



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
1111 Jackson Street, Suite 700
Oakland, California 94607-4807



IN REPLY REFER TO:

C3823 (PWR-CM)

06 2009

Kary Nichols
Colville Tribal Enterprise Corporation
P.O. Box 150
Nespelem, WA 99155

National Park Service Concessions Contract No. CC-L

Dear Ms. Nichols

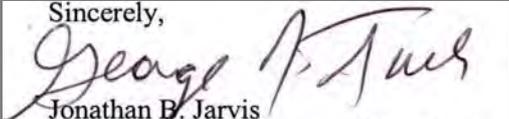
The National Park Service is continuing the process of issuing prospectuses for new concession contracts. However, as a result of the delays created by the number of expiring permits and contracts, the National Park Service has determined that a one-year extension of your current concession authorization is necessary to avoid interruption of visitor services.

Accordingly, pursuant to Section 403 (11) of Public Law 105-391 and 36 CFR § 51.23, and upon return of a signed copy of this letter of agreement to the undersigned, your concession authorization is hereby extended to September 30, 2009, or until such time as a new contract for this operation is awarded, whichever occurs first. All other terms and conditions of the authorization will remain the same, subject to the terms of Public Law 105-391.

The National Park Service will notify you when it issues a solicitation for award of a new concession contract covering the service you provide.

Please indicate your acceptance of the extension provided by this letter by signing in the space provided below and return the fully-executed letter to this office within 30 days of receipt. A pre-addressed envelope is enclosed for your convenience. A copy of this letter has also been enclosed for your files. If you have any questions, or if we can provide further assistance, please contact Anne Dubinsky Altman, Concessions Program Manager, Pacific West Region, at (510) 817-1366.

Sincerely,


Jonathan B. Jarvis
Regional Director, Pacific West Region

Accepted

Concessioner

Superintendent, Lake Roosevelt National Recreation Area





United States Department of the Interior



NATIONAL PARK SERVICE

Pacific West Region
1111 Jackson Street, Suite 700
Oakland, California 94607-4807

IN REPLY REFER TO:
C3823 (PWR-CM)

DEC 26 2007

Kary Nichols
Colville Tribal Enterprise Corporation
P.O. Box 150
Nespelem, WA 99155

Replied

Re: National Park Service Concessions Contract No. CC-LARO003-92

Dear Ms. Nichols:

The National Park Service is continuing the process of issuing prospectuses for new concession contracts. However, as a result of the delays created by the number of expiring permits and contracts, the National Park Service has determined that a one-year extension of your current concession authorization is necessary to avoid interruption of visitor services.

Accordingly, pursuant to Section 403 (11) of Public Law 105-391 and 36 CFR § 51.23, and upon return of a signed copy of this letter of agreement to the undersigned, your concession authorization is hereby extended to September 30, 2008, or until such time as a new contract for this operation is awarded, whichever occurs first. All other terms and conditions of the authorization will remain the same, subject to the terms of Public Law 105-391.

The National Park Service will notify you when it issues a solicitation for award of a new concession contract covering the service you provide.

Please indicate your acceptance of the extension provided by this letter by signing in the space provided below and return the fully-executed letter to this office within 30 days of receipt. A pre-addressed envelope is enclosed for your convenience. A copy of this letter has also been enclosed for your files. If you have any questions, or if we can provide further assistance, please contact Anne Dubinsky Altman, Concessions Program Manager, Pacific West Region, at (510) 817-1366.

Sincerely,

Jonathan B. Jarvis
Regional Director, Pacific West Region

Accepted:

Concessioner

01-13-08
Date

cc: Superintendent, Lake Roosevelt National Recreation Area



KELLER FERRY MARINA
LAKE ROOSEVELT NATIONAL RECREATION AREA

THIS AGREEMENT made and entered into by and between the United States of America, acting in this behalf by the Secretary of the Interior, through the Director of the National Park Service and the Regional Director, Pacific West Region, hereinafter referred to as the "Secretary," and the Colville Tribal Enterprise Corporation, a tribal entity organized and established pursuant to Article 7, Section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation, adopted by the Confederated Tribes on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938, pursuant to Tribal Law, doing business as Roosevelt Recreational Enterprises, hereinafter referred to as the "Concessioner."

W I T N E S S E T H

THAT WHEREAS, the Secretary entered into Concession Contract No. CC-CODA003-92 on March 27, 1992, whereby the Concessioner is authorized to provide services for the public within Lake Roosevelt National Recreation Area, during the period from October 1, 1991, through September 30, 2006; and

WHEREAS, the Concessioner and the Secretary have agreed to amend the contract so as to facilitate improvements in facilities;

NOW, THEREFORE, the parties hereto covenant and agree to and with each other the following:

Concession Contract CC-CODA003-92 is hereby amended effective on the first day of the first full month following the final execution of this amendment, as follows:

I. Delete Section 9(a)(2) of the CONTRACT and add in its place the following:

In addition to the foregoing, a franchise fee equal to ZERO PERCENT (0%) of the Concessioner's gross receipts, as herein defined, for the preceding year or portion of a year.

