the property is undeveloped and relatively flat. It is designated as Zone 4A within the FEMA 100 year floodplain that requires permitting and specific design solutions. A portion of the site, approximately one acre, is occasionally used for staging equestrian beach activities. To this end, the project anticipates relocation of the equestrian use area to a location near the existing trail head on the south side of Grand Avenue or another location approved by the State.

Additionally, an RV dump station, covering approximately 1/2 acre, and accessed from Le Sage Drive shall need to be removed and relocated to a convenient location approved by State.

This project is also governed by the DPR General Plan for Pismo State Beach and by both the City of Grover Beach Local Coastal Plan (LCP) and General Plan. For Local Coastal Plan general design requirements, see Chapter 6.

## **CHAPTER 2 – MINIMUM REQUIRED ELEMENTS FOR A QUALIFYING PROPOSAL**

### **2.1 General Considerations**

This chapter provides general considerations and technical guidance relevant to all phases of design for the Grover Beach Lodge. Guidelines are provided for planning and designing the site, building footprint and mass, infrastructure, building materials and systems, room configurations, support functions, character and circulation, including detailed design criteria for Minimum Design Requirements.

The Joint Authority's general and specific design requirements to plan, permit, design, construct, furnish, equip and complete all of the required concession facility improvements for the Lodge and Conference Center shall be strictly adhered to by the Proposer. However, the Proposer may propose additional design elements in addition to the Minimum Design Elements for a Qualifying Proposal. All additional design elements added by the Proposer shall be consistent with the Joint Authority's vision for this project and be compatible with the Minimum Design Requirements.

### **2.2 Facility Development Plan Overview**

The Facility Development Plan Proposal shall include, a three part "Scope of Project Statement" that contains the elements listed below in addition to Additional Facility Development Plan Requirements as outlined in the RFP. Upon review and approval, these elements shall be combined into the final updated and approved Facility Development Plan, Exhibit D, of the contract.

#### **A. Scope of Project Statement**

##### **1. Part One: Project team structure**

Cite Team Member Qualifications identifying roles and responsibilities and a statement of qualifications (SOQ); -  
Provide a structure of the proposed environmental, planning and A&E development team accompanied by a Federal 330 Form.

Statement of Qualifications. Proposer's Statement of Qualifications (SOQ) shall clearly and accurately demonstrate specialized knowledge and experience required for consideration. Submit eight (8) copies in paper form of the SOQ, which consists of a Cover Letter and Standard Form 330. SOQ shall be prepared in a bound 8.5" x 11" booklet format, using tabs to divide sections of the Form 330.

In your SOQ provide:

- Cover letter. Signed by an authorized representative of the proposing firm and shall include the firm's name, address, telephone number, fax number and federal tax identification number of the proposing firm, as well as the name, title and e-mail address of a contact person within the firm. (One (1) page maximum)
- Standard Form 330, (U.S. General Services Administration). Form 330 may be downloaded from:  
[www.gsa.gov/Portal/gsa/ep/formslibrary.do?formType=SF](http://www.gsa.gov/Portal/gsa/ep/formslibrary.do?formType=SF).
- A written statement of the firm's qualifications that is responsive to the selection criteria described in the Minimum Qualifications set forth below. The firm shall include examples of relevant successful projects within scope, budget and schedule.

Minimum Qualifications:

The SOQ shall provide information that shows the team meets the MQ's and has hospitality design experience with projects ranging from boutique hotels to full-service business and convention hotels with special attention given to sustainable design. Past experience and ability to navigate through the various local, state and federal agencies and jurisdictions and successful permitting shall be demonstrated. Team structure shall be of sufficient range to successfully plan, design and develop this project from inception to completion.

The design team shall include design professionals experienced in the successful development of Lodge/Conference facilities in unique environments. They shall be familiar with Joint Powers Authorities or have had experience in working within the confines of state and local government. The design team shall also include "pre design" professionals that may include geotechnical, civil and traffic engineers.

The environmental resources team shall include those disciplines necessary for the timely development and permitting of the proposed Lodge/Conference facility in compliance with federal and state environmental laws and applicable local ordinances. The environmental



team shall be comprised of environmental specialists responsible for the planning, coordination, analysis, documentation, compilation, circulation and completion of the environmental review process necessary for compliance. Environmental Scientists, Engineering Geologist, Archaeologist and other specialties shall be identified as required for preparation of environmental documents for permitting.

## **2. Part Two: Description**

The Scope of the Project Statement shall include a written summary description of the Lodge/Conference facility including required site and facility elements along with additionally proposed amenities. Include a written description of the Lodge/Conference facility including required site and facility elements along with additionally proposed amenities. This section shall include Proposers approach to obtaining all state, local and federal permits required for the development of this facility. A section dedicated to meeting the mandates of any potential amendments to the Pismo State Beach General Plan, the Local Coastal Plan, The City of Grover Beach General Plan, Land Use Element, CEQA, Coastal Development Plan, FEMA, section 404 and other permits shall be included. Include proposed project structure, timeframe for planning, design and development and projected costs.

## **3. Part Three: Graphics**

The Conceptual Site Plan shall include a graphic representation of proposed facilities on a scaled site plan, 1" = 100 feet. The conceptual site plan shall show site coverage, landscaping, nodes, proposed site features, relationship to the outdoors, view shed, access, parking and circulation and relationship to adjacent facilities and roadways. General placement of facilities shall be shown, along with proposed massing, clustering and heights. Relocation of existing facilities shall be addressed including areas that might require mitigation. It is envisioned this plan shall be developed into a final approved site master plan described in the Concession Contract, Paragraph 11, Construction and Completion of Improvements.

Upon approval of Joint Authority and any necessary modifications described in Concession Contract, Paragraph 11, Construction and Completion of Improvements, the Facility Development Plan shall become Exhibit "D" and made a part of the contract.

The Facility Development Plan shall contain information sufficient for review by the Joint Authority to determine whether Proposer has met the intent and guidelines described in this document. At a minimum, the qualifying proposal shall meet the minimum qualifications set forth herein.

Additional points shall be awarded for additional amenities as set forth in Chapter 3.

B. Additional Facility Development Plan Requirements as outlined in RFP:

- Capital Improvement Plan
- Furnishings Plan
- Accessibility Plan
- Maintenance and Housekeeping Plan
- Ongoing Renovation Plan
- Implementation Plan
- Cost Estimates

2.3 Minimum Project Development Requirements

A. Investment

- Facility/Complex
  - Minimum Twenty million dollars (\$20,000,000) investment

B. Hotel Structure

- Building design and amenities that meet the AAA 3-diamond rating standard as set forth in the January 7, 2007 edition of the AAA Tour Book Diamond Rating System for Hotels and Motels
- 135 room hotel with one and two bedroom guest rooms
- 30% hotel guest rooms with whirlpool tubs
- All hotel guest rooms to be provided with private balcony or patio, depending on floor location
- Kitchen facilities to support hotel guests for continental breakfast, mid-morning coffee with beverage replenishment and afternoon coffee and with flexibility to interface with catering for large conference and banquet events
- Conference/Banquet area:
  - Indoor—4,000 sq. ft. to accommodate groups of 20 or more hotel guests
- Laundry facilities for housekeeping
- Storage areas for banquet and conference facilities
  - Table, chairs, audio-visual equipment
  - Banquet serving items, from silverware to chafing dishes
- Back office space for management/staff
- Lobby and reception area sufficient to accommodate three (3) operating stations
- Recreation Facilities
  - Heated pool/recreation area
  - Spa/Fitness Center
  - Limited/moderate service support facilities

### C. Lodge Site Improvements

- Site development, open space and off street parking per City of Grover Beach Municipal Code development standards
- Connection to existing and planned public transportation facilities
- Integration with surrounding visitor-serving facilities
- Integration of surrounding recreational activities
- Relocation of existing on-site dump station
- Relocation of equestrian trailhead and support facilities

