

**PROPOSED CONCESSION SOLICITATION
AND
SELECTION POLICY**

for

Santa Barbara County Parks Department

June 2006

Attachment 2

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**PROPOSED CONCESSION SOLICITATION AND
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for the Santa Barbara County Parks Department**

INTRODUCTION

The California Government Code (Sections 25520-25539.10) permits counties to enter into concession lease agreements for real property belonging to counties. In addition, the Parks Department's Marketing Program, which was approved by the Board of Supervisors on July 25, 1995 (Resolution No. 95-355; Chapter 26, Article VI-A, Santa Barbara County Code) includes concession leases as one of the major revenue generating opportunities for the Department to help sustain its operations.

The purpose of this proposed policy is to provide some formal guidelines for openly soliciting and selecting a private party, or entrepreneur, to provide a service or services (concession) within the Santa Barbara County park system. The intent of these guidelines is to provide a useful, clear, and understandable framework for the County Parks Department, prospective service providers (concessionaires), and policymakers (the Board of Supervisors) to operate within in the solicitation and selection of concessions for County parks. This policy is also intended to provide a level playing field for those interested in bidding for concession services in County parks.

One possible exception to this proposed concession bid policy would be concession subleases in the Cachuma Recreation Area, which is under management lease to the County by the Federal Bureau of Reclamation. It is possible that a more stringent, or different, concession bid process would be required by the Bureau of Reclamation in the new management lease agreement with the County, which is currently being renegotiated.

The two most common public-private partnership approaches for operating concessions in County parks are: (1) The service provider, or entrepreneur, makes the improvements required on the park property to initiate or enhance a concession and operates the concession under lease to the County; or (2) the County makes the improvements and the entrepreneur operates the concession within the public improvements under lease to the County.

Ideally, the role of a profit-making business in a public park should be contained in the park's master plan. The services to be provided should address a public need and should be consistent with, or complementary to, the activities of the park. The structures to be used by the concessionaire, when possible, should be a part of the park design and/or improvements made by a previous concessionaire. In many cases, some improvements will be made by the concessionaire to the original structure and, in all cases, trade fixtures and operating inventory would

be provided by the concessionaire. Concession agreements are typically long or short-term property leases, with or without an interest in the land.

NEGOTIATED VERSUS COMPETITIVE BID

The County has broad latitude in determining the method of selecting a concessionaire. In fact, under certain conditions, the County has the ability to negotiate directly with a single source for a concession agreement. This would include situations where only one concession service provider is willing or capable of providing a particular service at a certain location (i.e., smaller or less permanent concessions). However, in the absence of compelling reasons to negotiate a contract with a single source, County policy is to follow a competitive bid process allowing for qualified service providers to submit proposals for a concession. The bid process takes into account such factors as the concessionaire's experience in the field, financial ability and history, business plan, proposed rent to be paid to the County, proposed improvements and investments, etc. Some distinct advantages of the competitive bid process are that it provides objectivity by minimizing preferences in the process, generally results in more favorable financial benefits to the County and the taxpayer, and provides additional amenities and services to the public.

COMPETITIVE BID STRATEGIES

The following key strategies should be used when considering the development or renewal of a concession agreement:

1. When applicable, the concession will be consistent with the master plan for the park it is proposed for.
2. The services from the concession will be provided at a reasonable cost to park patrons.
3. The concessionaire's operating schedule will respond to the needs of park patrons.
4. The County will obtain a fair market rent for the concession while providing the concessionaire with a reasonable business opportunity.
5. A commitment will be secured from the concessionaire, as early as possible in the process, on an acceptable level of service for the concession.
6. A reasonable good faith/security deposit will be required from the concessionaire to cover the County's costs of drafting and negotiating the lease agreement and as a guarantee that the selected concessionaire will enter into an agreement with the County.
7. The amount of County financial participation and administrative expense, if any, will be limited to that which is demonstrated to be absolutely necessary for the agreement to be workable for both parties.
8. The County will obtain sufficient revenue from the concession through lease rentals payments, enhanced park fee revenue, and other concession payments and contributions to make it a financially viable arrangement for the County based on current market conditions.
9. If concessionaire indicates in its bid that it will undertake subleases, the County will be provided a portion of the revenue stream generated by the subleases.
10. When improvements to park property are required of the concessionaire as part of the lease agreement, the concessionaire will be held to a

realistic, but firm, time schedule to complete the improvements.

11. For phased improvements that are required as part of the lease agreement, the concessionaire will be held to a specific time schedule for each phase of the project.

SOLICITATION AND SELECTION PROCESS

The following outlines the solicitation and selection process. It assumes that the proposed concession is consistent with the parks' master plan (when applicable), that the *major* park improvements are already in place, and that there may or may not be facility or park improvements made by the selected concessionaire. The improvements to be made by the concessionaire, if any, will be detailed in the documents that are provided as part of the bid process.