II. Add to the CONTRACT at Section 9(e) at the end of the first paragraph, the following sentence:

It is agreed that the procedures and timing included in this CONTRACT for the periodic reconsideration of franchise fees shall apply also to the Capital Account added to this CONTRACT at Section 9.1.

III. Add to the CONTRACT a new SECTION as follows:

SEC. 9.1 ACCOUNTS

(a) CAPITAL ACCOUNT (1) As partial consideration for the privileges granted by this CONTRACT, the Concessioner shall establish a "Capital Account" by which it will undertake, on a project basis, improvements which directly support the Concessioner's operations hereunder. Funds in the Capital Account (CA), including interest earned thereon, are to be placed in an interest bearing account in a Federally Insured financial institution by the Concessioner. CA funds are not government funds. CA funds shall be used in accordance with Exhibit "E" only for construction of qualified improvements approved by the Superintendent in accordance with project proposals approved by the Pacific West Regional Director.

(a)(2) Improvements paid for with funds from the Capital Account will not include routine, operational maintenance of facilities or housekeeping activities. Nothing in this Section shall lessen the responsibility of the Concessioner to carry out maintenance and repair as required by Sections 4 and 5 of this CONTRACT, or otherwise, from Concessioner funds exclusive of those funds contained in the Capital Account. Funds in the Capital Account shall not be used for purposes for which those Sections would apply. The Concessioner shall have no ownership, Possessory Interest or other interest in improvements made from Capital Account funds.

(a)(3) The Concessioner shall deposit within fifteen (15) days after the last day of each month that the Concessioner operates a sum ("SUM") equal to ONE PERCENT (1%) of the Concessioner's Gross Receipts for the previous month, as defined in this CONTRACT, into an interest bearing account(s) at a Federally insured financial institution(s). The account(s) shall be maintained separately from all other Concessioner funds and copies of monthly account statements shall be provided to the Secretary. An interest charge will be assessed on overdue deposits for each thirty (30) day period, or portion thereof, that the deposit is delayed beyond the fifteen (15) day period provided for herein. The per cent of interest charged will be based on the then current value of funds to the U.S. Treasury as published in the Treasury Fiscal Requirements Manual.

1 (a)(4) The Concessioner shall submit annually, along with the required Annual Financial Report and subject
2 to the auditors opinion required on the Annual Financial Report, a statement reflecting total activity in
3 the Capital Account for the preceding accounting year. The statement shall reflect all deposits, all
4 withdrawals identified by project or other purposes, and all interest earned.
5

6 (a)(5) Advances or credits to the Capital Account by the Concessioner are not permitted. Projects will be
7 carried out by the Concessioner as the Superintendent shall direct in writing and in advance of any
8 expenditure being made. For all expenditures made for each project from Capital Account funds, the
9 Concessioner shall maintain auditable records including invoices, billings, canceled checks, and other
10 documentation satisfactory to the Secretary.
11

12 (a)(6) Upon the expiration or termination of this CONTRACT, or upon assignment or sale of interests related
13 to this CONTRACT, the unexpended balance remaining in the Capital Account shall, at the direction of the
14 Secretary, be expended by the Concessioner for approved Projects, transferred to a successor concessioner,
15 or, shall be remitted by the Concessioner to the Secretary in such a manner that payment shall be received
16 by the Secretary within fifteen (15) days after the last day of the Concessioner's operation.
17

18 Any payment remitted to the Secretary under this sub-section and consisting of \$10,000 or more shall be
19 deposited electronically by the Concessioner using the Treasury Financial Communications System. An
20 interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof,
21 that payment is delayed beyond the fifteen (15) day period provided for herein. The percent of interest
22 charged will be based on the current value of funds to the United States Treasury which is published
23 quarterly in the Treasury Fiscal Requirements Manual.
24

25 IV. Add to the CONTRACT a new exhibit, Exhibit E, Account Control Procedure, attached.
26
27

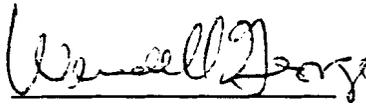
28 IN WITNESSETH WHEREOF, the parties hereto have subscribed their names.

