



County of Santa Barbara
BOARD OF SUPERVISORS

Minute Order

April 21, 2020

Present: 5 - Supervisor Williams, Supervisor Hart, Supervisor Hartmann, Supervisor Adam, and Supervisor Lavagnino

COMMUNITY SERVICES

File Reference No. 20-00266

RE: Consider recommendations regarding Cachuma Lake Mission Rowing Center Concession Agreement, Third District, as follows: (4/5 Vote Required)

a) Approve and authorize the Chair to execute the Concession Agreement between the County of Santa Barbara (County) and Mission Rowing (Concessioner), to allow Concessioner to operate and manage a community rowing program for a term of five (5) years, with two options to extend the term for an additional five (5) years. Concessioner will pay to County a special use fee (Fee) of Eight Percent (8%) of Concessioners gross monthly income for the first year, then Ten Percent (10%) of gross monthly income the following years;

b) Authorize the Director of the Community Services Department to exercise an option to extend the term of the Concession Agreement for two additional five (5) year terms, provided that the Concessioner is not in default under the terms of the Concession Agreement; and

c) Find that the recommended actions are exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines section 15301 as the actions consist of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public structures, facilities and/or equipment that involves negligible or no expansion of existing or former uses and direct staff to file a Notice of Exemption on that basis.

A motion was made by Supervisor Williams, seconded by Supervisor Hartmann, that this matter be acted on as follows:

a) Approved and authorized; Chair to execute;

b) Authorized; and

c) Approved.

The motion carried by the following vote:

Ayes: 5 - Supervisor Williams, Supervisor Hart, Supervisor Hartmann, Supervisor Adam, and Supervisor Lavagnino

Project: Mission Rowing Cachuma Lake
Concession
APN: 145-160-072

CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (hereinafter "Agreement") is made by and between the

COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY,"

and

MISSION ROWING, a California Non-profit Company, hereinafter referred to as "CONCESSIONAIRE,"

with reference to the following:

WHEREAS, the United States has constructed the Cachuma Project, (hereinafter the "Project,") including Bradbury Dam and Cachuma Reservoir (also known as "Lake Cachuma"), the Tecolote Tunnel, the South Coast Conduit, and related facilities and appurtenances, pursuant to section 9(a) of the Reclamation Project Act of 1939, for diversion, storage, conveyance and distribution of waters of the Santa Ynez River and its tributaries for irrigation, municipal, domestic, and industrial uses; additionally, non-reimbursable funds were allocated for providing flood control, recreation and fish and wildlife benefits; and

WHEREAS, COUNTY has agreed to manage the recreation resources at Lake Cachuma pursuant to the Agreement Between the United States of America Department of the Interior, Bureau of Reclamation (hereinafter referred to as "Reclamation") and the COUNTY, Contract No. 11-LC-20-0223. The Agreement is made in accordance with the Act of June 17, 1902, (32 Stat. 388), Public Law 89-72 (79 Stat. 213), as amended particularly by Title XXVIII of Reclamation Recreation Management Act of October 30, 1992 and amendatory and supplementary Acts collectively referred to as Federal Reclamation Laws for the Administration, Operation, Maintenance, and Development of Recreation at Lake Cachuma (hereinafter referred to as "Master Agreement"). The Master Agreement promotes the development and operation of recreation and fish and wildlife enhancement at Lake Cachuma (hereinafter referred to as "Park"), as shown on Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the Master Agreement allows COUNTY to issue and administer concession contracts and third party permits to persons or associations for the purpose of providing appropriate

and necessary services, goods, and facilities for the use of the visiting public consistent with the intent and conditions of the Master Agreement; and

WHEREAS, in accordance with the Master Agreement, COUNTY has solicited proposals and has determined that the goods and services provided by CONCESSIONAIRE will provide a benefit to the visiting public and are consistent with the directives and standards set forth in the Master Agreement; and

WHEREAS, Reclamation has approved this Agreement between COUNTY and CONCESSIONAIRE, subject to the terms, conditions, exceptions, and reservations in the Master Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, and conditions contained herein, the parties agree as follows:

1. **ADMINISTRATION AND ENFORCEMENT**: The provisions of this Agreement shall be administered and enforced for the COUNTY through the Director of COUNTY'S Parks Department (hereinafter "Director"). The Director shall have authority to issue or deny any COUNTY approvals required by this Agreement.

2. **RIGHTS GRANTED**: COUNTY hereby grants to CONCESSIONAIRE and CONCESSIONAIRE hereby takes from COUNTY the right to use the area shown on Exhibit "B", attached hereto and incorporated herein by this reference (hereinafter "Premises"), including all facilities existing thereon at the time of execution of this Agreement, as well as the equipment described in Exhibit "C", also attached hereto and incorporated herein by this reference. All rights granted herein shall be subordinate to the prior rights of Reclamation and its agents, to use any portion of the Park, including the Premises, for Project purposes pursuant to Federal Reclamation Law. Nothing contained in this Agreement shall be construed as purporting to transfer or convey any interest in the land, water or any public facilities to CONCESSIONAIRE. No facility, service, or site determined by Reclamation to be exclusive shall be allowed. In addition, CONCESSIONAIRE shall, at all times, be subject to all requirements and provisions set forth in the various exhibits attached to this Agreement.

CONCESSIONAIRE shall have the right to engage in any or all of the following activities in accordance with CONCESSIONAIRE's operating plan (hereinafter "Operation and Maintenance Plan"), which is attached hereto as Exhibit "D", and incorporated herein by reference:

- a) Conduct non-exclusive concession activities, including storage and maintenance of equipment, e.g. rowing sculls, oars, cradles and racks, etc., hereafter. Hereinafter referred to as "Activities" at the Park. Activities may take place both on land and water,
- b) Provide non-exclusive comprehensive rowing activities for youth and adults including team building skills and physical fitness training that are related to rowing skill refinement,
- c) Activities will be conducted only during day light hours in the Park, which vary throughout the year. Activities will be restricted to the Premises outlined in Exhibit B. Other activity times may be considered on a case-by-case basis and are subject to the prior written approval of the Community Services Department Director or his designee.

- d) Non-day use activities and special events such as competitions, sculling events, and regattas which are beyond the scope of this Agreement will be handled separately, on a case-by-case basis, through the Cachuma Lake Recreation Area Application for Special Event Facility Use and agreement process,
- e) Because of the family-oriented nature of the Park facilities, COUNTY and Reclamation reserves the right to disapprove any Concessionaire activities, music, acts, entertainment, performances or attractions at any time which it considers, in its sole discretion, to be inconsistent with its current philosophy,
- f) While CONCESSIONAIRE will make every effort to provide its facilities for the Park's activities, COUNTY and Reclamation shall have no liability to the CONCESSIONAIRE if the Park's facilities become restricted or closed for reasons including, but not limited to, acts of God, terrorism, war, or the inability to provide facilities if permitting agencies revoke permits or authorization to use facilities.

Any products sold on the Premises or surrounding Lake Cachuma grounds, shall comply in all respects with all applicable County, State and Federal laws, ordinances and regulations. In no event shall CONCESSIONAIRE sell any personal property (other than the approved concession inventory) such as vehicles, manufactured or mobile homes, travel trailers, boats, or personal watercraft within the Park. CONCESSIONAIRE agrees to make all facilities, as well as all products and services provided at the Premises available to the public without discrimination and at reasonable rates.

3. **PURPOSE AND USE:** CONCESSIONAIRE shall have the right to use the Premises subject to the Reservations set forth in Section 4 hereof to operate, manage, and maintain the Premise in accordance with the Operation and Maintenance Plan and Section 2 *RIGHTS GRANTED*. CONCESSIONAIRE has the right to collect fees for such goods and services in accordance with the pricing set forth in the Operation and Maintenance Plan. CONCESSIONAIRE shall pay all operating costs related to its use of the Premises, and hereby agrees that there is no guarantee of a profit from its provision of such goods and services. CONCESSIONAIRE shall not use the Premises for any other purpose without the express written consent of COUNTY. CONCESSIONAIRE shall have non-exclusive use of the Lake Cachuma for rowing activities.

CONCESSIONAIRE shall provide quality recreation facilities, appropriate visitor goods and services at reasonable rates and accessible to all members of the visiting public, including persons with disabilities in accordance with the Americans with Disabilities Act, as amended. Reasonable rates shall be based on charges for comparable goods and services provided by the private sector in similar situations. CONCESSIONAIRE shall use its best efforts to maximize income at the Premises and shall be open for business on a daily basis beginning when the lake opens in the morning until it is closed each night. CONCESSIONAIRE may close on major U.S. holidays. Notwithstanding, the proposed hours of operation may be amended from time to time by CONCESSIONAIRE and the Director of Parks. In the event of accident or injury, the name of CONCESSIONAIRE staff, and the names, addresses, and phone numbers of all CONCESSIONAIRE patrons and related witnesses shall be collected and immediately made available to COUNTY. Failure to report any and all accidents or other incidents may result in immediate termination of this contract. COUNTY reserves the right to fully investigate serious incidents, injuries and accidents.

CONCESSIONAIRE shall not install or construct any improvements on the Premises until such has been approved by COUNTY in accordance with Section 16, *IMPROVEMENTS/ALTERATIONS*, hereof. Operations at the Premises shall provide for the protection, conservation, and preservation of natural, historical, and cultural resources.

CONCESSIONAIRE shall require all employees to conduct themselves in a polite, professional and courteous manner when conducting business in the Park, and to comply with the Employee Conduct and Conditions detailed in Exhibit "E", attached hereto and incorporated herein by reference. CONCESSIONAIRE is responsible for providing and ensuring a safe and healthful environment for both the visiting public and employees by developing, implementing, and administering health, safety, and educational programs to ensure the Premises are managed in compliance with Federal, State, and local laws, rules and regulations.

4. **RESERVATIONS:** All activities conducted by CONCESSIONAIRE in the Park shall be subject to the following conditions and reservations:

- a) Existing land uses, rights, or interests within the Park that are lawfully held by Reclamation or persons or entities not party to this Agreement, such as but not limited to private rights which have lawfully attached to all lands prior to the date of this Agreement; the rights-of-way for ditches and canals provided by the Act of August 30, 1890 (26 Stat 391); and the rights-of-way heretofore acquired or initiated for highways, railroads, irrigation works, or for any other purposes.
- b) The right of Reclamation, its employees, agents and assigns, to enter the Park on official business without charge, for the purpose of enforcing, protecting, and exercising the rights of Reclamation and also to protect the rights of those not party to this Agreement.
- c) The right of Reclamation, its agents, employees, assigns, contractors, lessees, or permittees, to remove from the Park, any and all materials necessary for the construction, operation, and maintenance of Project Works and facilities. All such removal activities shall not encroach on developed sites without mutual agreement of the parties hereto.
- d) The right of Reclamation, and its assigns, permittees, or lessees to prospect for, extract, and carry on the management of oil, gas, coal, and other minerals, and the right to issue leases or permits to prospect for oil, gas, or other minerals under the Act of February 25, 1920 (41 Stat. 437), and amendatory acts, the Act of August 4, 1939 (53 Stat. 1187), as amended, and the Act of August 7, 1947, (61 Stat. 913).
- e) The right of COUNTY and its successors and assigns to periodically access and inspect the Premises, and to monitor CONCESSIONAIRE'S operations at the Premises, in accordance with COUNTY'S reporting obligations to Reclamation under the Master Agreement.