I. DEFINING THE NEED FOR THE CONCESSION

The following steps should be followed initially to establish the guidelines for either the new concession that is being sought or for the renewal of an existing concession.

- A. Select the Process Manager** – The Process Manager will be the key management staff person in the Parks Department who will manage the bid and selection process and the time schedule. This person will be selected based on their particular knowledge and familiarity with the concession that is being bid and will be expected to coordinate all aspects of the bid process from beginning to end, including working with the County's Real Property staff, County Counsel, Risk Management, etc.
- B. Describe the Park** – This should provide a complete description of the park property where the concession is located, or proposed to be located, and should be written from the perspective of a business opportunity.
- C. Describe the Market** – This description should further describe the business opportunity in terms of such information as park visitation and use and how this translates to revenue potential from the concession.
- D. Describe the Role of the Concessionaire** – This section should describe how the concession relates to the functions and goals of the park where it is being located. It will also describe how the concessionaire will relate to the Parks Department.
- E. Describe the Improvements and Investments Needed, if Any** – This should describe any park or facility improvements envisioned from the concessionaire as part of the concession agreement as well as required trade fixtures and inventory.
- F. Determine the Concession Proposal Review Team** – Determine the makeup of the review team that will be responsible for evaluating and rating concession proposals. Ideally, this team should include representatives from Parks Department management and operations staff, County Real Property staff, and other County staff with relevant contract management and/or legal background and experience.
- G. Establishing the Schedule** – The Process Manager will establish a schedule for going to the Board to authorize solicitation of bids, the due date for submittal of bids, and the date for award of bid. Sufficient time should be allowed for the bidder to prepare a proposal and for the review, selection, and award of bid by the County.

II. PREPARATION OF BID DOCUMENTS AND BOARD RESOLUTION TO LEASE

- A. Determine Major Lease Terms** – Define the minimum rent, term of lease, whether or not the County will require capital improvements of the concessionaire, or if the County will make capital improvements to the lease area.
- B. Resolution to Lease** – Board resolution declaring its intention to lease out park property for concession. The resolution should include a description of the property to be leased, the *minimum* rental amount to be received by the County, the terms of the lease, and describe the bid submittal and opening process and time schedule (not less than three weeks thereafter), per California Government Code Sections 25520-25539.10 (“Sale or Lease of Real Property”) and California Government Code Sections 6000-6078 (“Publications and Official Advertising”), including any revisions to those sections subsequent to Board approval of this policy.
- C. Notice to Proposers** – Announcement of concession bid to prospective proposers after Resolution to Lease has been approved by the Board.
- D. Objectives of the Request** – Description of concession and its intended purpose for the park and park patrons.
- E. Proposal Questionnaire** – Specific questions related to the particular concession, including key factors for consideration, for submittal with bid proposal.
 - 1. Concession Contract Summary** – Detailed listing of the main elements of the contract to be addressed in proposal, including insurance and indemnification requirements.
 - 2. Instructions to Proposers** – Description of other relevant issues related to concession to be addressed in proposal.
 - 3. Rating Factors** – Listing of key factors to be used by County in rating proposals (e.g., proposed rent, business history and experience, experience working with a public agency, reference checks, etc.).
 - 4. Required Format for Proposal** – Description of proper format of documents to be submitted by proposer in response to bid.
 - 5. Information Release Form** – Release form for follow-up background checks of proposer to be submitted with bid proposal.
 - 6. Notification of Deposit Requirement** – Notice that the selected concessionaire will be required to submit a good faith/security deposit to cover the cost of preparation of the lease agreement by the County’s Real Property and Parks Department staff and as a guarantee that the concessionaire will ultimately enter into an agreement with the County.
 - 7. Proposer’s Checklist** – Checklist for proposer to ensure all required documents have been attached to proposal prior to submittal.

III. PREPARATION OF SOLICITATION PLAN

Preparation of the Solicitation Plan should occur at the same time as the preparation of the bid documents.

- A. Develop a Mailing List for Trade Organizations** – Using trade publications, the local yellow pages directory, and references from park patrons and other

sources, a mailing list should be developed for targeted mailing of an advertising piece on the concession opportunity.

- B. Develop a Mailer on the Concession Opportunity** – This mailer should be a brochure or advertising piece for targeted mailing that includes a description of the park, the concession opportunity, minimum requirements of the concessionaire, park visitation figures, and how the visitation profile relates to the proposed concession.
- C. Receiving the Proposals** – The location where bid proposals should be submitted will be set forth in the bid documents. The Process Manager will hold all proposals (unopened) until the final bid due date.