## 2.4 Minimum Design Requirements

### A. Architectural

#### General Building:

- Create buildings that reinforce and honor and reflect the beach and dune environment
- Create buildings of a high quality and enduring character
- Create a cluster of structures that present an interesting grouping of structures with varying heights and mass, integrating view corridors toward the Pacific Ocean
- Create public space, both indoor and outdoor, that attract visitors
- Integrate visitor information and interpretation into all aspects of buildings and landscape
- Building architecture shall be innovative and quality lodging design guidance as exemplified in the Fess Parker Double Tree in Santa Barbara, the Estancia La Jolla, Chaminade Hotel in Santa Cruz and Asilomar Conference Grounds in Monterey County, all unique in their design, yet exemplary in their quality and uniqueness in their setting.
- Create a three-diamond lodge facility at the gateway to Pismo State Beach.
- Building height shall be low profile accented with vertical elements in varying heights up to 40 feet
- Open and spacious feel throughout all building levels, with connecting outdoor terraces and courtyards
- Two (2) to four (4) separate building structures (1-3 floors in height), connected by wide corridors that provide for art display and outdoor environment viewing opportunities
- Provide flexible indoor meeting space with small break-out rooms for multiple events, including conferences, team building and other events.
- Provide views to the Pacific Ocean, LeSage Riviera Golf Course and the dunes.
- Interior finishes shall be durable
- Interior public spaces shall incorporate views and shall employ various interesting ceiling heights and materials

### Guest Rooms

- Provide maximum allowable guestrooms with all amenities, include balconies wherever possible
- Rooms shall be designed with viewshed in mind and incorporate balconies wherever possible

### Interior Design

- Minimum interior design elements shall include the following and shall be incorporated into the functional areas as reflected in below:
- Exposed framing in key areas
- Finish materials in addition to painted drywall
- Interior flooring in public spaces – ceramic or similar (natural colors)
- Provide open wall area for art display

### Exterior Design

- Exterior materials to be durable and able to withstand beach environment
- Natural Stone or similar materials
- Concrete use with natural colors with deep bas-relief (ocean-related features similar to Avila Beach)
- Use low-profile lighting
- Use of metal inlays where appropriate

### Exterior Elements

- Exterior flooring – non-slip ceramic or similar (natural colors)
- Public Art/Water Features/Bronze/Historical statuary
- Public art/Interpretive features as approved by DPR
- Encourage public Access to views
- Use of passive and active solar
- Use of recycled materials

### B. Site

- Achieve spatial balance and scale through thoughtful placement and arrangement of structures, landscaping and landforms.
- Provide paths and seating areas to enjoy the outdoors and view shed
- Landscape areas to consider native plants and minimal watering
- Integrate water features into landscape
- Provide sculptures or nodes at entry
- Provide parking with permeable surfaces

- Re-establish riparian area along both sides of Meadow Creek with multi-purpose use opportunities and integrate with site
- Enhance improvements along Grand Avenue
- Provide on or off site equestrian trail head with parking facilities, possibly on the south side of Grand Avenue west of the bridge (possible linear equestrian trailhead location)
- Provide connection to existing Grover Beach/Pismo Beach Boardwalk
- South side of Grand Avenue west of bridge (possible linear equestrian trailhead location)
- Coordinate train “bicycle car” bringing individuals, families and groups with bicycles to hotel for excursions
- Re-locate RV dump station

#### Monuments/Accent Features

- Provide entry feature at Grand Avenue
- Provide lighting fixtures that can accommodate event pennants lining entry road and interior site corridor
- Provide observation or view spectrum platform, incorporation of City/State logo
- Develop design for Branding Flags

#### Project Site Connections

- Provide physical connections to the Pacific Ocean, beach, dunes, Grover Beach/Pismo
- Beach Board walk and the Le Sage Riviera Golf Course starter house.
- Connect the Lodge with the Grover Beach Train Station and pedestrian bicycle routes in the immediate area.
- Coordinate with City on City project to construct Entry Bridge on Grand Avenue.

Maximum Site Coverage: Meet the mandates of the Local Coastal Plan and City of Grover Beach zoning standards for coverage of this 7.5 acre site.

Building and parking 60%

Landscape open space w/ possible swimming pool/spa: 40%

Minimum Parking Lot Size: See LCP for additional uses and requirements.

## **CHAPTER 3 - ADDITIONAL DESIREABLE ELEMENTS AND AMMENITIES**

### **3.1 Additional Design Criteria**

Design Standards and Specific Design Requirements are presented as a minimum requirement for the proposed development of the Grover Beach Lodge. Additional proposed development standards shall be considered based on the design intent and revenue generation. The City of Grover Beach would like to increase conference/event space to accommodate up to 750 persons (indoor/outdoor spaces combined). Proposer is encouraged to consider a full service restaurant and hospitality facility.

Proposers can earn extra points by including additional desirable elements and amenities such as:

- Creative design solutions (site/building) and amenities that achieve a AAA Four-diamond rating as set forth in the January, 7, 2007 edition of the AAA Tour Book Diamond Rating System for Hotels and Motels
- Additional guest rooms to accommodate a broader range of visitor serving rents (20% less than market). Joint Authority shall consider allowing a 10 - 15% increase in the number of rooms for affordable room rates.
- A full-service restaurant with kitchen and hospitality facilities sufficient to support all lodge guests, conference facilities and banquets.
- 12,000 square feet of indoor conference space that can accommodate groups of 20-250 hotel guests
- 10,000 square feet outdoor courtyard space for separate events and activities.
- Additional outdoor recreational facilities and amenities
- On-site water features, public art and sculptures
- On-site educational and interpretative center

Upon approval of Joint Authority and any necessary modifications described in Concession Contract, Paragraph 11, "Construction and Completion of Improvements", the Facility Development Plan shall become Exhibit "D" and made a part of the contract.

## CHAPTER 4 – GENERAL DESIGN STANDARDS

The guidance provided in this Exhibit implements planning and design policies and processes approved for the Grover Beach Lodge at Pismo State Beach. The standards contained herein represent the Joint Authority's goal to achieve a consistent and enhanced level of quality and service throughout the project consistent with an AAA Three Diamond-rated property.

- A. Purpose – This guide provides standards and considerations for planning, programming, and design of the Grover Beach Lodge. Designers are encouraged and challenged to stretch the limit of typical resort design. Innovative and quality lodging design guidance is exemplified in the Fess Parker Double Tree in Santa Barbara, the Estancia La Jolla, Chaminade Hotel in Santa Cruz and Asilomar Conference Grounds in Monterey County, all unique in their design, yet exemplary in their quality and uniqueness in their setting. This guide covers basic facility requirements and design considerations necessary for successful project development and shall be used in conjunction with Joint Authority standards, planning and environmental directives and governing codes.
- B. Measuring Quality – City lodging design shall reflect quality through appearance, fulfillment of functional requirements, and accomplishment of mission objectives. Quality is derived from a professional commitment by users, planners, programmers, and designers to achieve understated excellence through the delivery of complete and usable facilities. This philosophy ensures that the Grover Beach Lodge shall be first rate in its architecture and in its setting, that it shall use and demonstrate sustainable design methods and practices, be universally accessible, functionally and operationally efficient, economically maintainable, and environmentally safe. Quality shall be in keeping with AAA Three Diamond standard.

Design Standards shall reflect standardization of systems, from the design of guest room and suites plans to the selection of finishes and materials, providing the guest a consistent level of high quality interior and exterior living space.

- C. Functionality – Each aspect of the lodging and conference facility environment must perform efficiently. All materials, tasks and uses must interrelate to provide an effectively designed space.
- D. Best Value - Well-specified building systems and finishes enhance productivity, and conserve cost, energy, and time during and after construction. Design criteria and building materials and methods, within budget limitations, shall reflect the best value for the Joint Authority. Life cycle costs, as well as the visual architecture of the lodge facility, shall be emphasized.
- E. Durability and Maintainability - Material and finish selections must emphasize durability, extended life, and visual appearance based on the facility use and

increased level of wear. Consider ease and cost of maintenance requirements while ensuring the best value for the Joint Authority.