5. **TERM:** The term of this Agreement shall commence upon final execution of this Agreement by COUNTY, (hereinafter "Commencement Date"), and shall continue for a period of

approximately five (5) years (hereinafter "Initial Term"), unless otherwise terminated pursuant to the provisions hereof.

6. **OPTIONS TO EXTEND:** Provided CONCESSIONAIRE is in compliance with all terms and conditions of this Agreement, CONCESSIONAIRE may, by mutual agreement of the parties, have two (2) five (5) year options to extend the Agreement.

CONCESSIONAIRE may request the option to renew by providing written notice to COUNTY at least ninety (90) days prior to expiration of the then current term. Such notice may be approved by the Director identified in Section 1 *ADMINISTRATION AND ENFORCEMENT*. The term of this Agreement may not exceed the term of the Master Agreement between COUNTY and Reclamation. Upon renewal of a Master Agreement, CONCESSIONAIRE shall have right of first refusal to enter into another Agreement with the COUNTY.

7. **ASSIGNMENT/SUBLEASE/SUBCONTRACT:** CONCESSIONAIRE shall not voluntarily assign, sublease, subcontract or otherwise encumber any rights granted hereunder, or allow any other person or entity to occupy or use all or part of the Premises without the written consent of COUNTY. Any attempt to assign, sublease, subcontract, hypothecate or otherwise encumber the rights granted hereunder without such consent shall be void and without legal effect, and render this Agreement terminable at the option of COUNTY.

In the event the Master Agreement is terminated, Reclamation shall not stand in the stead of COUNTY, and COUNTY shall have no further obligations hereunder. In such event, Reclamation may terminate or modify this Agreement, negotiate a new concession agreement with CONCESSIONAIRE, or take such other action as it deems appropriate in its sole discretion.

8. **ACCESS TO THE PREMISES:** CONCESSIONAIRE shall only access the Premises using the existing roads and parking lot in the Park. COUNTY shall not be responsible for maintaining access to the Premises and shall not be liable to CONCESSIONAIRE for lack of such access, however, in the event that the Premises becomes inaccessible as a result of natural causes, COUNTY shall, to the extent reasonably necessary, cooperate with CONCESSIONAIRE in restoring access in a timely fashion.

9. **NONINTERFERENCE:** CONCESSIONAIRE agrees to not use, nor permit those under its control, including, but not limited to, its employees, tenants, licensees, invitees, agents and/or contractors, to use any portion of the Premises in any way which interferes with public use. Such interference shall be deemed a material breach, and CONCESSIONAIRE shall terminate said interference immediately upon notice from COUNTY. In the event CONCESSIONAIRE fails to stop such interference within FIVE (5) days of receipt of notice from COUNTY, this Agreement shall terminate at the option of COUNTY.

10. **SPECIAL USE FEES:** In consideration of the rights granted herein, CONCESSIONAIRE shall pay to COUNTY a monthly fee (hereinafter "Fee") based on a percentage of CONCESSIONAIRE'S monthly income from the rights granted herein, according to the formula and timeframe set forth in this Section, or Five Hundred Dollars (\$500.00), whichever is greater. Concurrently with the payment of Fees, CONCESSIONAIRE shall submit to COUNTY, a written

monthly report of all gross income derived from CONCESSIONAIRE'S operations at the Premises. Fees shall begin to accrue on the Commencement Date, and shall be due and payable for each month of the term. All Fees due to COUNTY shall be paid on a monthly basis, on or before the tenth (10th) day of the following month, and shall be delivered to COUNTY at the address stated herein in Section 31, *NOTICES*. The percentage of CONCESSIONER's monthly income shall be calculated as follows:

a) PERCENTAGE FEE:

- i. CONCESSIONAIRE shall pay to COUNTY a percentage of the gross income on all sales, income or receipts arising from CONCESSIONAIRE'S operations at the Premises. Gross income shall not include any amount collected for State or Federal taxes.
- ii. Beginning on the Commencement Date and through first year of operations, CONCESSIONAIRE shall pay to COUNTY eight percent (8%) of the gross income in any calendar month received from all of CONCESSIONAIRE'S operations on the Premises.
- iii. Beginning second year of operation, and thereafter, CONCESSIONAIRE shall pay to COUNTY ten (10%) of the gross income in any calendar month received from all of CONCESSIONAIRE'S operations on the Premises. CONCESSIONAIRE shall provide a monthly financial report that includes gross receipts and a calculation of the percentage fee. CONCESSIONAIRE shall provide a monthly financial report that includes gross receipts and a calculation of the percentage fee.

11. REIMBURSEMENT OF FEES: In no event shall COUNTY or Reclamation be responsible for reimbursement of any fees paid by CONCESSIONAIRE'S patrons, invitees or guests.

12. TAXES AND ASSESSMENTS: This Agreement may confer a possessory interest tax on CONCESSIONAIRE and CONCESSIONAIRE shall pay and discharge any and all property taxes and/or assessments, including special assessments and possessory interest taxes, if any, which, due to CONCESSIONAIRE'S operations, may be levied upon the Premises during the term of this Agreement.

13. ACCOUNTING: CONCESSIONAIRE shall keep and maintain good and sufficient books and records of any and all business conducted under the terms of this Agreement, and shall keep financial records in accordance with generally accepted accounting principles. CONCESSIONAIRE shall keep such books of account, cash receipts and other pertinent data for a period of not less than six (6) years following the end of each year of the term of this Agreement. Such books and records shall be available for inspection by officers, employees and agents of COUNTY and/or Reclamation at all reasonable times. In addition, CONCESSIONAIRE shall complete (and submit to COUNTY) Reclamations' Annual Financial Report form(s).

CONCESSIONAIRE shall scrupulously endeavor to keep all receipts and accounts for the business conducted under the terms of this Agreement separate and apart from any other business enterprise. All business income derived from the operation of this concession shall be attributed to the gross income under this Agreement. Accounts for revenues from business enterprises owned

by CONCESSIONAIRE at other locations than the Premises described herein shall be segregated from those of the Premises to allow accurate audit of income source, including provision of separate bank accounts.

For the purpose of ascertaining the amount payable as percentage Fees, CONCESSIONAIRE agrees to prepare accurate records showing inventories and receipts of merchandise at the Premises, and to show daily receipts from all sales and other transactions conducted from the Premises by CONCESSIONAIRE or any third party conducting business from the Premises. CONCESSIONAIRE shall record at the time of the sale and in the presence of the customer, all receipts from sales or other transactions for cash in a cash register that continuously records a cumulative total.

In addition to the monthly report required in Section 10 hereof, CONCESSIONAIRE shall submit, within thirty (30) days of the end of the fiscal year for each and every year of the term, including any extension thereof, an annual financial report that includes gross receipts and an accounting of all transactions, prepared by a licensed Certified Public Accountant (CPA), and certified to be correct by an officer of CONCESSIONAIRE.

COUNTY and/or Reclamation shall have the right, within twelve months after receipt of the annual financial report, to inspect all of the books of account and supporting data relating to gross receipts, and may, at COUNTY'S sole discretion, conduct of audit of CONCESSIONAIRE'S entire business affairs and records relating to CONCESSIONAIRE'S operations at the Premises. CONCESSIONAIRE, on fourteen days written notice, shall make all financial records available to COUNTY during regular business hours. In the event that any such inspection or audit discloses that CONCESSIONAIRE has not paid COUNTY the proper amount of Percentage Fees, CONCESSIONAIRE shall promptly pay the additional Fees due, together with interest computed from the date such Percentage Fee became due at the rate of TEN PERCENT (10%) per annum, or may conduct an independent audit of CONCESSIONAIRE'S entire business affairs and records relating to CONCESSIONAIRE'S operations at the Premises, certified by a certified public accountant or licensed public accountant. In the event of such an audit, should the gross receipts shown by CONCESSIONAIRE for the period covered by such audit be found to be understated by more than FIVE PERCENT (5%), CONCESSIONAIRE shall pay to COUNTY and/or Reclamation any costs incurred by COUNTY and/or Reclamation as a result of such audit and/or inspection.

14. **MAINTENANCE AND REPAIR:** CONCESSIONAIRE agrees to keep the Premises, including all buildings, improvements, landscaping, and all equipment in good maintenance and repair. The Premises shall be maintained in a sanitary, orderly, attractive and safe condition. CONCESSIONAIRE shall coordinate all door and gate locks or combination codes with COUNTY, and keep the garbage area clean and all garbage containers closed to prevent birds and other animals from gaining access to the garbage.

CONCESSIONAIRE shall provide, prior to performing any work under this Agreement, an annual Operation and Maintenance Plan to be approved by COUNTY. The parties agree that this Agreement is intended to be at no cost to COUNTY and that COUNTY shall have no obligation to maintain the Premises nor any improvements or landscaping thereon. Notwithstanding, COUNTY

and Reclamation reserves the right to enter the Premises at any time for emergency purposes or any other purpose related to the Park.

CONCESSIONAIRE has examined the Premises, as well as the equipment described in Exhibit C, and has determined such to be suitable for the needs and operations of CONCESSIONAIRE. CONCESSIONAIRE hereby accepts the Premises and the items listed in Exhibit C in their current condition. Prior to the Commencement Date, COUNTY and CONCESSIONAIRE shall inspect the Premises and items listed in Exhibit C and provide an inventory of the condition.

CONCESSIONAIRE and COUNTY shall be responsible for maintenance and repair of the Premises as set forth in Exhibit "F", attached hereto and incorporated herein by reference. In the event CONCESSIONAIRE has not performed the necessary maintenance which causes the equipment items or infrastructure to fail, CONCESSIONAIRE shall be responsible for the replacement or repair, at its sole cost and expense.

In the event of an emergency such that the Premises requires immediate maintenance or repair that would otherwise be COUNTY's responsibility according to Exhibit "F" and CONCESSIONAIRE's operations would be negatively impacted by any delay, CONCESSIONAIRE may independently contract for such maintenance or repair. In such an event, CONCESSIONAIRE shall ensure that any maintenance or repair will conform to COUNTY maintenance standards, to be determined by COUNTY, and the cost of such maintenance or repair shall be allocated according to the responsibilities set forth in Section 10, *Special Use Fee*. Prior to contracting for any maintenance or repair that is COUNTY's responsibility, CONCESSIONAIRE shall provide COUNTY with notice of the emergency and an opportunity to respond to the emergency in a timely manner, according to the emergency contact information provided by COUNTY.