IV. ADVERTISING FOR CONCESSION

- A. Board Approval of Solicitation of Proposals** – Board approves the primary bid documents, time schedule, and authorizing resolution for the concession lease at a regular, publicly-noticed meeting.
- B. Placing Advertisement and Sending Out Mailer** – The Notice to Proposers on the concession opportunity should be placed in local newspapers and trade publications. The brochure, or advertising piece, should be mailed directly to targeted companies, organizations, and individuals known to the County Parks Department as having an interest in submitting a proposal for the concession.
- C. Sending Out Requests for Proposals (RFPs) to Interested Bidders** – RFPs should be sent out to interested bidders who respond to the advertisement and mailer. This does not preclude the Parks Department from sending out bid packages to prospective bidders that it may be aware of who may be interested in submitting a proposal.
- D. Meeting with Prospective Bidders** – During the bidding period, it may be necessary to conduct a meeting and/or site tour with prospective bidders to provide all bidders the opportunity to have their questions answered and clarify information in the RFPs. Responses to questions may also be handled in writing, when appropriate. If necessary, the bid documents can be amended through an addendum.

V. SELECTING THE CONCESSIONAIRE

- A. Receiving the Proposals** – Proposals should all be received at a specific date, time, and location (as specified in the bid documents). After the due date, the Process Manager will open the proposals and review each for completeness and responsiveness.
- B. Reviewing Proposals for Completeness** – As part of the review process, proposals will be qualified by the Process Manager based on completeness of information submitted. This would include the proposal documents stating clearly the name of the proposer (person, partnership, or corporation) and proposal responding to all of the various elements and provisions of the bid documents. There may be a need for the Process Manager to contact individual proposers to request minor information for clarification purposes. However, proposals that are missing major components of the bid package and/or non-responsive proposals

should be disqualified and returned to the proposer with an indication as to why the proposal has been rejected.

- C. Evaluation of Information** – The Process Manager will review all relevant information submitted, conduct an investigation of references provided, and draft a summary of findings.
- D. Rating of Bidders** – The Process Manager will schedule a meeting of the concession proposal review team to review the qualified proposals and the summary findings of the reference checks and to rate each proposal based on a variety of factors including, but not limited to, experience, ability to finance/financial history, proposed business plan, proposed rent or lease payments to the County, proposed improvements, etc.
- E. Interviewing Top Three Qualified Bidders** – The Process Manager will take the top three rated qualified bidders (if four, or more, bids were received) to the Parks Director. The Parks Director, the Process Manager, and any other concession proposal review team members requested by the Parks Director will then interview the top three rated qualified bidders and, after the interviews, select one candidate who will be recommended for award of the concession. A Letter of Acceptance will be requested of the candidate to be awarded the concession once a final selection is made. If less than four qualified bids are received, the Parks Director and Process Manager will interview all of the candidates and then make a selection for award of the concession from this total pool of candidates.
- F. Good Faith/Security Deposit** – Once a selection has been made, the chosen concessionaire will be required to submit a good faith/security deposit to cover the cost of preparation of the lease agreement by Real Property and Parks staff and as a guarantee that the concessionaire will ultimately enter into an agreement with the County. The deposit will include a “liquidated damages” clause stating that, if the concessionaire fails to enter into an agreement with the County within a specified time period, the balance remaining on deposit will be forfeited to the County. If the concessionaire successfully enters into an agreement with the County within the specified time period, the remaining balance of the deposit may be returned to the concessionaire and/or applied towards future concession payments or site improvements, as negotiated with the County.
- G. Drafting of Concession Agreement** – Once the deposit has been received by the County, the Parks Department and Real Property staff will begin working with the selected concessionaire to draft a concession lease agreement covering all the main terms and conditions, as well as the finer points of the agreement (including insurance and indemnification provisions, defaults, early termination provisions, etc.).
- H. Letter of Acceptance and Signing of Concession Agreement** – Once the concession lease agreement has been reviewed by County Counsel, the Auditor-Controller, and Risk Management, the concessionaire will have 45 days to submit a Letter of Acceptance, provide the required insurance documents, and sign the lease agreement. If the concessionaire fails to sign the agreement within 45 days, or in the event an agreement cannot be reached with the first selected candidate, for any reason, the Parks Department may reject that bidder and select the next

qualified bidder on the list or re-bid the concession. The rejected bidder would forfeit any deposit remaining with the County at that point.

- I. Board Approval and Execution of Concession Agreement** – Once the Letter of Acceptance and signed lease agreement have been received by the County, the Parks Director will make a recommendation to the Board of Supervisors for approval of award of the concession. The Letter of Acceptance and the concession agreement, signed by the concessionaire, will be presented to the Board at that time for execution.