- F. Architectural Theme, Compatibility and Style - Lodge design should include design elements such as the expression of structure, establishment of unity and harmony while avoiding monotony, development of contrast and variety through considerations of mass and scale, and material selection. The Grover Beach Lodge shall reflect exemplary architecture, use of sustainable materials and methods, a functional design and quality. Master planning and project design shall consider the possibility of future renovations or additions to minimize extensive changes. Architectural style shall be unique in its style, respectful of the surrounding site, viewshed, natural elements and environment as expressed at Asilomar and Fess Parker developments. Careful attention must be paid to the connection between the indoor and outdoor spaces to relate the architecture with its environs.
- G. Sustainability - Lodging must incorporate sustainable development principles and reflect regional environmental uniqueness. The goals of sustainability are to conserve energy, water, and raw materials; prevent environmental degradation caused by environmental influences, construction, operations, and disposal of facilities; and create built environments, which are livable, healthy, and productive.
- H. Quality of Life – Project design must satisfy the needs of the guest while providing a sense of security and place.

#### 4.1 Design Guide Scope and Use

This design guide is applicable to the Grover Beach Lodge at Pismo State Beach.

Goals – This design guide sets overall requirements, but includes flexibility to meet local needs to the greatest extent. This guide serves to provide a better understanding of the many issues involved in quality lodging for guests. It also promotes concept-to-completion teamwork in the project development and execution process from requirements identification through beneficial occupancy. The project shall exhibit leadership in sustainable and environmentally responsible design and construction, public use and accessibility. This project shall comply with mandates as defined in Americans with Disabilities Act Accessibility Guidelines.

Project requirements: Include criteria relevant to programming and planning a new beachfront lodge facility. Project definition, project scope and siting requirements are discussed qualitatively and quantitatively.

Design requirements: Include conceptual criteria relevant to all phases of design, and contain guidelines for planning and designing the site, building footprint, infrastructure, and building systems and materials.



Limitations: This document provides detailed criteria to be used to produce programming requirements and conceptual design for lodging projects. This guide shall be used in conjunction with other City of Grover Beach and State of California documents that govern, or give related guidance for the development of the Proposer's Facility Development Plan. This design guide is not a substitute for research required by programmers and designers, and it recognizes that the major hoteliers may and frequently do have special requirements for their lodging facilities. Adherence to Joint Authority facility design standards, Local Coastal Development Plan, Pismo State Beach General Plan, and all other local, state and federal regulations is to be met. Required spaces and space requirements listed within this document are mandatory. All other programming and design requirements included in this guide are minimum standards and/or recommendations may be addressed, modified and adjusted by Proposer subject to review by selection committee.

#### 4.2 Design Objectives

- Create a high-quality beach lodge and conference experience steps away from the beautiful Pacific Ocean and sandy beach
- Create a first rate architectural design that satisfies the City's vision as a key element in redevelopment of the City's west end to enhance its image as a "destination" beach town.
- Help define West Grand Avenue and Highway 1 as one of the gateways to the dunes and the beach
- Tie the train station and bike and pedestrian routes to the lodge, beach, and dunes.
- Provide a development that ties the indoors with the outdoors through use of plazas, courtyards, covered walkways and viewsheds.
- Provide natural landscape, trails, seating areas with vistas for enjoyment of the ocean views and breeze.
- Integrate education/interpretive panels consistent with State Parks vision and mission.
- Relocate existing dump station to an area on-site that is screened from view but accessible to public. Dump station may be relocated off-site to another State-owned property or private property within one-quarter of a mile of the site. Location to be approved by the State and City.
- Accommodate Equestrian staging areas either on or off-site
- Restore the Meadow Creek area

#### 4.3 Design Context

- Create buildings and landscape that reinforce and honor the dune environment
- Create buildings and landscape of a high quality and enduring character
- Create public space, both indoor and outdoor, that attract visitors
- Integrate visitor information and interpretation into all aspects of buildings and landscape

## CHAPTER 5 – SPECIFIC DESIGN REQUIREMENTS

Exhibit “C”, “Scope of Work,” details the Minimum Design Requirements for the Proposer to plan, design, permit, construct, furnish, equip and complete the development and construction of the Grover Beach Lodge.

This chapter provides general considerations and conceptual guidance relevant to architectural programming, site and facility master planning for the conceptual design for the Grover Beach Lodge. Guidelines are provided to frame the project and to establish fundamental requirements and project character for proper development of Proposers Facility Development Plan.

The Joint Authority’s general design requirements and specific design requirements to plan, design, permit, construct, equip, furnish and complete all of the required concession facility improvements for the Grover Beach Lodge/Conference Facility shall be in keeping with AAA Three Diamond standards and shall be strictly adhered to by the Proposer. However, the Proposer may include additional design elements beyond the Minimum Design Requirements into their proposed Facility Development Plan. All additional design elements submitted by the Proposer shall be consistent with the Joint Authority’s vision for this project and be compatible with the Minimum Design Requirements identified herein.

### 5.1 Site Design

General Considerations - Community planning is an integral part of site planning. The design of vehicular paths, pedestrian paths and landscape can help define layers of boundary around the lodging facility campus to provide this separation, but can also enhance the flow into and out of the adjacent community areas, such as the Grover Beach train depot and the Oceano Dunes. Adjacent recreational spaces additionally enhance these layers of boundary and can buffer other non-desired areas or functions. Site planning and community planning shall define an edge to the Grover Beach Lodge, while considering the importance of adjacent community and common public areas. Sustainability and accessibility considerations shall be incorporated into all projects and shall become part of the design solution.

Organization – Achieve spatial balance and scale through thoughtful placement and arrangement of structures, landscaping and landforms. Pay special attention to building orientation, mass and scale in developing the site plan. Develop a sense of order, arrival, orientation and community in planning the site. The lodge structures should be low-scale and not overwhelming in size and scale. Site lodging facilities in relationship to one another to create outdoor spaces for use as passive or active recreation areas. Lodge structures shall range from one to three stories in height based on overall room requirements and available acreage to support a consolidated lodging facility. This configuration shall ensure an efficient use of available property, but may require additional fire protection, structural, and life safety costs associated with buildings over three stories in height. Underground parking shall not be defined as a basement and would not count as a story.

Climatic Considerations – Lodge design and building orientation must take advantage of local climate conditions. Where practical, use passive solar construction techniques to reduce energy consumption. Local climate conditions must be considered as well as other site organization issues such as the creation of outdoor space, building scale or orientation to other facilities, when determining the best project site.

Facility Considerations – Place facilities to take advantage of the positive features of the site. Provide protection from undesirable winds and glare, shading from excessive sun, and orient operable windows to take advantage of summer breezes. Solar gain and prevailing winds can enhance energy conservation and yield significant cost savings. Building placement and design should take advantage of views that are scenic, pleasant, or interesting. Designers must be sensitive to the approaches to the facility and strive to create a clear sense of arrival for newcomers. Design roof overhangs to work with sun angles to provide solar shading. Achieve mutual shading by sensitively arranging adjacent structures. Avoid excessive east or west-facing glass and design for maximum cross-ventilation where feasible.

Circulation – Highway 1 is located within walking distance from the project site. The newly restored Grover Beach train depot is located at the intersection of Grand Avenue and Highway 1.

- A. Bike/Pedestrian – Bike/pedestrian pathways shall be encouraged.
- B. Vehicular Access – Provide access to lodging facilities from the existing driveway on Grand Avenue or access from Le Sage Drive. Where possible, divide main entrances with landscaped traffic medians between entry and exit lanes. Because of the high volume of traffic using the entrances, the recommended minimum width of non-divided entry roads shall be 24'-0." Consider passenger loading and/or drop off areas near the lodging facility entrances, providing convenience to guests. Plan vehicular layout to eliminate, or at least minimize, the adverse impact of noise and headlights shining into guest room windows. Consider delivery trucks, and required easement area. Consider public safety and security in all vehicle access design, critical in determining allowable set-backs, eliminating lines of approach perpendicular to the building.
- C. Emergency Service - Provide for a minimum separation required between lodging facilities and the closest adjacent building. Provide access to fire protection vehicles from three sides. Obtain width, weight, and turning radii of fire fighting vehicles.
- D. Service Vehicles -Access streets and parking areas shall be designed to accommodate service vehicles. Where interior court areas are proposed between adjoining lodging facilities, consider designing the main pedestrian

walks to accommodate such vehicles. As an example, these walkways must be a minimum of 8'-0" wide and constructed using reinforced concrete to accommodate medium weight vehicles. Consider treating the walkways with a patterned concrete system or porous paving surface materials to minimize the negative visual impact of the wider access route. Consider materials such as concrete grass road type pavers to provide access to infrequent service vehicles. Consider installing removable bollards as needed to restrict unauthorized vehicle access. Where possible, separate service entrances associated with mechanical rooms or mechanical enclosures from guest parking areas.