COUNTY, its agents, employees and contractors reserve the right to enter the Premises at all reasonable times, upon at least twenty-four hour notice to LESSEE (except in the case of emergency) to perform maintenance and repair, as needed on the Property; provided COUNTY shall be cognizant of the activities in the Premises and shall make an effort to provide advance notice. This right extends to public utilities in regard to repair, maintenance, construction and demolition of utility infrastructure on the Property, including appurtenances.

15. **FACILITIES:** CONCESSIONAIRE shall pay all costs of construction and installation of any and all improvements to the Premises incidental to the activities contemplated herein; including but not limited to landscaping and maintenance.

16. **IMPROVEMENTS/ALTERATIONS:** CONCESSIONAIRE agrees that any improvements, alterations, equipment, utilities, or utility infrastructure constructed or placed on the Premises, either permanent or temporary in nature, or any alterations or additions made to the Premises shall be subject to prior written approval by COUNTY. Concurrently with CONCESSIONAIRE'S request for approval of any CONCESSIONAIRE-built fixed-asset improvements to the Premises, CONCESSIONAIRE may propose an amortization schedule be applied to such improvement. COUNTY and CONCESSIONAIRE shall agree to any amortization schedule proposed pursuant to this Section prior to COUNTY'S issuance of written approval of

the improvement. All improvements or alterations must be harmonious in form, line, color and texture with the surrounding landscape.

If COUNTY approves any new proposed improvement plans, such approval shall be deemed conditioned upon CONCESSIONAIRE acquiring permits or clearances from the appropriate governmental agencies, and the submission of such to COUNTY prior to commencement of work. CONCESSIONAIRE shall comply with all conditions of said permits or clearances in a prompt and expeditious manner. Any and all permits or clearances required shall be granted only on the merits of the application thereof, and nothing in this Agreement shall be construed to require COUNTY, or any other governmental agency, to grant such permits or clearances.

CONCESSIONAIRE shall pay when due all claims for labor or materials furnished or alleged to have been furnished to CONCESSIONAIRE for use on the Premises, which claims are or may be secured by any liens on the Premises or any interest therein. CONCESSIONAIRE shall give COUNTY no less than ten days written notice prior to the commencement of any work on the Premises, and COUNTY shall have the right to post Notices of Non-responsibility in or on the property as provided by law. If CONCESSIONAIRE contests in good faith the validity of any such lien, claim or demand, CONCESSIONAIRE shall, at its sole cost and expense, defend itself and COUNTY against the same, and shall pay and satisfy any such adverse judgment that may be rendered therefrom. Upon request by COUNTY, CONCESSIONAIRE shall furnish COUNTY with a copy of a surety bond satisfactory to COUNTY in an amount equal to such contested lien claim or demand indemnifying COUNTY from liability for same, and holding the property free and clear of the effect of such lien or claim.

- a) OWNERSHIP OF IMPROVEMENTS: COUNTY shall retain ownership of all improvements on the Premises, as well as all items listed on Exhibit C hereof.
- b) CONCESSIONAIRE RIGHT TO REIMBURSEMENT: In the event this Agreement is terminated prior to CONCESSIONAIRE amortizing the cost of CONCESSIONAIRE-built fixed-asset improvements to the Premises, CONCESSIONAIRE may request partial reimbursement for such improvements pursuant to such prior agreement as may be reached between CONCESSIONAIRE and COUNTY in regard to an amortization schedule for each individual improvement. In no event shall any value be attributed to CONCESSIONAIRE'S ownership interest beyond the term of the Master Agreement, and no financial obligation or risk shall reside in Reclamation for reimbursement for fixed assets or personal property as a result of this Agreement. In the event the Master Agreement expires or is terminated, CONCESSIONAIRE'S fixed assets and personal property must be removed from the Park unless an agreement is reached between Reclamation and CONCESSIONAIRE for a new concession agreement and Reclamation decides to keep the fixed assets.

17. UPDATE TO OPERATION AND MAINTENANCE PLAN: On January 1 of each and every year, CONCESSIONAIRE shall provide COUNTY with an update to the Operation and Maintenance Plan (described in Section 3, and attached hereto as Exhibit D). The updated Operation and Maintenance Plan will contain a description of any changes in CONCESSIONAIRE'S intended business operations for the ensuing year, as well as a description of proposed improvements, repairs, and general maintenance plans, including facilities, equipment and landscaping. The

description of business operations will include any changes in goods or services offered at the Park by CONCESSIONAIRE, a price list detailing the costs for all goods and services offered, an estimate of gross revenues for the ensuing calendar year, and a list of current officers or principals conducting business on behalf of CONCESSIONAIRE. CONCESSIONAIRE shall include proposed measures to be taken for the protection, conservation, and preservation of natural, historical, and cultural resources in the Park.

18. **UTILITY CHARGES:** Subject to COUNTY approval, CONCESSIONAIRE shall have the right to install any and all additional utility installations within the Premises that are required by the purposes contemplated herein. CONCESSIONAIRE shall pay charges for all CONCESSIONAIRE'S utilities such that all utility charges for CONCESSIONAIRE'S operations are independent of utility charges for the Park. CONCESSIONAIRE shall be responsible for maintaining any and all utilities to the Premises, and shall pay when due all charges for utilities now on the Premises, or constructed or placed on the Premises, for use by CONCESSIONAIRE.

The fee charged for utility services provided by Reclamation shall be based on the recovery of full operating and replacement costs for utility capital investments and comparable utility rates. Utility services include, but are not limited to electricity, gas, water waste disposal and communication systems.

19. **SIGNS:** CONCESSIONAIRE shall not erect any signs in the Park without express written consent of COUNTY. Reclamation's name and COUNTY'S name shall be displayed at the entrance to the Leased Premises.

20. **TRASH DISPOSAL:** CONCESSIONAIRE shall be responsible for the removal of all refuse, waste and rubbish from the Premises resulting from CONCESSIONAIRE'S operations and depositing such in proper receptacle which may be provided by COUNTY.

21. **WASTE:** No waste shall be committed in the Park, nor shall any nuisance or other acts be committed that disturb the enjoyment of the general public, the Park, its visitors, COUNTY, or any adjacent property owners.

22. **FIRE HAZARD:** CONCESSIONAIRE understands the Park covered herein is a "hazardous watershed fire area", as the same is defined in the Uniform Fire Code compiled by the California Fire Chiefs Association and adopted with modifications and amendments thereto by COUNTY, and shall take all reasonable fire precautions. CONCESSIONAIRE understands that portions of the Park may become subject to the jurisdiction of the U.S. Forest Service and to all of the fire prevention, control, and suppression laws, rules, and regulations of the Forest Service.

23. **ENVIRONMENTAL IMPAIRMENT:** CONCESSIONAIRE shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signing, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request of COUNTY. In addition, CONCESSIONAIRE shall comply with the Environmental Requirements set forth in Exhibit "G", attached hereto and incorporated herein by reference.

Should any discharge, leakage, spillage, emission, or pollution of any type occur in the Park due to CONCESSIONAIRE'S use and occupancy, CONCESSIONAIRE shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction thereover. CONCESSIONAIRE shall indemnify, hold harmless, and defend COUNTY and Reclamation from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, and consulting engineering and construction costs) incurred by COUNTY or Reclamation as a result of CONCESSIONAIRE'S breach of this Section, or as a result of any such discharge, leakage, spillage, emission or pollution due to CONCESSIONAIRE'S use and occupancy, regardless of whether such liability, cost or expense arises during or after the term of this Agreement, and regardless of negligence, active or passive, of COUNTY.

24. **TOXICS:** CONCESSIONAIRE shall not manufacture or generate hazardous wastes in the Park, including but not limited to pesticides, herbicides, sewer effluents, petroleum products, and liquid waste (grey water). CONCESSIONAIRE shall be fully responsible for any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported by CONCESSIONAIRE, its agents, employees, or designees in the Park during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. CONCESSIONAIRE shall notify COUNTY and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

- a) On the Premises CONCESSIONAIRE shall not:
 - i. Keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous (besides fuel for launches);
 - ii. Carry-on any offensive or dangerous trade, business, or occupation; or
 - iii. Use or operate any machinery or apparatus that shall injure the Premises or adjacent buildings in any way
- b) Nothing in this Section 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
- c) CONCESSIONAIRE shall comply with all applicable laws and best practices pertaining to the use, storage, transportation, and disposal of hazardous substances. 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.
- d) CONCESSIONAIRE shall notify COUNTY immediately in the event of any release or threatened release of any such wastes, substances or materials. In the event that such wastes, substances, or materials are released upon the property by CONCESSIONAIRE or others under its control, COUNTY may terminate this agreement immediately. Upon termination of this Agreement by COUNTY, all rights of CONCESSIONAIRE shall cease and

CONCESSIONAIRE shall quietly and peacefully deliver to COUNTY, possession and interest in the property.

- e) CONCESSIONAIRE shall protect, indemnify, defend, and hold harmless the State, and Reclamation or any of its affiliates, successors, principals, employees, or agents against any liability, cost, or expense, including attorney fees and court costs, arising from illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, by CONCESSIONAIRE. Where CONCESSIONAIRE is found to be in breach of this provision due to the issuance of a government order directing CONCESSIONAIRE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition directly caused by CONCESSIONAIRE or any person acting under CONCESSIONAIRE'S direct control or authority, CONCESSIONAIRE shall be responsible for all cost and expense of complying with such order, including any and all expenses imposed on or incurred by the State in connection with or in response to such government order. Notwithstanding the foregoing, in the event a government order is issued naming CONCESSIONAIRE, or CONCESSIONAIRE incurs any liability during or after the term of the Contract in connection with contamination that preexisted the CONCESSIONAIRE'S obligations and occupancy under this Contract or prior contracts, or that were not directly caused by CONCESSIONAIRE, the State shall be solely responsible as between CONCESSIONAIRE and the State for all expenses and efforts in connection therewith, and State shall reimburse CONCESSIONAIRE for all reasonable expenses actually incurred by CONCESSIONAIRE therewith.
- f) Upon termination of this Contract, when requested by State, CONCESSIONAIRE shall provide to COUNTY certification prepared by a Certified Industrial Hygienist that there is no hazardous waste contamination and/or damage to the Premises.