- E. Bus Route Access - Where possible and appropriate, access to public transportation systems shall be considered in project design. If bus service is to be provided to the facility, designers should consider developing shelters and walks to serve guest needs. Bus shelters must be compatible with the architectural style of existing buildings and guidelines established by the Joint Authority.
- F. Pedestrian Access - Walkways to building entrances shall be 8'-0" wide. All other sidewalks shall be 6'-0" wide. Design and grade sidewalks to provide barrier-free access to the first floor of all lodging facilities and to any associated outdoor use areas. Provide connections to other functional areas of the facility with pedestrian circulation systems. Consider including links to jogging/biking trails as part of the site development process.

### Parking

Guest Parking -Provide one (1) parking space per guest room, plus two (2) parking spaces for the manager's unit and one space for every twenty (20) guest rooms. This parking ratio may be reduced based on incentives specified in City's Municipal Code. Additional parking shall be developed for conference center and other uses as required.

Where topography allows, design parking areas in multiple levels with transition zones. This may reduce grading requirements and allow the designer to balance the volume of cut and fill. Design these transitions as landscape buffers much like traffic islands to soften the visual impacts. Consider sustainable alternatives to solid pavement. Many of the negative impacts of parking areas can be mitigated or lessened by improved design techniques and use of alternative materials. Trees planted in parking lot islands shall intercept reflected radiation, visually break up the mass of paved surface, and provide shade for vehicles. Properly located, the traffic islands can also provide safer pedestrian circulation.

- A. Accessible Parking - Provide accessible parking spaces in accordance with the American with Disabilities Act Accessibility Guidelines. Locate these parking spaces to provide the most convenient access to the building entry.

- B. Motorcycle Parking - Designated motorcycle parking areas are not required based on infrequent use by lodging guests, therefore, not included in this guide as detailed guidance.
- C. Bicycle Parking - Provide bicycle parking facilities within the lodging campus area as determined by the Joint Authority. Rack design shall be approved by City of Grover Beach. Provide bicycle parking on concrete surfaces adjacent to sidewalks or first floor building corridors. Parking areas must be covered and screened from view of the general public. Consider covered bicycle parking enclosed on a minimum of 3 sides, or lockable bicycle lockers, which maximize security and minimize visual clutter.

### Site Considerations

- A. Finish Floor Elevation - Establishing the Finished Floor Elevation is one of the more important aspects of site planning. The Finish Floor Elevation affects grading, cut and fill, visual impact of the facility and interior-exterior transitions. In addition, the Finished Floor elevations have a significant impact on the landscape architect's ability to effectively introduce plant materials into the new environment. When the approach is to level the site without sensitivity to other demands, the results often are catastrophic, resulting in barren sites lacking visual interest. The landscape architect, architect, and civil engineer must work closely together to achieve optimal design results. Finish floor elevations must comply with Joint Authority requirements as well as FEMA requirements within the floodplain.
- B. Grading - Grade the site to achieve an orderly transition from the point where guests enter the site by vehicle or on foot to the point where they are at the first floor entrance. Site grading must consider the impacts of the parking area, the lodging facility, bus-stop shelters, sidewalks, outdoor passive use areas, mechanical equipment, and trash dumpsters. Where appropriate, use grading to control the negative visual impacts that these man-made facilities have on the visual environment. See the discussion of landforms below. Lodging facilities tend to be linear and relatively narrow in configuration and therefore lend themselves to an orientation paralleling existing contours. Where on-site storm water retention is required, the location of retention areas must be carefully thought out in terms of function as well as visual impact. Use large retention sites for outdoor recreation areas.
- C. Landforms - Use landforms such as mounds and swales in conjunction with landscape plant materials to soften or obscure the parking areas, provide spatial articulation, or enhance drainage structures or surface water retention areas. Use landforms to add interest and diversity to the project. In particular, landforms can perform an important function around outdoor activity areas by screening undesirable views.

- D. Storm Drainage - Provide underground storm drainage for each lodging campus. All site water must either be intercepted in drop inlet structures or be designed to drop directly into a subsurface system. Divert surface water to an underground system to a point where it is discharged into aboveground storm drains. The project shall provide for appropriate surface water retention and erosion prevention, and shall provide for drop inlets as necessary to intercept surface runoff and prevent walkways from being flooded.
- E. Utility Corridors - The site planner shall develop underground utility corridors (easements) in coordination with the City Engineer, electrical, mechanical, communication and civil engineers. Size corridors to accommodate future expansion. Place utility corridors no closer than one and one-half times the crown width of nearby mature trees or 35 feet, whichever is greater. Locate utility corridors to allow for future street-tree plantings. Consider using pipe tunnels and trenches.
- F. Site Amenities – Site Furniture -The importance of planning and programming this last part of the project is critical and should not be an afterthought. The selection of site furniture in addition to landscape and signage provides a finished appearance. Site furniture that is in harmony with the architectural style of lodging facilities complement the building, and makes the outdoor spaces more usable and organized. The landscape architect must coordinate the selections with the architect and interior designer to ensure smooth transitions are made from within the building to the outdoors and vice versa.
- G. Site Lighting - Provide controlled lighting to ensure occupants have a means of safely moving between outdoor spaces without over illuminating the environment. All signage and lighting must be in compliance with the installation's standards. The selection of materials and locations must be a joint decision between the landscape architect and the electrical engineer. Energy-efficient lamps such as high-pressure sodium with color correction ensuring optimum visual acuity are recommended for energy-conscious site lighting. Consider life-cycle costs of lamp replacement, though, when specifying fixture and lamp types. Provide adequate site lighting at any point where there is a change in grade requiring steps, near accessible parking areas, under stairwells, and near main entrances to buildings. A lighted sign may be appropriate for night visitors. Design exterior lighting such that zero direct-beam illumination leaves the building site. Use motion detection and photosensitive sensors to achieve energy efficient lighting design. Consider a solar collector system if the geographical location of the lodging facility can support the required solar levels required.
- H. Outdoor Areas - Include outdoor passive and/or active use areas. Where appropriate, design pavilions to become an integral part of the site. The pavilions must complement the architectural style and materials of the lodging. These features include amenities such as covered walks, walks, site lighting,

landscaping, pavilions, and fencing if used to screen equipment or dumpsters enclosures only.

- I. Sustainability - Incorporate sustainable design concepts into the lodging facility. Incorporate recycling centers and containers in site design and landscaping. Coordinate locations of recycling and refuse containers with site furnishings and landscape to complement the campus and building design. Emphasize ease of use and service access to these containers.
- J. Signage - Signage must comply with the Joint Authority Signage requirements. Exterior signage shall be compatible with the architecture of the campus, provide clear directional and informational assistance, and shall be accomplished with project funds.
- K. Fencing - Fencing may be necessary based upon location and surrounding facilities such as Meadow Creek. Any fencing used as a screening material shall be compatible with the lodging campus and surrounding architecture, and comply with City standards.
- L. Landscape Architecture – Landscape plans developed for the Grover Lodge require the services of a professional landscape architect working in conjunction with the other disciplines to achieve the total design intent for the project. The design intent shall include creating an aesthetically pleasing landscape minimizing resource and maintenance requirements. The fundamentals of good landscape design include: proper planning and design, plant selection, plant installation, use of turf alternatives for xeriscopic plantings, use of mulch materials, zoning of plants as per water requirements, soil improvements, efficient irrigation, and appropriate maintenance considerations. Structure the landscape design program to satisfy the architectural, engineering, aesthetic, and environmental requirements of each project while minimizing maintenance needs. Several factors must be evaluated when performing a site analysis including visual elements, hydrology, security, climatic conditions, topography, maintenance, existing vegetation, spatial and program analysis, soil quality, and circulation patterns. Native planting shall be of high importance.
- M. Enframement - Identify appropriate external views of the lodging facility during the site analysis process. Using landscape design elements, focus attention to important features of the building by manipulating and placing tree masses and screening undesirable features.
- N. Visual Enhancement - Landscape plant materials used for utilitarian purposes, such as screening service areas or providing shade, shall also enhance the attractiveness and livability of an area. Visually separate multiple buildings into several pleasantly framed units, and enhance individual buildings within a group. Shrubs and small trees arranged in strategic groups around a building improve the appearance by softening structural lines.

- O. Spatial Articulation - Use plant materials to create outdoor enclosed spaces and to separate such spaces one from another. Also use plant material to direct people through outdoor spaces by visually defining and reinforcing patterns of movement. The degree of enclosure, separation, or movement depends upon the density, form, and type of plant material used.
- P. Visual Screening - Screen unattractive views or objects with appropriate plant materials to minimize negative visual impacts. Trash dumpster areas, pad mounted electrical transformers, parking areas, and mechanical yards are examples of such views or objects. Sufficient access to mechanical and electrical equipment must be maintained, though, to allow for maintenance and repair. Landforms coupled with plant materials shall provide an immediate effect while waiting for the plant materials to mature.
- Q. Wind Control - Use plants as wind control devices to slow, guide, deflect or filter the wind. Plants are better screens than fences or walls for windbreaks because they permit some degree of wind penetration. Irregular forms provide a more effective windbreak than evenly spaced plants. A variety of plant species and sizes also provide a better windbreak than one consisting of a single species.
- R. Sun Control - Place plant materials around buildings, along walkways, and around parking areas to increase the energy efficiency of buildings and reduces the ambient air temperature around the project.
- S. Landscape Maintenance - Include landscape establishment and maintenance within the initial contract for installation of plant materials. The duration of the establishment period must be for a period of one year. The establishment period requirements shall include irrigation, mowing and edging, mulch replacement, inspection/control of pests and weed control, tightening staking/guying materials, pruning, fertilization, and maintaining watering saucers.
- T. Landscape Irrigation – Landscape with species that are drought tolerant and if feasible, with native species, and water conserving irrigation to minimize irrigation needs. Include irrigation systems in lodging facility projects sited in arid and semi-arid climatic regions. Use bubbler or drip irrigation systems adjacent to building facades to minimize impact of overspray. Provide all irrigation systems with solid-state automatic multi-station controllers, state-of-the-art control valves, and backflow preventers in accordance with building codes. Locate backflow preventers in the mechanical room or within screened mechanical enclosures. Include adjusting turf spray coverage, duration of watering cycles, repairing leaks, and general maintenance to ensure proper functioning during the maintenance period for all irrigation systems. Take advantage of non-potable water if possible



## 5.2 Building Design

- **Building Design Considerations** -Building design shall address compatibility with the environment, shall be exemplary in design, both in quality and in form while coordinating building systems with functional requirements of AAA Three Diamond standards. It shall meet the needs for human comfort and experience in both lodging and conference facility design, while providing direct connections to the outdoors through intervening courtyards, open air corridors, plazas and other means. Use of appropriate materials, compatible with the surrounding environs must be explored. Comprehensive interior design is an integral component, ensuring appropriate finish material, and furnishing selections. The goal is to provide a cohesive lodging campus reflecting quality through appearance, appropriately sited within the existing community, ensuring fulfillment of functional and operational requirements, and accomplishing the needs of the guests. The primary goals are as follows:

### Architecture

- **Mass and Scale** - Architectural scale is defined as the comparative relationship of a structure or space to the human form to possess a human scale. The relative proportions, height, form and volume of a building or space, as well as its formal relationship to other buildings or spaces, contribute to achieving this sense of scale. Lodging facilities must provide a residential environment with an architectural scale that imparts a clear sense of relative comfort, ease, and satisfaction. Building mass is defined as the overall bulk or total volume of space a building occupies. Modulating the form and facade of buildings with setbacks, repetitive details, and less dominant colors softens their physical appearance and enables a blending of facilities in terms of form, proportion, and perceived size. The size, shape, proportion, repetition, and placement of design features such as fenestrations, roofs, and columns, etc., are elements that combine to project the architectural character and mass of a building. See LCP for massing and height requirements and ratios.
- **Architectural Compatibility** -The architectural character of the facility must be in context with its surroundings. The intent of these standards is not to create uniformity, but to promote a sense of harmony and a respect for local and regional design and architectural characteristics. Well-designed buildings respect the characteristics of the built environment in the local region through compatible architectural style, choice of construction techniques and materials, and form. Architectural compatibility and appropriate proportions can be achieved by integrating a vocabulary of scales, forms, color palettes, and materials that blend with and respect the built and natural environments. The result is a combination of facilities that complement each other and create balance and harmony. Architectural compatibility guidelines are not

intended to compromise design expression, but rather to provide a framework for the development of quality design

- Exterior Openings at Lodge Conference Center Entry Point – The entrance to the facility shall be designed to be apparent and welcoming to facility users and the public Main entrance doors should be integrated into the design signifying the portal into the facility. The public area entrance shall meet accessibility construction standards.
- Exterior openings -All living areas and places of assembly must have operable windows to provide natural ventilation. Increase window size and area to maximum allowable to increase the emission of natural light into guest rooms. Windows serving guest rooms must be operable. Balconies are encouraged. Generous openings into general use courtyards and outdoor patios are encouraged for flow from inside to outside.

### 5.3 Exterior Materials and Finishes

- Exterior Finish Materials -Select reliable, conventional building systems for lodging facilities and use building materials and finishes that are durable and easy to maintain within the ocean environment. Architectural systems must be selected based on their aesthetics, simplicity, economic characteristics, and compliance with installation architectural guidelines. Consider durability, functionality, economy, low maintenance requirements, and architectural compatibility when selecting exterior finish materials.

Consider the recycled content of products such as insulation, cement and concrete, latex paint, patio blocks, and structural fiberboard. Designers are encouraged to work with product manufacturers for other available products.

- Roof Slope -Lodging facility should have sloped roofs to ensure positive drainage, and to impart a more residential image. To accomplish this effort, the following elements should be incorporated in the roof system design:
  - Long sloping eave overhang
  - Low-rise pitched roof with sloping eave overhang
  - Climate and water insulated roofing

Building Signage -All signage shall be developed in accordance with an approved signage program and accessibility requirements. Exterior signage shall be compatible with the building architecture and the architectural guidelines provided by the Joint Authority. Provide clearly visible unit numbers for the main entrance doors. Mechanical, electrical and/or utility room doors shall have identifying signage to match.

#### 5.4 Building Interiors

Building interiors shall be designed to create a dynamic architectural identity, a distinctive personality, achieved in a unified aesthetic and sense of place through capitalizing on the abundant natural light and openness. Every guest room should provide a striking view, providing an open feeling through use of openings, sunlight and views that capture the full potential of this oceanfront property, multiple green design and architecture techniques shall be used that shall result in maximum energy efficiency.

Design shall be inspired by innovative design that balances aesthetics, feasibility economies and suit both place and purpose at once. Further, the design shall provide a fresh, inviting environment designed for ultimate comfort and productivity. All finishes and fixtures shall be used to create a sense of interest. Additionally, guest rooms shall be designed for maximum user-friendliness, constructed and engineered with state-of-the-art ergonomics.

- 5.5 Functional Area Requirements – The design and configuration of lodging facilities shall employ the concepts of a AAA Three-Diamond standard. The design and configuration of lodging facilities shall employ the listed minimum architectural design requirements. Enhancement of these requirements shall be considered in the programming of the new facility under Additional Design Criteria.

## CHAPTER 6 ENTITLEMENT REQUIREMENTS

- 6.1 This project is governed by local, state and federal requirements. In addition to the documents described in this document, the following permits for environmental compliance shall be required:
1. Approval of all necessary components of a General Development Plan and Specific Development Plan (Development Permit Application) filed with and approved by the City.
  2. FEMA Compliance
  3. US Army Corp Section 404 Permit
  4. The project shall be reviewed under CEQA
  5. A Coastal Development Permit is required
  6. A DFG streambed alteration agreement, Corps of Engineers 404 Permit may be required
  7. A Public Resource Code 5024 review shall need to be completed for archaeological data. This may include a site assessment with the Northern Chumash Native American tribal representative.
  8. ADA, State Fire Marshal and Department of Industrial Relations review and approval shall be required for final construction documents, in addition to City building permits, and County Health Department permits.
  9. A storm water management plan shall be required.
  10. All mitigations described as a result of any and all environmental reviews and City permitting requirements with ensuing mitigation measures shall be implemented.
  11. Other approvals, permits or studies as required.
- 6.2 The Proposer is responsible for reviewing the following documents as they apply to the proposed Lodge/Conference Facility:

### A. Local Coastal Program

Grover Beach's Local Coastal Plan (LCP) was approved by the Local Coastal Commission after the City determined it to be consistent with the City's General Plan. The Local Coastal Plan and the General Plan must be consistent with each other.