25. **COMPLIANCE WITH THE LAW:** CONCESSIONAIRE and CONCESSIONAIRE'S customers, licensees, invitees or guests shall comply with all local, County, State, and Federal laws, rules, regulations, Executive Orders, and Reclamation Policies affecting the property, now or hereafter in effect. CONCESSIONAIRE'S occupancy shall at all times be subject to County Park rules, regulations, and restrictions per Santa Barbara County Code, Chapter 26. CONCESSIONAIRE shall make a copy of the County Park Rules, including any subsequent amendments thereto, available to each customer, licensee, invitee or guest.

CONCESSIONAIRE shall comply with Executive Order 13658, establishing a minimum wage for contractors. CONCESSIONAIRE acknowledges that all rights and privileges extended through this Contract are subject to the terms, conditions, exceptions, and reservations memorialized in the "Management Agreement" attached to, and made a part of this Contract as Exhibit "K" the "Reclamation Manual, Directives and Standards, LND 04-02"

26. **PROTECTION OF THE WATERS OF THE LAKE:** It is understood by the CONCESSIONAIRE that the waters of the Cachuma Reservoir are to be used as a domestic water supply for the south coastal section of Santa Barbara County and that the continued permitted use of the Cachuma Recreation Area depends on COUNTY adequately protecting the waters of the

reservoir and the area adjacent thereto against pollution, contamination or unsanitary conditions. CONCESSIONAIRE covenants that, in the conduct of its business and operations hereunder, it will diligently guard against the contamination or pollution of the waters and adjacent land areas by CONCESSIONAIRE, its agents, servants or employees and by the general public.

27. **WATER LEVEL OF CACHUMA LAKE:** The water level of Cachuma Lake is subject to change and fluctuation from natural causes, and/or the use of waters for the reservoir for domestic water supply and other purposes. In the event that the Premises are permanently inundated, or imminently threatened with permanent inundation due to any cause whatsoever, such that the rights granted to CONCESSIONAIRE hereunder can no longer be exercised, CONCESSIONAIRE may remove, at no cost or expense to COUNTY, such improvements as CONCESSIONAIRE has constructed hereunder to an alternate site mutually agreed upon in writing by COUNTY and CONCESSIONAIRE and this Agreement shall remain in effect for the remaining portion of the term. In the event of inundation precluding exercise of the rights granted to CONCESSIONAIRE hereunder, and a mutually agreed upon site for relocation of CONCESSIONAIRE'S improvements is not found in the Cachuma Recreational Area, CONCESSIONAIRE may remove and relocate its improvements to a site other than the Cachuma Recreational Area, and CONCESSIONAIRE shall retain ownership of such improvements.

28. **INDEMNIFICATION:** CONCESSIONAIRE shall defend, indemnify and hold harmless the COUNTY, its officers, agents, employees and volunteers, and Reclamation, including its officers, agents, employees, contractors and assigns from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the activities described herein, caused in whole or in part by any alleged negligent or intentional act, or error or omission of the CONCESSIONAIRE, his tenants, licensees, invitees, or his agents, employees or other independent contractors directly responsible to him for whose acts any of them may be liable, except where caused by the active, sole negligence, or willful misconduct of the COUNTY or Reclamation.

CONCESSIONAIRE shall notify the COUNTY in writing immediately after the occurrence of any accident of a serious nature causing damage or injury.

29. **INSURANCE:** CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

a) Minimum Scope of Insurance

Coverage shall be at least as broad as:

- i. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$3,000,000 per occurrence and \$3,000,000 in the aggregate.

- ii. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- iii. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

b) Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- i. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
- ii. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
- iii. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
- iv. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
- v. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- vi. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
- vii. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and

approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

- viii. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
- ix. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
- x. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

30. **NONDISCRIMINATION**: CONCESSIONAIRE shall comply with COUNTY laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara Code and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth. CONCESSIONAIRE shall also comply with the Equal Opportunity requirements set forth in Exhibit "H", attached hereto and incorporated herein by reference, the requirements regarding non-segregated facilities set forth in Exhibit "I", attached hereto and incorporated herein by reference, and Title VI of the Civil Rights Act of 1964, set forth in Exhibit "J", attached hereto and incorporated herein by reference.

Noncompliance with provisions of this Section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, COUNTY shall have the right to terminate this Agreement and the interest hereby created without liability therefore.

31. **NOTICES**: Any notice to be given to the parties, by another, shall be in writing and shall be served, either personally or by mail to the following:

COUNTY:

Santa Barbara County Parks Department
123 Anapamu Street, 2nd Floor
Santa Barbara, CA 93101

(805) 568-2461
contact@sbparks.org

CONCESSIONAIRE: Mission Rowing
606 Alamo Pintado
Suite 3-291
Solvang, CA 93643
(206) 660-3567
carol@missionrowing.org

Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. mail or by personal delivery. The date of mailing, or in the event of personal delivery, the date of delivery shall constitute the date of service.

32. **ABANDONMENT**: If CONCESSIONAIRE abandons the Premises, COUNTY may continue this Agreement in effect after CONCESSIONAIRE'S abandonment and recover Fees as they become due. If COUNTY chooses to terminate this Agreement, COUNTY may, but shall not be obligated to, remove the personal property of CONCESSIONAIRE and store same, at CONCESSIONAIRE'S expense. Alternatively, COUNTY may dispose of said property and shall have no liability therefor.

33. **DESTRUCTION**: If the Premises are partially or totally destroyed by fire or other casualty, this Agreement, at the option of COUNTY shall terminate.

34. **DEFAULT BY CONCESSIONAIRE**: Except as otherwise required herein, should CONCESSIONAIRE at any time be in default hereunder with respect to any covenant contained herein, COUNTY shall give notice to CONCESSIONAIRE specifying the particulars of the default and CONCESSIONAIRE shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of thirty (30) calendar days from such notice, then, in addition to any other rights COUNTY may be entitled to at law, COUNTY may terminate the rights of CONCESSIONAIRE granted in this Agreement, unless the cure of such default shall reasonably take more than thirty (30) calendar days in which case CONCESSIONAIRE shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

35. **WAIVER**: It is understood and agreed that any waiver, express or implied of any term of this Agreement shall not be, nor construed to be a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

36. **TERMINATION**: This Agreement shall terminate and all rights of CONCESSIONAIRE shall cease and CONCESSIONAIRE shall quietly and peacefully deliver to COUNTY, possession and interest in the Premises:

- a) Upon expiration or earlier termination of this Agreement; or
- b) Upon expiration or earlier termination of the Master Agreement; or
- c) Upon abandonment of the Premises as provided in Section 32, *ABANDONMENT*, and COUNTY'S option to terminate this Agreement; or
- d) As provided for in Section 9, *NONINTERFERENCE*; or

- e) As provided for in Section 33, *DESTRUCTION*; or
- f) Upon COUNTY'S receipt of notice of CONCESSIONAIRE'S bankruptcy, insolvency, or the appointment of or taking possession by a bankruptcy trustee or custodian; or
- g) In the event CONCESSIONAIRE is found to be in non-compliance with any permits associated with this Agreement and such non-compliance is not resolved in a timely fashion; or
- h) Upon the failure of CONCESSIONAIRE to satisfy, observe or perform any of the covenants, conditions or reservations set forth in this Agreement and COUNTY'S exercise of its right to terminate.

In addition to COUNTY'S rights to terminate this Agreement, Reclamation shall have the right to terminate this Agreement, for cause, upon sixty days written notice to CONCESSIONAIRE of a material breach of this Agreement, and the failure of CONCESSIONAIRE to cure such breach in a timely manner.

Upon expiration or termination of this Agreement, CONCESSIONAIRE shall return the Premises and the equipment and personal property described in Exhibit C to COUNTY in the same condition as existed prior to the Commencement Date, ordinary wear and tear excepted. In the event this Agreement is terminated prior to CONCESSIONAIRE amortizing the cost of CONCESSIONAIRE-built fixed-asset improvements to the Premises, CONCESSIONAIRE may request from COUNTY partial reimbursement for such improvements, subject to the method for determining the amount of such reimbursement described in Exhibit C. In the event the Master Agreement expires or is terminated, CONCESSIONAIRE'S fixed assets and personal property must be removed from the Park unless an agreement is reached between Reclamation and CONCESSIONAIRE for a new concession agreement and Reclamation decides to keep the fixed assets.

37. **REMOVAL OF PROPERTY UPON TERMINATION**: Upon termination of this Agreement, CONCESSIONAIRE shall vacate and return possession of the Premises and those items listed in Exhibit C to COUNTY. COUNTY may require CONCESSIONAIRE to remove any and all CONCESSIONAIRE constructed improvements, alterations and equipment. However, any improvements to the Premises that have been approved by COUNTY pursuant to Section 16 hereof, including utilities, shall remain property of the COUNTY. Any removal of property by CONCESSIONAIRE shall be completed within sixty (60) days of written request by COUNTY and shall be done at CONCESSIONAIRE'S sole cost and expense. CONCESSIONAIRE shall restore the Premises as nearly as possible to its original condition.

38. **AGENCY DISCLOSURE**: CONCESSIONAIRE acknowledges that the General Services Department, Facilities Services Division, of the COUNTY is the agent for the COUNTY exclusively, and is neither the agent for CONCESSIONAIRE nor a dual agent in this transaction.

39. **AMENDMENTS**: This Agreement may only be amended by written consent of the parties and such changes shall be binding upon the heirs or successors of the parties.

40. **CAPTIONS**: The title or headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

41. **SEVERABILITY**: If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

42. **CERTIFICATION OF SIGNATORY**: The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind COUNTY and CONCESSIONAIRE to its terms and conditions or to carry out duties contemplated herein.

43. **ENTIRE AGREEMENT**: The parties to this Agreement intend that their negotiations, conversations and statements made prior to execution of this Agreement are fully integrated and expressed herein, and no such negotiations, conversations, and statements shall be deemed to create rights or obligations other than those stated herein.

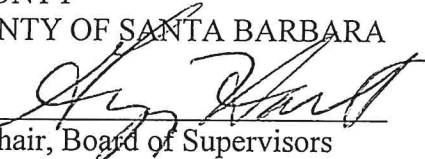
44. **CONSTRUCTION**: The parties to this Agreement agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and conditions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

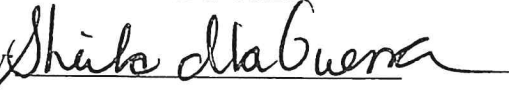
Project: Cachuma Lake Concession
APN: 145-160-072

IN WITNESS WHEREOF, COUNTY and CONCESSIONAIRE have signed this Concession Agreement by the respective authorized officers as set forth below to be effective on the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: 
Chair, Board of Supervisors

By: 

Date: 4-21-20

“CONCESSIONAIRE”


Carol Nagy

Title: Incorporator Mission Rowing

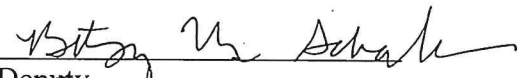
APPROVED:

Director, Community Services Dept.