Particular attention is directed to that section of the LCP that addresses Private Visitor-serving and recreational facilities that set forth the following:

The City should ensure that visitors to the Pismo State Beach are provided with easily accessible, private commercial services, particularly those relating to provision of food and lodging in any new development in the Coastal Planned Commercial area west of Highway 1 and in the Coastal Visitor Services area along Grand Avenue east of the railroad tracks. A Lodge/Conference facility on the combined 7.75 acre state-owned and the 15 acres of privately-owned land

fronting on Highway 1 is strongly suggested by the City. Room per acre density south of Le Sage Drive shall be at a maximum of 20 rooms/acre while the room per acre density north of Le Sage Drive shall be at a maximum of 10 rooms/acre. The area south of Le Sage Drive shall be Phase I while the area north of Le Sage Drive shall be Phase II. Development nodes are encouraged to be located at the north and south ends of the site, with parking and auxiliary buildings between.

Additionally, the proposed facility shall have the following general design requirements:

1. Number of hotel guest rooms shall be at a density of 20 rooms/acre.
2. 20% of the project shall be at a maximum height of 40 feet, 40 % of the project at a maximum height of 30 feet, while the remaining 40% of the project shall be at a maximum height of 20 feet; however, through staggering and siting the project shall be designed to protect the existing view corridors along Grand Avenue and Le Sage Drive and further shall create one to three additional view corridors to the golf course and shoreline from highway 1.
3. Access to the proposal shall be from Highway 1 and Le Sage Drive and not from Grand Avenue.
4. The entire facility shall be sited and designed to prevent impacts to the environmentally sensitive areas of the intertidal, dunes and Meadow Creek.
5. The project shall maintain and where feasible shall enhance the filtration function of Meadow Creek and shall restore habitat values of the creek.
6. Conference meeting rooms shall be provided for groups from 20 to 200 persons.
7. The project shall have a maximum site coverage of 60%, the remaining 40% shall be landscaped open areas.
8. The project shall have within it both normal restaurant facilities as well as lower-cost eating establishments such as coffee shops and snack bars.
9. The project's colors, materials, landscape treatment, and general architectural design shall be compatible and complimentary to the existing natural vegetation and landforms.
10. Public parking for day use of the pedestrian beach shall be provided in the project if identified as a significant impact in the Environmental Impact Report prepared for the project.

Note: The Grover Beach City Council has approved a LCP policy interpretation that requirements three (3) and eight (8) above are not applicable for this project

#### B. Grover Beach General Plan

Particular reference should be made to the Beach Neighborhood Plan section of the General Plan.

This plan provides that the neighborhood's characteristics are best, and amply, described in the City's Local Coastal Program, which in a sense, contains much

of the neighborhood plan for this area and should be used as a reference when determining the policies and programs for the Beach area.

#### Planned Commercial/State Park Use and Concession Area/Future Neighborhood Characteristics:

This section of the General Plan identifies that improved and expanded educational and recreational activities and facilities at the beach and dunes, including a pier, shall attract more local residents and visitors. A master-planned lodge and convention or conference facility at Grand Avenue and Highway One shall provide a new and identifiable regional anchor and destination.

Beach and dune activity shall be supported by master-planned clusters of visitor-serving facilities such as shops, restaurants, and bed and breakfast inns. Residential mobile home and RV park uses shall be reduced or eliminated. Commuting and rail travel shall become possible from a new passenger station development and multi model transit center. The station shall also make the beach and environs a convenient and attractive getaway destination for Southern California from San Diego to Santa Barbara. Demand for local over-night accommodations shall increase.

Visitor serving developments shall be linked by bike lanes, pedestrian paths, trails and boardwalks and public transportation.

#### C. Grover Beach Zoning Regulations

All development plans and subsequent construction shall implement the following standards:

1. All development in this area be sited and designed to protect existing view slots or corridors from Highway 1 and upland areas to the dunes and shoreline.
2. All development in this area be sited and designed to enhance or create new view slots from Highway 1 to the dunes and shoreline.
3. All development be sited and designed to protect and enhance where feasible the filtration capabilities of Meadow Creek.
4. Reasonable mitigation measures shall be required to protect archaeological or pale ontological resources.
5. Native plant material shall be the major theme in all landscape designs.
6. All roads, parking lots, and structures shall be sited and designed to prevent impacts which would significantly degrade the adjacent environmentally sensitive area.
7. The architectural theme of development in this area shall generally follow the criteria set forth in the adopted Advisory Architectural Design Guidelines and additionally said architectural theme shall be compatible and complimentary to the existing natural vegetation and land forms. The architecture and site design shall include the following characteristics, in order to reduce massing

and reduce the sense of verticalness of structures:

- a. Use of structural, architectural design elements, i.e., corridors, heavy beams, posts, arches, columns, colonnades, canopies, cornices, etc.
  - b. Strong textured look, using woods, tiles, pavers, stuccos, stones, blocks and bricks, colors, plant material, recesses, etc.
  - c. Strong feeling or overhead treatment such as roof overhangs, balconies, or dark fascias.
  - d. Earthen colors. Colors with warm, natural tones. Colors range from whites, yellows, browns, clays, slates, etc.
  - e. Wall relief (graphic, three dimensional design, landscaping, heavy textured stucco, wood tiles, etc.)
  - f. Strong window statement (treatment of frame, mullions, border, etc.)
  - g. The minimum distance separating buildings shall be equal to the sum of the height of any two adjacent buildings divided by two, but in no case less than 10 feet between buildings.
8. Drainage systems be designed to insure that all silts and oils are removed prior to the water entering a natural drainage channel.
  9. Areas of significant natural vegetation be protected and enhanced where feasible.
  10. The existing habitat value of Meadow Creek be protected and enhanced by the use of buffer zones, additional native landscaping, sediment/oil control devices and controlled and limited pedestrian access to buffer zone areas.
  11. The maximum allowable coverage for any project in this District shall be sixty (60) percent. The remaining forty (40) percent shall be in landscaped open areas.
  12. All development in this area be required to maintain or enhance public access to and along the shoreline based on the development's impact on public access.

**D. Pismo State Beach General Plan Amendment 1982 Lodge and Conference Center**

This document recognizes that the Lodge/Conference facility may cause impact on the surrounding environment and that any mitigation measures proposed shall have to minimize any potential significant effects and address the following:

1. There shall be a boardwalk which shall enable pedestrians to cross the sand dunes from the parking lot to the beach. This shall help protect the dunes. The boardwalk shall ease accessibility of the beach to many who would find the dunes a formidable barrier. There shall be less interference with traffic on the beach at the end of Grand Avenue.
2. The plan proposes to reestablish Meadow Creek to a more natural-looking creek along this stretch. At present, it resembles a flood channel. It is hoped that animal and plant life, preferably native species, can be reestablished.

3. The plan proposes to deed the Grand Avenue right-of-way from Highway 1 to the beach from the City of Grover City to the Department of Parks and Recreation. A permanent entrance station is also proposed. This shall enable the department to have better control of access to the beach, and to limit overnight and day-use activities in the state vehicular recreation area.
4. Relocation of the RV sanitary dump station shall continue to keep harmful wastes out of the area.

### 6.3 Entitlement Steps – Joint Authority Project Approval Process

Joint Authority standard entitlement steps for the processing of the Lodge/Conference Facility

Under the Joint Authority, the City shall act as the Lead Agency. The State shall be the responsible agency.

The Joint Authority shall require the Concessionaire of the proposed Lodge/Conference Facility be responsible for and process a development permit application for approval of Site and Architectural Plans and a Coastal Development Permit and complete the following Joint Authority entitlement steps:

- A. Within two (2) months after execution of contract, Concessionaire meets with Joint Authority (JA) to modify/amend “Facility Development Plan” (FDP). (JA internal staff review-JA approval).