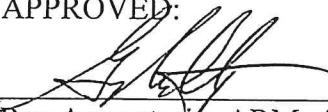
APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 
Scott Greenwood
Deputy County Counsel

APPROVED AS TO ACCOUNTIG FORM:
BETSY M. SCHAFFER, C.P.A.
AUDITOR-CONTROLLER

By: 
Deputy

APPROVED:



Ray Aromatorio, ARM, AIC
Risk Manager

Project: Cachuma Lake Concession
APN: 145-160-072

IN WITNESS WHEREOF, COUNTY and CONCESSIONAIRE have signed this Concession Agreement by the respective authorized officers as set forth below to be effective on the date executed by COUNTY.

“COUNTY”
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

By: _____

Date: _____

“CONCESSIONAIRE”

Carol Nagy
Carol Nagy

Incorporator Mission Rowing
Title: Incorporator Mission Rowing

APPROVED:

Director, Community Services Dept.

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, C.P.A.
AUDITOR-CONTROLLER

By: _____
Scott Greenwood
Deputy County Counsel

By: _____
Deputy

APPROVED:

Ray Aromatorio, ARM, AIC
Risk Manager

EXHIBIT A Lake Cachuma "Park"

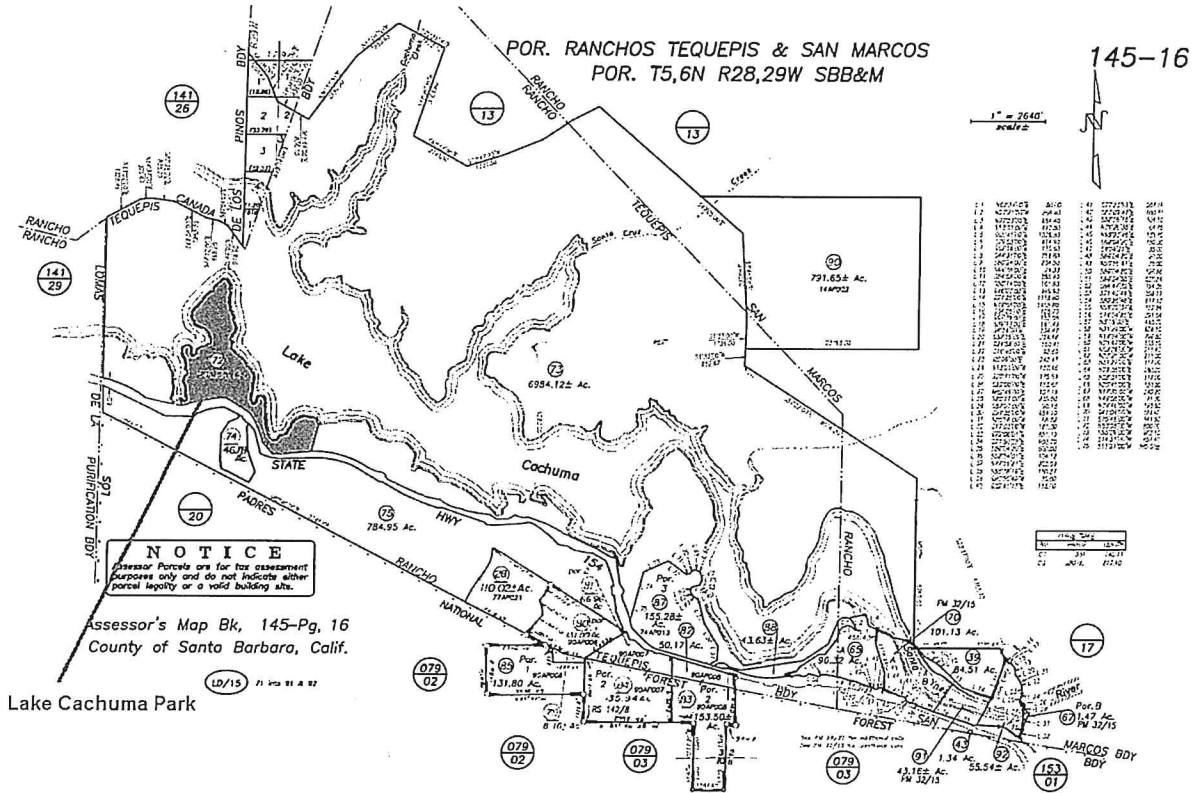


EXHIBIT B
"Premises"

Cachuma Lake Rowing Center with Waterfront Storage and Launching Area



EXHIBIT B "Premises"

Mission Rowing
Layout Plan

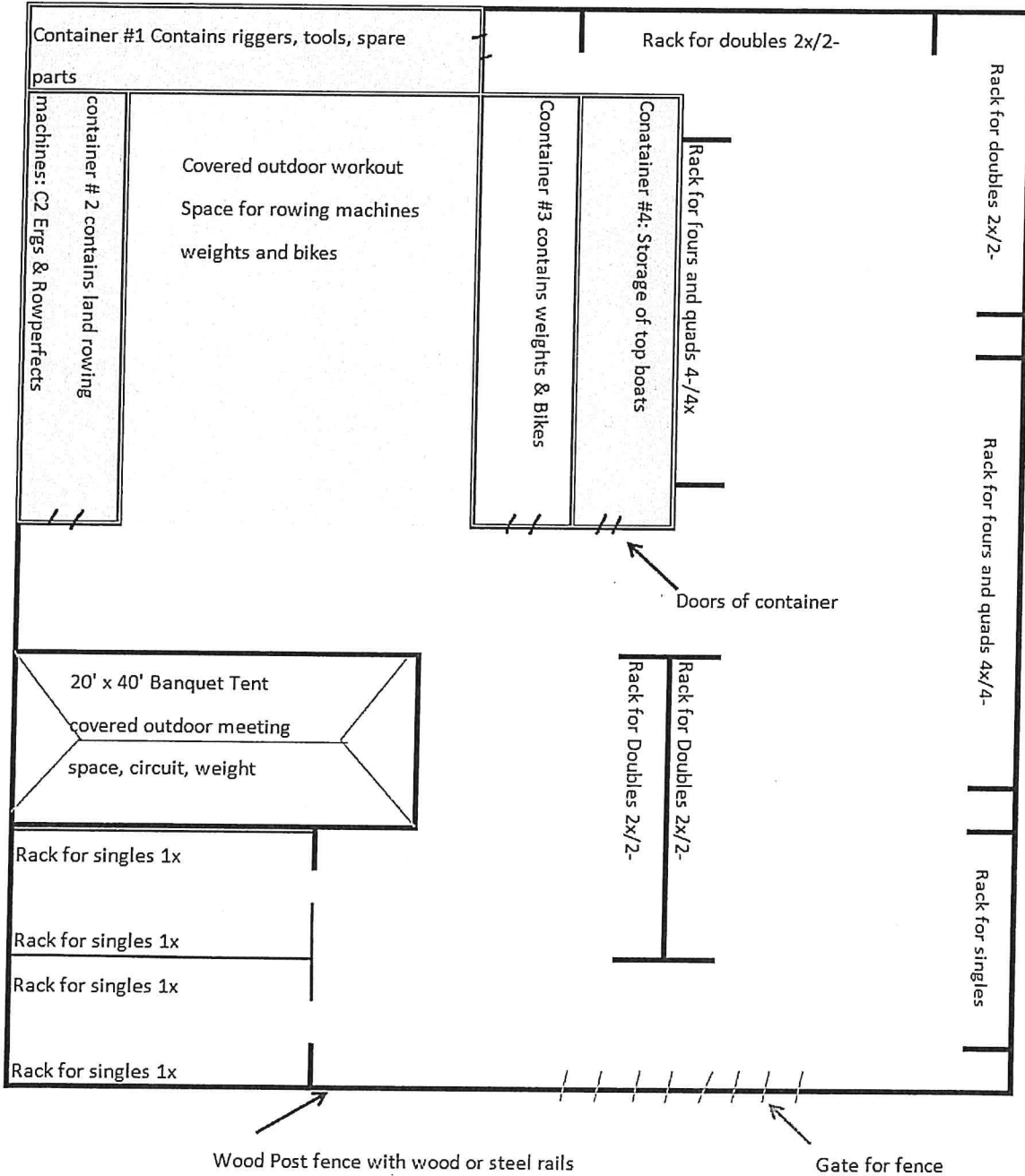


EXHIBIT C
“Equipment List” (Provided by Concessionaire)

Water Training Equipment

BOAT ID	MANUFACTURER	Class	TYPE	SIZE	Supplied by County
Walker erant	BBG	1x	1x J-K 685	45-65KG	-
Abeona	BBG	1x	1x J-K 700	65-80KG	-
Quetzalcoatl	BBG	1x	1X J-K 830	85-100KG	-
Pablo	BBG	1x	1X J-K 685	45-65KG	-
Kuadzi	BBG	1x	1X J-K 686	45-65KG	-
Bourne Wild	BBG	1x	1X J-K 687	45-65KG	-
	Pocock	1x	1x Bay 24		-
	Pocock	1x	Bay 21		-
	Pocock	1x	Racing	100+kg	-
Chris	Empachjer	1x	R12	85-100kg	-
Cookie	LIANGJIN	1x	Elite side mou	50 Kg	-
LW#2	LIANGJIN	1x	Racer	50-60kg	-
Jömunugand	FluideSIGN	1x	Elite	68 KG	-
Gold'n Miles	Fluid	1x	Elite	72.5 Kg	-
DROMER	VAN DUSEN	1x	ADVANTAGE	72.5KG	-
DEL RIO	FILIPPI	1x	F15	72.5KG	-
CLUB 1	LIANGJIN	1x	CLUB	50-60 KG	-
85 #4	LIANGJIN	1x	ELITE	70-85 KG	-
65 #3	LIANGJIN	1x	ELITE	70-85KG	-
PACIFIC	SYKES	1x	KC1XWING	80KG	-
SAMSARA	SYKES	1x	KC1XWING	80 KG	-
GAYATRI	HUDSON	1x	ELITE	72KG	-
CERBERUS	HUDSON	1x	ELITE	75 KG	-
85 # 1	LIANGJIN	1x	ELITE	70-85 KG	-
85 #2	LIANGJIN	1x	RACER	70-85KG	-
100 PURPLE	LIANGJIN	1x	ELITE	85 -100KG	-
100 WHITE	LIANGJIN	1x	ELITE	85-100KG	-
100 PURPLE	LIANGJIN	1x	RACER	85-100KG	-
SUNSHINE	HUDSON	1x	ELITE	70-200	-
SILVER	FLUIDESIGN	1x		75KG	-
85 #1 A	LIANGJIN	1x	ELITE	70-85	-
LINDSAY	FLUIDESIGN	1x	ELITE	165LB	-

Water Training Equipment

BOAT ID	MANUFACTURER	Class	TYPE	SIZE	Applied by County
Vicvace	Pocock	2x		100kg	-
Elisa	Owen	2x		75kg	-
DeWitt Whitman	Owen	2x		45-65kg	-
Feijoa	Flying Eagle	2x	TR	57kg	-
Gráinne ní Mí	BBG	2x	2x JK 900	45-65 KG	-
WASSERSCHIFF	BBG	2x	2XJK 910?	65-80KG	-
GROVER	LIANGJIN	2x	RACER	50-65KG	-
70-90 VARSITY	LIANGJIN	2x	RACER	70-90KG	-
70-90 NOVICE	LIANGJIN	2x	RACER	70-90	-
NOVICE R	LIANGJIN	2x	RACER	50-65KG	-
BOREAL LW	LIANGJIN	2x	ELITE	50-65KG	-
	90 LIANGJIN	2x	ELITE	70-90KG	-
ERNST	LIANGJIN	2x	ELITE	70-90KG	-
	100 LIANGJIN	2x	ELITE	85-100KG	-
Novice E	LIANGJIN	2x	Elite	50-65kg	-
Takhoma	SYKES	2x	KC2Wing M1	70kg	-
C-gull	Sykes	2x	M29	60kg	-
FINIRE	HUDSON	2x	ELITE	95KG+	-
BROSIDEON	FLUIDESGN	2x	ELITE	73KG	-
WRAPPED	LIANGJIN	2x	RACER		-
OLE' BLUE	LIANGJIN	4X+4+	RACER	55-70KG	-
BLUE CRUSH	LIANGJIN	4X+4+	ELITE	55-70KG	-
POOH BEAR	VESPOLI	4X+4+		50-65KG	-
PANDA	LIANGJIN	4X/4-	ELITE	75-85KG	-
USAIN	SYKES	4X/4-	KC4XWING	70-85KG	-
BADGER	HUDSON	4x/4-	SUPER PREI	130-165LB	-
30 G'S OF P	LIANGJIN	4x/4-	ELITE	80-95KG	-
BOREAL 4X+	LIANGJIN	4X+4+	ELITE	75-95KG	-
SYKES 4+	SYKES	4X+4+	KC4+WING M	85KG	-
LOB	LIANGJIN	8X+/8+	ELITE	70-80KG	-
BLACK MAB	VESPOLI	8+	DL		-

Sweep	Port	Starboard	Length (Total/Inboard)
Dreher Sweep -		96564	370/114.5
Dreher Sweep	96563	96562	370/114.5
Dreher Sweep	101506	101505	374/114.5 (Starboard Total=373.5*)
Dreher Sweep	101503	101504	374/114.5
Gold Bracas('	558971	558901	374/115
White Bracas	558192	561804	374.5/115
White Bracas	547758	558916	374.5/115
Concept 2	0618644-1-6/ 0618644-1-6/		373/
Yellow Bracas	510702	517897	374/115
Yellow Bracas	510703	517864	374/115
Yellow Bracas	517871	517870	374/115
Yellow Bracas	517868	517399	374/115

Scul	Port	Starboard	Length (Total/Inboard)
Dreher #1	85401		288/88
Dreher #2	85402		288/88
Dreher #3	85403	105485	288/88
Dreher #4	85404		288/88
Dreher #5	85405		288/88
Dreher #6	85406		288/88
Dreher #7	85407		288/88
Dreher #8	85408		288/88
Dreher #9	85409		288/88
Dreher #10	85410		288/88
Dreher #11	45143		288/88
Dreher #12	85412		288/88
Dreher #13	95439		
Dreher #14	85411		
Dreher #15	-	-	
Dreher #16	1075158	1075158	
Dreher #17	1075159		
Dreher #18	1075160		
Dreher #19	1075161		
Dreher #20	1075162		
Dreher #21	1075163		
Dreher #22	7103411	7115450	
Dreher #23	7105412	7115433	
Dreher #24	7115435	7115434	
Concept2 #2	67882-76762-1		
Dreher #26	7115438	7105414	
Dreher #27	7105425		
Concept2 #2	0477690-1-9/04Z		
Concept2 #2	0468853-1-8/4C		

Concept2 #3(0464714-1-5/4C

Concept2 #3'0468853-1-8/4C

Concept2 #3:422988-1-9/3C

Concept2 #3:0464714-1-5/4C

Concept2 #3:422488-1-9/3C

Concept2 #3: - -

Dreher #36 - -

Braca	Black Widow	562790	562793	289/88	Men
Braca	Iron Man	562715	562729	289/88	Men
Braca	Captain Amer	716303	715931	289/88	Men
Braca	HawkEye	567618	567624	289/88	Men
Braca	Maverick	717498	715321	289/88	Women
Braca	Iceman	715917	715904	Starboard(28' Port(288/87.5	Women
Braca	Goose	602242	602256	Port (288/88.5) Starboard (;	Women
Braca	Slider	601321	601322	Starboard(28' Port(289.5/88	Women
Croker	Archibald	-	-	286/87	
Croker	Agnes	-	-	286/87	

Concept2 (Mil S0774417-3-051812-S-W2: 285/88

Concept2(3R: C0134853-1-081815-J-W758273

Concept2 #4: C0059897-3-120611-S-W7: 288/88

Concept2(Els S0889596-2-121715-#-W4: 282/88

Concept2(Ani S0889596-1-120915-E-W461276

Concept2(SU C0134853-1-081815-J-W758273

Concept2 #4: S0804194-1-060313-J-W34 285/88

Concept2 #4: C0069523-1-053012-+-W754489

Concept2(1BI S0805496-1-062113-+-W3: 282/88

Concept2(Del S0791612-3-011613-+-W3: 282/88

Concept2(1Y: C0069523-1- C0059897-1- 282/88

Crokers(Paul - -

Concept2(Kei S0902821-1-031716-J-W476035

Concept2(Kei 2030822C-1-100417-W10854

Concept2(JM: 0569991-1-7/6+

Concept2(Ale C0115819-15-100714-R-W75406

Concept2(Dei S0835610-2-050914-S-W387123

Concept2(Ale 2030278C-6-100217-D-W10834

Concept2(Sai S0813117-1-103113-R-W359736

Concept 2 #5 S0774417-3-051812-sw294043

Land Training Equipment

Category	Quantity	Manufacturer	Supplied by County
Stationary Bik	4	Lemond	-
	12	Kieser	-
	1	Star Trac	-
		kurt kenetic	-
Bike trainers	3	trainers	-
	1	blackbum	-
	1	volare	-
	1	1up	-
	2	rollers	-
ergs	9	Concept 2	-
tread mills	3		-
eliptical	2		-
RowPerfect O	4	RowPerfect	-
RowPerfect	8	RowPerfect	-
Row Perfect 3	10	RowPerfect	-
			-
Misc Weights	10	barbells	-
	15	Kettel Bells	-
		Weights	-
	numerous	plates (2000 #s)	-
		ropes,	-
		bungees,	-
Various		balls	-

Water Coach Boats

ID	Manufacturer	Type	Serial	Motor size	serial #	Supplied by County
#3	StillWater Des	Solo18	US-SWN18SL	HONDA9.9	BABJ160717	-
#2	StillWater Des	Solo18	US-SWN18S	HONDA9.9	BABJ180715	-
# 6	StillWater Des	DUO PROTOTYPE		MERCURY 20	OR820088	-
#1	StillWater Des	SOLO 18	US SWN18S	HONDA 9.9	BABJ 160807	-
CARLOS	BOSTON WH	16 Ft		None	N/A	-

Storage Equipment and racks

Item	Description	Quantity	Supplied by County
Dock Sections	Launching dock section 6' x 16'	8	-
Oar Racks	Storage of oars	8	-
Rolling Boat Rack	One of many boat racks	1	-
		1	-
Boat Rack System	Steel (former system to be use to make new racks)	4	-
Tent 20' X40' Event		1	-
Lumber Racks		2	-
Boat tressels		20 sets	-
Folding Tables		4	-
40' Containers	Used to store land equipment	4	-
Trailer	Pocock brand for Transporting boat to races	1	-
Ford 250, 2000		1	-
Fence			-
Porta Potties			-
Power and meter			-
Water			Supplied
Solar Cells	To be purchased as power source		-

Item	Description	Quantity	Supplied by County
CoxBox	coxswain amplification system	2	-
SpeedCoach	Timer and stroke rate	15	-
Speedcoach	Speed measure device	5	-
GPS	Speed measure device	6	-
Camera		2	-
Printer		1	-
Video Screen		2	-

* = Items in the "Supplied by County" column are the only items to be supplied by the County - all else will be the vendor/concessionaire's responsibility. County will use these specs to identify what the vendor/concessionaire will have to supply (minimum standards and power supply, etc.)

Exhibit D

Mission Rowing Facility Maintenance Plan

Daily/Per Usage:

- Pick up any trash left on ground put in Trash /Recycle Cans
- All Equipment safely away, tied down as necessary
- Restock Portopotties as necessary
- Pick up unclaimed gear, to Lost and Found Bin
- Containers closed and locked at end of day
- Wipe down Boats with dry towel after usage
- Wipe down land equipment with paper towel and disinfectant, wipes to trash
- Boats- Check tightness of rigger bolts, top nuts, foot stretchers, seat tracks- tighten as necessary
- Check Heel ties, adjust to three-finger rule if too loose
- Plug in electronics to recharge (coxbox, speedcoach, strokecoach, etc)-power will be solar
- Check Bowball is secure
- Check hull for any damage- puncture/crack/etc- report damage on Equipment Whiteboard
- Coachs review Equipment Damage board daily and schedule repair work- tag hulls not to be used

Biweekly:

- Empty Trash Cans to Trash Bins
- Empty Recycle Cans to Recycle Bins

Weekly:

- Weekly Trash and Recycle Bin Pick-up (contracted out)
- Weekly Portopotty Cleaning-move to bi-weekly as activity increases (contracted out)
- Wash, dry, fold towels used to wipe down equipment (off site)
- Fill Gas Tanks for Safety Launches

Monthly:

- Contents of Lost and Found Bin washed, folded, donated
- Restock First Aide Kit as necessary
- Verify tents tied down adequately
- Replenish Facility Maintenance supplies- paper towels, toilet paper, disinfectant, trash bags, etc

Quarterly:

- Replenish Equipment spare parts as necessary- nuts/bolts/washers/pop spacers/etc
- Check Launch Boxes for: life preservers, thermal blanket, hand pump, first aid kit

Semi-Annually:

- Clean Fly wheels on Erg's and RP's
- Check battery health ergs and other land equipment
- Hose down tents
- Oar Maintenance:
 - Grips- replace as necessary
 - Cuffs, collars, handles tight and in good order
 - Blade integrity intact

-General Site review, add/adjust Maintenance Protocol as necessary-communicate any changes to staff

-Towing Vehicle:

Schedule appointment with mechanic to change oil and advise on necessary maintenance, execute as advised

-Trailers:

Check Tires, basic review

Annually:

-Launches:

Haul and clean hull, check hull integrity

Check Steering cables, repair/replace as necessary

Outboard annual maintenance (outside mechanic)

Replace bumpers and lines as necessary

Check navigation lights, replace/repair as necessary

-Every Shell stripped all the way down and reviewed in detail, re-rigged:

Bolts/nuts/washers cleaned and replaced as necessary

Oar Locks

Seats/wheels/undercarriage

Seat Tracks

Bowballs

Footstretchers

Steering cable and apparatus, rudder

If hull in need of repair schedule with appropriate boatman

-Trailers:

Schedule appointment with trailer mechanic to advise on necessary maintenance, execute as advised

-Assess tent repair needs, execute as necessary

-Employee Training and Updating of maintenance procedures and expectations

EXHIBIT E

Employee Conduct and Conditions

The CONCESSIONAIRE shall agree to the following employee conduct and conditions policy. Harassment in any aspect of CONCESSIONAIRE employment, based on any legally protected characteristics or status, including sex, sexual orientation, race, color, national origin, ancestry, religion, age, marital status, physical disability, mental disability, or medical condition is strictly prohibited. Any retaliation for opposing or filing a complaint about, or participating in an investigation of any harassment, along with aiding, abetting, inciting, compelling, or coercing any such harassment or retaliation, or attempting to do so is prohibited by this policy as well as state and federal laws.