Concessionaire shall also submit a General Development Plan (GDP) to the City. This plan is subject to the City Development Permit Application requirement and shall require review and approval by both the City Planning Commission and City Council and shall be in compliance with the State’s General Plan. It is estimated that this review process shall be within 90 days of plan submittal.

In conjunction with the submittal of the GDP, the City, acting as the Lead Agency, shall commence a CEQA environmental analysis of the project proposal. It is anticipated that a focused Environmental Impact Report shall be required. It is estimated that 90 days shall be required for completion of the environmental document with 60 to 90 days required for public review.

- B. Within four (4) months after amending FDP and receiving GDP approval, Concessionaire submits a Schematic Design to JA. (JA internal staff review-JA approval).
- C. Within four (4) months after Schematic Design approval, Concessionaire submits Design Development to JA. (JA internal staff review-JA approval).



Concessionaire shall also submit a Development Permit Application to City for a Specific Development Plan (SDP), to include the following components:

- Site and Architectural Plans (Gradient Drainage Plan, Landscape Plan, Utility Plan and other components in accordance with City Development Permit application requirements.)
- Coastal Development Permit Application

The SDP and its related components require review and approval by the City Planning Commission. It is estimated that the processing of these entitlements shall take 60 to 90 days. Review of the Specific Development Plan and associated components is dependent on completion of the required CEQA environmental document.

Once approved by the City Council, there is a ten (10) day appeal period to the California Coastal Commission. If not appealed, the City Council's action on the Coastal Development Permit is final. Should the permit and project be appealed, an additional 3-6 months in the permit process can be anticipated before final action is taken on the Coastal Development Permit and a building permit can be issued.

- D. Within twelve (12) months after Design Development and SDP approvals, Concessionaire submits Working Drawings to JA. (JA internal staff review- JA approval).

Concessionaire shall also submit JA approved plans to the City for building permit review. It is estimated that a period of 60 to 90 days shall be required for review of the building and site plans.

- E. Within four (4) months after Design Development and SDP approvals, Concessionaire submits schedule, construction time-line, equipment schedule, furniture list and catalog cuts to JA. (JA internal staff review-JA approval).
- F. After approval of above, JA review of proposed work and plans for the purpose of determining that such work conforms in scope and quality to JA policies and standards. (JA internal staff review- JA Approval).

Note: JA may require a peer review and/or code consultant, etc. to review Working Drawings. All Costs to be reimbursed by Concessionaire.

- G. After final JA approval, submit plans for required State Approvals; State Fire Marshal, ADA Compliance, Department of Industrial Relations (Elevators) and others as required.

- H. After State approvals (above) of plans, State administrative review and approval process. (Director-DPR, State Attorney General and Department of General Services approvals).
- I. Within twenty-four (24) months of execution of contract, Concessionaire complete and receive approval for all required permits. (JA internal staff review-JA approval).
- J. Upon approval of the Working Drawings, review and approval of bid costs and schedule by JA, approval and receipt of all required permits and final approval of the concession contract, Concessionaire shall commence construction.

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AT PISMO STATE BEACH

**EXHIBIT “D”**

**PROPOSER’S FACILITY DEVELOPMENT PLAN  
(Attached after approval by Joint Authority)**

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

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**EXHIBIT “E”**

**CONSUMER PRICE INDEX (CPI)**

**ADJUSTMENT FORMULA**

## CONSUMER PRICE INDEX (CPI)

### ADJUSTMENT FORMULA

#### EXHIBIT "E"

Where Consumer Price Index (CPI) adjustments to Concessionaire's financial obligations are required, the following formula will be employed. 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, San Francisco All Items, (1982-84=100)." Calculations shall employee the following formula.

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

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

#### "Year End Index" – "Base Index"

Step #1: "Base Index" = % Increase

Step #2 % Change x Existing Rate = Adjustment

Step #3 Existing Rate + Adjustment = New Rate

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## **EXHIBIT “F”**

### **PROPOSER’S OPERATIONS PLAN (Attached after approval by Joint Authority)**

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## **EXHIBIT “G”**

# **DEFINITIONS AND PROCEDURES FOR APPROVAL OF SCHEMATICS, PRELIMINARY PLANS, AND WORKING DRAWINGS**

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

**DEFINITIONS AND PROCEDURES FOR APPROVAL OF  
SCHEMATICS, PRELIMINARY PLANS, AND WORKING DRAWINGS**

**EXHIBIT "G"**

**A. General**

1. All plans and exhibits shall be submitted with a transmittal letter signed and dated by the submitter and indicating the number of sheets and items being submitted and the purpose for which they are being submitted.
2. All plans and exhibits shall be submitted on 24"x36" standard sheets with a title block indicating the following:
  - a. Name of Project
  - b. Location of Project
  - c. Name and address of consultant or submitter
  - d. Date of submittal
  - e. Number of sheets
  - f. A space 4"x6" directly above the title block for approvals.
  - g. The word "Schematics" or "Preliminaries" or "Working Drawings" directly above the title block on each sheet.

**B. Schematic Design Phase**

1. Definition: Schematics shall consist of:
  - a. A program statement indicating the major spaces and their proposed uses and individual or special features or support needed. A discussion of the style, features, materials or other items that will describe the structure or facility.
  - b. A site plan, with diagrammatic indications showing relationships of Project Components. These components shall



include (but are not limited to) location, parking, roads, topography, utilities, and other major features.

- c. Floor plans of all of the principal areas labeling the major spaces and functions at 1/4" scale.
- d. Two elevations showing major materials and features at 1/4" scale.
- e. Statement of Probable Project Construction Cost.

### **C. Design Development Phase**

- 1. Definition: Preliminaries shall consist of:
  - a. Outline specifications of all 16 of the C.S.I. sections (if necessary) indicating materials, equipment, and special features or items.
  - b. A floor plan drawn at 1/4" scale with dimensions and notes that clearly show the scope of the work and individual materials.
  - c. A section through the building showing the structural system and the individual use of materials and finishes. Note: More than one section is required if the building or facility is complex enough to warrant additional information.
  - d. Two elevations drawn at 1/4" scale of the exterior of the building or buildings indicating materials, heights, and other related information.
  - e. A site plan showing location, orientation, utilities, parking, roads, and other related information. Note: If only interior work is to be accomplished, then a project location map can be submitted for a site plan requirement.
  - f. A further Statement of Probable Construction Cost.

### **D. Working Drawings**

- 1. Definition: Working Drawings shall consist of:
  - a. Specifications for the work to be accomplished. Specifications shall follow an organized format (such as C.S.I.) and shall be a complete description of materials, methods of installation,

standards of craftsmanship, and finishes required in the completed project.

b. Plans, site plans, elevations, sections, details, schedules, and other common and necessary items for the construction of the proposed project. Plans and elevations shall be drawn at a minimum scale of 1/4"=1'-0". Sections shall be drawn at a minimum scale of 1/2"=1'-0". Details shall be drawn at a minimum scale of 1-1/2"=1'-0". Mechanical, electrical, plumbing, finish, door, and other schedules shall be complete and include all information necessary for construction.

c. Working drawings shall reflect the content and scope of the approved preliminary drawings. Changes in the preliminary drawings that affect the materials, scope, scale, size, or intent of the project or portions of the project shall require resubmittal of preliminary plans for approval.

d. Drawings shall be signed by a licensed architect, and other consultants as needed. It is the responsibility of the submitter to obtain such permits as: Coastal permits, Handicap Accessibility, Fire Marshal, State Police, and others as necessary prior to proceeding with construction.

**E. Submittal Procedure (all phases)**

1. Submit five (5) copies of the plans, specifications, and other material required in the prospectus to:

City Manager  
City of Grover Beach  
154 S 8<sup>th</sup> Street  
Grover Beach, CA 93433

2. The Joint Authority will retain four (4) copies and return one (1) set marked in the following manner:

a. "Approved" - The plans are approved as submitted.

b. "Revise and Resubmit" - The plans will be approved when the changes noted are made and resubmitted to the Project Manager. The approval date does not start until they have been resubmitted and approved.