The CONCESSIONAIRE will take all reasonable steps necessary to prevent such misconduct from occurring, and to remedy and punish any occurrences. Any CONCESSIONAIRE employee found to have engaged in such misconduct will be subject to disciplinary action, up to termination, and will be deemed to have acted outside the course and scope of his or her employment.

Harassment on the basis of sex is unlawful, and prohibited. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment need not be motivated by sexual desire or gratification, and may include nonsexual conduct motivated by the violator's hostility toward the victim's gender, or toward the victim's nonconformity to gender stereotypes. Sexual harassment includes not only conduct motivated by gender, but also by pregnancy, childbirth, or a related condition. A harasser may be either male or female, and the victim may be either the same sex or the opposite sex. Even a person who is not the intended target of harassment may be harassed by it, if he or she witnesses it in their immediate work environment.

In addition to prohibiting unlawful harassment based on sex or gender, this policy also prohibits unlawful harassment based upon sexual orientation, or upon any other legally protected characteristic or status, such as race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or age. Harassment on the basis of such factors is subject to the same principles applicable to sexual harassment, stated above.

It is the responsibility of the CONCESSIONAIRE and its employees to represent themselves in a professional manner at all times, and regard customer satisfaction as their number one priority.

EXHIBIT F
“Maintenance & Repair Responsibilities”

Item			Not Applicable	County	Concessionaire
1. Building Exterior - Containers					X
	Repair Walls				X
	Painted Surfaces				X
	Door and Window Trim				X
	Doors Hardware				X
	Windows: Hardware and screens				X
	Locks				X
	Roof				X
	Rain Gutters				X
	Flashing				X
	Down Spouts				X
Lighting					X
	Bulbs				X
	Fixtures incl. Ballasts				X
	Transformers				X
Handrails					X
Signs (County Designated)					X
Timers					X
Decking Walkways					X
Exterior Patios					X
Decking on roof top					X
Stairs					X
Roof Drains					X
Gates					X
Gas/Waterlines					X
	Inside fence				X
	Outside fence if pre-existing			X	
Elect. Lines					
	From prior service to meter to complex				X
	From prior service to road			X	
Phone/Computer Lines					X
Sewer Lines			N/A		

2. Building/Container Interior					
	Repair Walls				X
	Painted Surfaces				X
	Doors hardware				X
	locks				X
	General Cleaning				X
	Floor Sweeping & Cleaning				X
	Carpet, Vacuum and Cleaning				X
Lighting					X
	Bulbs				X
	Fixtures incl Ballasts				X
	Transformers				X
Handrails					X
Signs					X
Timers					X
Drinking Fountain					X
Celling					X
Showers					X
Toilets					X
					X
Sinks	Porta Potties/ trailers				X
Gas					X
Lines					X
Sewer lines					X
Phone lines jacks					X
T.V. Lines & jacks					X
Towel racks					X
3. Grounds					
	Fences				X
	Trash Bins				X
	Trash Enclosures				X
	Bike Racks				X
	Signs				X
	Litter Pick Up				X

	Lighting				
		Parking Lot		X	
		Driveways		X	
		Walkways			X
		Timers			X
		Signs			X
	Cleaning Sidewalk, Walkways, Parking lot (outside of fence)			X	
4. Landscaping from fence in					
	Trees				X
	Shrubs				X
	Flowers				X
	Lawn				X
	Watering				X
	Sprinkler Repair and Replace				X
	Header				X
	Rodent/Pest				X
	Seeding				X
	Fertilizer				X
	Plant Trimming				X
	Plant Removal				X
	Plant Replacement				X
	Tree Care and Trimming				X
5. Mechanical Systems					
	Electrical Panels, Breakers, Interior				X
	Electrical Fuses Interior				X
	Electrical Receptacles, Switches, Interior				X
	Electrical Central Switches				X
	Elevator		N/A		
	Heating				X
	Air Conditioning				X
	Water Heater				X

6. Roadways/Parking Lot Repair & Maintenance					
	Striping			X	
	Handicap Signage			X	
	Asphalt Surface, Curbing			X	
	Cement Surface, Curbing			X	
	Drainage			X	
	Signs			X	
7. Fire Equipment					
	Sprinklers were appl				X
	Hoses				X
	Extinguishers				X
	Alarm Systems				X
	Smoke Detectors				X
8. Other items					
	Paper Supplies, Dispensers, waste containers soap in public restrooms			X	
	Interior janitorial products and services				X
	Interior Floor waxing and Sweeping				X
	Window Washing(interior & exterior)				X
	Janitorial service for public restrooms			X	
	Broken window glass or door glass				X
	Cleaning Storage and Utility Room				X
	Exterminating				X
	Building Foundation		N/A		
	Flooring				X
	Utility mains and Appurtenances if prior to contract			X	

EXHIBIT G
“Environmental Requirements”
(Page 1 of 2)

The CONCESSIONAIRE shall operate, maintain, and manage the Leased Area, including all structures, facilities and equipment to minimize environmental consequences. Consideration will be given to alleviating potential harmful effects on landscape, soils, water, wildlife, cultural resources, timber, population, or other resources. Prior to any action which would modify the environment beyond those currently covered by existing NEPA documents, the CONCESSIONAIRE will submit any necessary environmental reports as directed by the United States. No such modifications of the environment shall be undertaken without prior written approval of the United States.

Violation of any of the provisions of this Exhibit may constitute grounds for termination of this Agreement. Such violations require immediate corrective action by the CONCESSIONAIRE and shall make the CONCESSIONAIRE liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

The CONCESSIONAIRE agrees to include the provisions contained in this Exhibit in any subcontractor or third-party contract it may enter into pursuant to this Agreement.

Reclamation agrees to provide information necessary for the CONCESSIONAIRE using reasonable diligence, to comply with the provision of this Exhibit.

The CONCESSIONAIRE shall comply fully with all applicable Federal laws, orders, and regulations, and the laws of the State of California concerning the pollution of streams, reservoirs, ground water, or water courses.

In accordance with the National Historic Preservation Act of 1966 and Executive Order 11593, cultural resources will be given full consideration in any proposed actions initiated by the CONCESSIONAIRE beyond those approved in existing plans and documents. Cultural resources (including archaeological, historical, structural, and Native American resources) that may be impacted will be adequately considered and, if necessary, any identified adverse effects will be mitigated or minimized prior to development. If, during construction or development, cultural resources are exposed, activities in the surrounding area will be halted while the resource is evaluated. COUNTY and Reclamation will be notified immediately and will provide direction on how to proceed in compliance with 36 CFR 800.13. The cost of any recovery work, if necessary, and any required consultation between Reclamation and the State Historic Preservation Officer will be borne by the CONCESSIONAIRE. The CONCESSIONAIRE will provide Reclamation with copies of any cultural resource reports concerning the identification, evaluation, and treatment of cultural resources within the Recreation Area. Any cultural resources sites identified by the CONCESSIONAIRE during its management activities will be recorded on the appropriate CONCESSIONAIRE site record forms and copies provided to Reclamation. No surface disturbing operations can proceed until the requirements of the article have been met. This provision will be included in all construction contracts.

The Endangered Species Act of 1974 will be given full consideration in all activities.

The CONCESSIONAIRE shall insure that recognized standards and proper uses are achieved on the lands covered by this Agreement. Land use planning and administration of the Federal Estate will conform to all applicable Federal laws, regulations, and Executive Orders. Following is a list of some of the more important of these:

Executive Order 11990, Protection of Wetlands.

Executive Order 11988, Floodplain Management.

Safe Drinking Water Act of 1974, (Public Law 93-523, U.S.C. 300, 88 Stat.1660).

Federal Land Policy and Management Act of 1976, (Public Law 94-579, 43 U.S.C. 1701).

Executive Orders 11664 and 11989 for Off-Road Use.

National Trails System Act, (Public Law 95-43, 16 U.S.C. 1241 Et seq.).

Fish and Wildlife Coordination Act, (Public Law 85-624, 16 U.S.C., 661, 662).

Antiquities Act of 1906, (34 Stat. 225, 16 U.S.C., 431).

National Historic Preservation Act of 1966 (NHPA), (Public Law 89-665, 80 Stat. 915, 16 U.S.C. 470) as amended by Public Laws 91-243, 93-54, 94-422, 94-458, and 96-515).

Archaeological Resources Protection Act of 1979, (Public Law 95-95, 93 Stat. 721).

Archaeological and Historic Preservation Act (Public Law 93-291).

Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

Executive Order 11593, Protection and Enhancement of the Cultural Environment

National Environmental Policy Act, (Public Law 91-190, 83 Stat. 852).

Endangered Species Act, (Public Law 93-205, 16 U.S.C. 1531 et seq.).

Executive Order 12088, Federal compliance with Pollution Control Standards.

The Clean Air Act, (Public Law 88-206, as amended, 42 U.S.C., 7401 et seq).

Clean Water Act of 1978, (Public Law 95-217, 33 U.S.C., 1288 et seq.).

Resource Conservation and Recovery Act (RCRA), (Public Law 94-580).

Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund), Public Law 96-510.

43 Code of Federal Regulation, Part 420 (off-road vehicle use on Bureau of Reclamation lands).

36 Code of Federal Regulation, Part 800, Protection of Historical and Cultural Properties.

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. P.L. 100-460, 100-464, to 100-526 and 100-532).