- c. Submittals that are incomplete will be returned to the submitter marked "Incomplete" without approval.
  - d. The review period for the State/City shall begin upon the receipt of "Complete" project documents.
- 3. Written approval of each phase is required before proceeding to the next phase.

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## **EXHIBIT “H”**

# **CONCESSIONAIRE FINANCIAL STATEMENT (DPR 86)**

## 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		\$ _____
	<b>GROSS PROFIT</b>	<b>\$ _____</b>

#### **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 &amp; sales</i> )	_____	
Legal & Accounting	_____	
Travel & Transportation	_____	
Interest	_____	
Security	_____	
Administrative Overhead	_____	
Depreciation ( <i>equipment</i> )	_____	
Amortization ( <i>improvements</i> )	_____	
Other: _____	_____	
Other: _____	_____	
Other: _____	_____	
Other: _____	_____	
	<b>TOTAL EXPENSES</b>	<b>\$ _____</b>
	<b>NET PROFIT FROM OPERATIONS</b>	<b>\$ _____</b>
	( <i>before income taxes</i> )	

## Page B \_\_\_\_\_ of \_\_\_\_\_

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

**Columns 5, 8, and 9 must add to the total shown in Column 4. If you need more space to list all equipment, use additional pages and number B-2, B-3, etc. Use reverse side for remarks.**

DESCRIPTION OF EQUIPMENT (1)	DATE ACQUIRED (2)	CONDITION (X) (3)		ACQUISITION COST (4)	PRIOR YEARS' DEPRECIATION (5)	RATE (%) (6)	LIFE (7)	DEPRECIATION THIS PERIOD (8)	BALANCE TO BE DEPRECIATED (9)
		New	Used						
TOTALS									

## CONCESSIONAIRE FINANCIAL STATEMENT

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

### C. BALANCE SHEET

#### ASSETS

##### CURRENT ASSETS

Cash	\$ _____
Accounts Receivable	_____
Merchandise Inventory	_____
Notes Receivable (Less than 1 year)	_____

**TOTAL CURRENT ASSETS** \$ \_\_\_\_\_

##### NONCURRENT ASSETS

Equipment/Property	\$ _____
Less Depreciation Reserve	_____
Net Equipment/Property Cost	_____
Prepaid Expenses	_____
Other: _____	_____
Other: _____	_____

**TOTAL NONCURRENT ASSETS** \$ \_\_\_\_\_

**TOTAL ASSETS** \$ \_\_\_\_\_

#### LIABILITIES

##### CURRENT LIABILITIES

Accounts Payable	\$ _____
S & W Payable	_____
Short-Term Notes Payable	_____
Interest Payable	_____
Short-Term Loan Payable	_____
Other: _____	_____
Other: _____	_____

**TOTAL CURRENT LIABILITIES** \$ \_\_\_\_\_

##### OTHER LIABILITIES

Other: _____	\$ _____
Other: _____	_____

**TOTAL OTHER LIABILITIES** \$ \_\_\_\_\_

**TOTAL LIABILITIES** \$ \_\_\_\_\_

#### CAPTIAL

##### OWNER'S EQUITY

Capital	\$ _____
Less Personal Drawing	\$ _____
Net Addition	\$ _____
Stockholder's Equity	\$ _____
Other: _____	\$ _____

**TOTAL CAPITAL** \$ \_\_\_\_\_

**TOTAL LIABILITIES AND CAPITAL** \$ \_\_\_\_\_

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	



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CONCESSIONS AND RESERVATIONS DIVISION

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**EXHIBIT “I”**

**JOINT AUTHORITY APPROVED FEE SCHEDULE  
(Attached after approval by Joint Authority)**

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

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## **EXHIBIT “J”**

# **CONCESSION PERFORMANCE RATING DPR 531**

## CONCESSION PERFORMANCE EVALUATION

### ***INSTRUCTIONS***

The Concession Performance Evaluation form, DPR 531, is used to conduct concession performance evaluations. For assistance with completing this form, refer to the Concession Performance Evaluation Standards and Guidelines. In completing the DPR 531, note the following:

- Not all categories may apply.
- The OTHER category may be used for items required by contract but not already listed, such as Business Plan or Facility Development Plan.
- Some categories have higher point values.
- Some categories are scored only as COMPLIANCE/NONCOMPLIANCE.
- The rater must comment on any rating in which the concessionaire received a score other than SATISFACTORY OR COMPLIANCE.

To complete the form:

1. Add the points circled in each column and enter the total per column for each page.
2. Add the totals per column for page 1 and page 2, and enter where indicated.
3. Add the column totals for all categories together. Divide the sum by the maximum total points possible, then multiply by 100 to obtain the PERCENT RATING. (To obtain the maximum points possible, add the excellent and compliance points of the rated categories.)
4. Check whether the concessionaire received a rating of NONCOMPLIANCE/UNACCEPTABLE for any category rating. If so, the OVERALL RATING must be either NEEDS IMPROVEMENT or UNACCEPTABLE regardless of the PERCENT RATING.
5. If Item 4 above applies, proceed to Item 6. If not, check the appropriate OVERALL RATING based on the PERCENT RATING.
6. The employee conducting the evaluation signs the form as the rater, checks whether he/she has discussed the report with the concessionaire, and submits the report to the concessionaire.
7. The concessionaire reviews and signs the evaluation within 14 days of receipt, and submits the form to the District office for processing.

# CONCESSION PERFORMANCE RATING

State of California - The Resources Agency  
CALIFORNIA STATE PARKS

DISTRICT					PARK UNIT		DATE
CONCESSIONAIRE					TYPE OF CONCESSION		
<b>CATEGORIES</b> <i>Circle the appropriate points in each category. If category is not applicable, check not applicable (NA) box.</i>		<b>EXCELLENT (E)</b>	<b>SATISFACTORY (S)</b>	<b>NEEDS IMPROVEMENT (NI)</b>	<b>NONCOMPLIANCE/ UNACCEPTABLE (NON)</b>	<b>COMPLIANCE (COM)</b>	<b>NOT APPLICABLE (NA)</b>
<b>COMMENTS</b> <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		
<b>TOTAL POINTS PER COLUMN</b> <b>PAGE 1 ONLY</b>					0		

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 PAGE 2 ONLY					0	0			
TOTAL POINTS PER COLUMN PAGE 1 + PAGE 2					0				
TOTAL POINTS RECEIVED FROM ALL CATEGORIES <div style="display: inline-block; width: 150px; border-bottom: 1px solid black;"></div>						MAXIMUM POINTS POSSIBLE FOR RATED CATEGORIES <div style="display: inline-block; width: 150px; border-bottom: 1px solid black;"></div>		<b>PERCENT RATING</b> <div style="display: inline-block; width: 150px; border-bottom: 1px solid black;"></div>	ARE THERE ANY NONCOMPLIANCE OR UNACCEPTABLE RATINGS IN ANY CATEGORY? * <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 <div style="border-bottom: 1px solid black; width: 150px;"></div>			TITLE <div style="border-bottom: 1px solid black; width: 150px;"></div>		DATE <div style="border-bottom: 1px solid black; width: 150px;"></div>		RATER DISCUSSED REPORT WITH CONCESSIONAIRE? <input type="checkbox"/> Yes. Date: <div style="border-bottom: 1px solid black; width: 100px;"></div> <input type="checkbox"/> No		
<i>In signing this report I do not necessarily agree with the conclusion of the rater.</i> CONCESSIONAIRE'S SIGNATURE <div style="border-bottom: 1px solid black; width: 150px;"></div>									
			TITLE <div style="border-bottom: 1px solid black; width: 150px;"></div>		DATE <div style="border-bottom: 1px solid black; width: 150px;"></div>				

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

CITY OF GROVER BEACH  
GROVER BEACH IMPROVEMENT AGENCY

State of California – The Resource Agency  
DEPARTMENT OF PARKS AND RECREATION  
CONCESSIONS AND RESERVATIONS DIVISION

CONCESSION CONTRACT FOR GROVER BEACH LODGE  
AT PISMO STATE BEACH

## **EXHIBIT “K”**

# **DRUG-FREE WORKPLACE CERTIFICATION STD 21**

**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.