Rehabilitation Act of 1973, Section 504, as amended (29 U.S.C. 700, et seq., P.L. 93-516 and P.L. 95-602).

Architectural Barriers Act of 1968, as amended (ABA) (42 U.S.C. 4151-4157, P.L. 90-480).

Uniform Federal Accessibility Standards (UFAS) (49 CFR 31528), August 7, 1984.

EXHIBIT H
“Equal Opportunity Requirements”
(Page 1 of 2)

During the performance of this Agreement, the CONCESSIONAIRE agrees as follows:

The CONCESSIONAIRE will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, or national origin. The CONCESSIONAIRE will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONCESSIONAIRE agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the United States setting forth the provisions of this Equal Opportunity clause.

The CONCESSIONAIRE will, in all solicitations or advertisements for employees placed by or in behalf of the CONCESSIONAIRE; state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin.

The CONCESSIONAIRE will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the United States, advising the labor union or workers representative of the CONCESSIONAIRE's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONCESSIONAIRE will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The CONCESSIONAIRE will furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant, thereto, and will permit access to its books, records, and accounts by the United States and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONCESSIONAIRE's noncompliance with the Equal Opportunity clause of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended, in whole or in part, by the United States and/or COUNTY and the CONCESSIONAIRE may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rules, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

EXHIBIT H
(Page 2 of 2)

The CONCESSIONAIRE will include the provisions of paragraphs 1) through 6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The CONCESSIONAIRE will take such action with respect to any subcontract or purchase order the United States may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the CONCESSIONAIRE becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the United States, the CONCESSIONAIRE may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT I
“Certification of Non-segregated Facilities”

The term segregated facilities means: any waiting rooms, work areas, restrooms and washrooms, restaurants or eating areas, time clocks, locker rooms, storage areas, dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habitat, local custom, or otherwise. The CONCESSIONAIRE certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The CONCESSIONAIRE agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. The CONCESSIONAIRE agrees that (except where it has obtained identical certification from proposed subcontractors for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontractors exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certification in its files.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

EXHIBIT J
“Title VI of the Civil Rights Act of 1964”

The CONCESSIONAIRE agrees that it will comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the grounds of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the CONCESSIONAIRE receives financial assistance from the United States and hereby gives assurance that it will immediately take any measures to effectuate this Agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the CONCESSIONAIRE by the United States, this assurance obligates the CONCESSIONAIRE; or in the case of any transfer of such property or structure is used for a purpose involving the provision of similar service or benefits. If any personal property is so provided, this assurance obligates the CONCESSIONAIRE for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the CONCESSIONAIRE for the period during which the Federal financial assistance is extended to it by the United States.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the CONCESSIONAIRE by the United States, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The CONCESSIONAIRE recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the CONCESSIONAIRE, its successors, transferees, and assignees.

EXHIBIT K

Reclamation Manual – Directives and Standards

Department of the Interior, Acquisition, Assistance, and Asset Policy (DOI-AAAP),
Office for Acquisition, Procurement, and Contracting (OAPC)
FINAL POLICY

Department of the Interior
Acquisition, Assistance, and Asset Policy (DOI-AAAP)

Title	Minimum Wage Guidance
Reference Number	0005
Version Number	01
Function(s)	Acquisition and other
Author	Olsen, Megan
Source of this Requirement	Executive Order 13658, <i>Establishing a Minimum Wage for Contractors</i>
Regulatory Reference	79 FR 9852; FAR 22.19

Version Detail

This section is completed in the following situations: (1) policies issued with versions greater than 01 or (2) the initial use of the DOI-AAAP to convert previous DOI Acquisition Policy Releases (DIAPR), DOI Property Policy Releases (DIPPR), or DOI Guidance (DIG) Releases.

Version Number	Date	Author	Description of update

Purpose:

This policy provides guidance to Department of the Interior (DOI) employees for implementing Executive Order 13658, *Establishing a Minimum Wage for Contractors*. The Department of Labor and the Federal Acquisition Regulatory Council have issued implementing regulations as required by the Executive Order. If there is a conflict between those regulations and this document, those regulations will supersede this policy.

Scope:

This policy applies to certain contracts and contract-like instruments that are awarded by DOI.

The terms "contract" and "contract-like instruments" are defined below. However, the Executive Order minimum wage does not apply to all transactions that meet the definitions of contract and contract-like instruments. The subsequent sections of this policy provide details as to which actions fall under the Executive Order minimum wage requirement.

The following exclusions apply:

- Contracts with Tribes. The Executive Order minimum wage does not apply to any contracts or contract-like instruments with tribes.
- Grants. The Executive Order minimum wage does not apply to grants.

Effective date:

Effective upon signature.

Background:

Executive Order 13658, *Establishing a Minimum Wage for Contractors*, seeks to increase the efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing the hourly minimum wage paid by those contractors (see 79 CFR 9851). The Executive Order requires agencies to include a clause in applicable contracts and contract-like instruments that specifies, as a condition of payment, that the Executive Order minimum wage be paid to workers in the performance of the contract and any subcontracts.

Action:

- A. Minimum Wage Clause. An Executive Order minimum wage clause must be inserted in all contracts and contract-like instruments that meet the requirements outlined in the sections below. For procurement contracts, the Contracting Officer must include the clause as required by the Federal Acquisition Regulation. For concessions contracts, cooperative agreements, and other contract-like instruments, the employee who is signing the instrument must include the language in Attachment 1 to this policy. To the maximum extent practicable, the clause must be included in full text.
- B. Review and Approval Process. If the responsible individual believes that a concessions contract, cooperative agreement, or other contract-like instrument falls outside of the scope of the EO minimum wage requirement, then he or she must refer the instrument to the Bureau Procurement Chief for review. The Bureau Procurement Chief must approve the decision to exclude the clause.
- C. Semi-Annual Report. Bureau Procurement Chiefs shall provide a semi-annual report to the Senior Procurement Executive that details actions which have been awarded without the clause. The first report is due on July 1, 2015. Reports shall be submitted no later than July 1 and January 1 of each subsequent year.

Technical or Process Guidance:

- A. Timing of Contract. The clause must be inserted in all applicable actions (see below) where the solicitation is or will be issued after January 1, 2015, or where the award is or will be made after January 1, 2015 through a process not involving a solicitation.
- B. Amendments or Modifications to Contracts. When modifying or amending a contract or contract-like instrument that was originally awarded prior to January 1, 2015, the clause must be inserted if:
 1. The contract would otherwise have been subject to the Executive Order minimum wage had it been awarded after January 1, 2015; and

2. The modification is a renewal, an extension of the period of performance, or an out-of-scope change. The clause should not be included in modifications to exercise options that were priced at award.

C. Guidance for Specific Types of Transactions.

1. Procurement Contracts. Include the FAR clause in all actions where (a) the Davis-Bacon Act applies and the award is over \$2,000 or (b) the Service Contract Act applies and the award is over \$2,500, or (c) the Fair Labor Standards Act applies and the award exceeds the micropurchase threshold.
2. Concessions Contracts. Include the clause in all actions where the wages of workers under the contract are covered by either the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act (including any concessions contract excluded from coverage under the Service Contract Act by Department of Labor regulations at 29 CFR 4.133(b).)
3. Cooperative Agreements and Contract-like Instruments. (Including but not limited to use and occupancy permits and licenses. See definition of contracts and contract-like instruments and the examples below.) Include the clause in all actions where: (a) the contract or contract-like instrument is entered into with the Federal Government in connection with Federal property or lands and relates to offering services for Federal employees, their dependents, or the general public and (b) the wages of workers under the contract or contract-like instrument are covered by either the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act.

D. Examples of Contract-like Instruments. The following are examples of non-procurement contracts that may fall under the Executive Order on minimum wage if they meet the requirements in Section C.3., above. This list is provided to assist employees in implementing this policy and is not exhaustive. Employees must refer to the Definitions to determine whether a transaction constitutes a contract or a contract-like instrument.

- A lease of space in a Federal building from a Federal agency to a business to operate a coffee shop, child care center, fitness center, or credit union.
- A contract with the Federal Government to operate a souvenir shop in connection with Federal property or lands.
- A use permit that allows a company to provide services to the general public in connection with Federal property or lands.

Definitions and References:

1. Concessions contract or contract for concessions means a contract under which the Federal Government grants a right to use Federal property, including land or facilities, for furnishing services. The term concessions contract includes but is not limited to a contract the principal purpose of which is to furnish food, lodging, vehicle fuel, souvenirs, newspaper stands, and/or recreational equipment, regardless of whether the services are of direct benefit to the Government, its personnel, or the general public.
2. Contract or contract-like instrument means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law. This definition includes, but is not limited to, a mutually binding legal relationship obligating one party to furnish services (including construction) and another party to pay for them. The term contract includes all contracts and any subcontracts of any tier thereunder, whether negotiated or advertised, including any procurement actions, lease agreements, cooperative agreements, provider agreements, intergovernmental service agreements, service agreements, licenses, permits, or any other type of agreement, regardless of nomenclature, type, or particular form, and whether entered into verbally or in writing. The term contract shall be interpreted broadly as to include, but not be limited to, any contract that may be consistent with the definition provided in the Federal Acquisition Regulation (FAR) or applicable Federal statutes. This definition includes, but is not limited to, any contract that may be covered under any Federal procurement statute. Contracts may be the result of competitive bidding or awarded to a single source under applicable authority to do so. In addition to bilateral instruments, contracts include, but are not limited to, awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. The term contract includes contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts; not otherwise subject to the Service Contract Act, and contracts in connection with Federal property or land and related to offering services for Federal employees, their dependents, or the general public.
3. Davis-Bacon Act means the Davis-Bacon Act of 1931, as amended, 40 U.S.C. 3141 et seq., and its implementing regulations.
4. Executive Order minimum wage means, for purposes of Executive Order 13658, a wage that is at least:
 - \$10.10 per hour beginning January 1, 2015; and
 - Beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary [of Labor] pursuant to section 2 of the Executive Order.
5. Fair Labor Standards Act (FLSA) means the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 et seq., and its implementing regulations.

6. Service Contract Act means the McNamara-O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. 6701 et seq., and its implementing regulations.
7. Solicitation means any request to submit offers, bids, or quotations to the Federal Government.

Attachments:

Attachment 1 - Contract Clause

Approval Signature

The signature provided in the table below serves as the digital signature for this document. By replacing the Block 1 and 2 with a name and date, the Deputy Director, Office of Acquisition and Property Management (PAM) approves the policy described in this document. (Use the following method to check signature authentication via revision history: on keyboard, press and hold Ctrl+Alt+Shift+G)

James McCaffery	12/29/2014
Deputy Director, Office of Acquisition and Property Management	Date