29 Executed at San Francisco, California, this 26 day of June, 1997.
30
31

32 ROOSEVELT RECREATIONAL ENTERPRISES

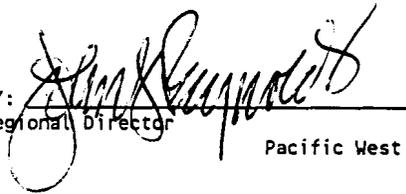
UNITED STATES OF AMERICA

33
34
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36
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38 BY: _____



BY: _____

Regional Director



Pacific West Region

39
40
41 ROOSEVELT RECREATIONAL ENTERPRISES ATTEST:
42
43
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45 BY: _____

46 NAME: _____

47 TITLE: _____

48
49 DATE: _____
50
51

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

--ooOoo--

KELLER FERRY MARINA
~~LAKE ROOSEVELT~~
~~COULEE DAM~~ NATIONAL RECREATION AREA

--ooOoo--

CONTRACT NO. CC-^{LARD003}~~CODA003~~-92

EXECUTED March 27, 1992

COVERING THE PERIOD

October 1, 1991

Through

September 30, 2006

CONCESSION CONTRACT

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EXHIBITS

1. Exhibit A	Government-Owned Structures
2. Exhibit B	Nondiscrimination
3. Exhibit C	Concessioner Improvements
4. Exhibit D	Building Replacement Cost for Insurance Purposes

NATIONAL PARK SERVICE
CONCESSION CONTRACT
COULEE DAM NATIONAL RECREATION AREA

CORPORATION

THIS CONTRACT made and entered into by and between the United States of America, acting in this matter by the Secretary of the Interior, through the Director of the National Park Service, hereinafter referred to as the "Secretary," and the Colville Tribal Enterprise Corporation, a tribal entity organized and established pursuant to Article 7, Section 1(a) of the Confederated Tribes of the Colville Reservation, Washington, adopted by the Confederated Tribes February 26, 1938, and approved by the Commissioner of Indian Affairs April 19, 1938, pursuant to Tribal Law, doing business as Roosevelt Recreational Enterprises, hereinafter referred to as the "Concessioner":

W I T N E S S E T H:

THAT WHEREAS Coulee Dam National Recreation Area is administered by the Secretary to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the public enjoyment of the same in such manner as will leave such area unimpaired for the enjoyment of future generations; and

WHEREAS the accomplishment of these purposes requires that facilities and services be provided for the public visiting the area and that all private interest shall be excluded except so far as may be necessary for the accomplishment of said purposes, including accommodation of the public; and

WHEREAS the United States has not itself provided such necessary facilities and services and desires the Concessioner to establish and operate the same at reasonable rates under the supervision and regulation of the Secretary; and

WHEREAS the establishment and maintenance of such facilities and services involves a substantial investment of capital and the assumption of the risk of operating loss, it is therefore proper, in consideration of the obligations assumed hereunder and as an inducement to capital, that the Concessioner be given assurance of security of such investment and of a reasonable opportunity to make a profit; and

WHEREAS pursuant to law the Secretary is required to exercise his authority hereunder in a manner consistent with a reasonable opportunity by the Concessioner to realize a profit on the operations conducted hereunder as a whole commensurate with the capital invested and the obligations assumed:

NOW, THEREFORE, pursuant to the authority contained in the Acts of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), and other laws supplemental thereto and amendatory thereof, the said parties agree as follows:

SEC. 1. TERM OF CONTRACT. (a) This contract shall supersede and cancel Concession Permit No. LP-CODA003-87 effective upon the close of business September 30, 1991, and shall be for a term of FIFTEEN (15) YEARS from October 1, 1991, through September 30, 2006.

(b) The Concessioner shall undertake and complete a Construction and Improvement Program costing not less than \$800,000 as adjusted to reflect par value in the year of actual construction in accordance with the appropriate indexes of the Department of Commerce's "Construction Review."

It is agreed that such investment is consistent with Section 3(a) hereof. Such Improvement and Building Program shall include:

1. Warehouse/Houseboat Maintenance Building. This project has been completed at a cost of \$168,900.
2. Sewage Disposal System, including Drainfield. This project has been completed at a cost of \$109,000.
3. Houseboat Service Dock/Floating Office/Storage Facility/Fuel System. This project has been completed at a cost of \$257,000.
4. Fifty (50) Slip-Covered Moorage Docks, Courtesy Dock with miscellaneous moorage. This project has been completed at a cost of \$187,000.
5. Houseboat/Vehicle Parking Lot, with Access Loop to Dock and Spur Roads. This project has been completed at a cost of \$61,050.
6. Automobile Parking Lots and Spur Roads that connect to main NPS Access Road. This project has been completed at a cost of \$12,000.

7. Bay Excavation. This project has been completed at a cost of \$60,750.
8. Marina/Camper Services Facility, which will include, but not necessarily be limited to food service, general merchandise, groceries, marina/camper supplies, office space to also include furniture, fixtures, and equipment.

The Concessioner shall undertake such other improvements as follows, at such time when both parties have determined they are economically feasible:

1. Construct campgrounds which will include, but not necessarily be limited to, recreational vehicle sites with appropriate hookups, tent camping sites, parking, utility lines, landscaping, and all other related facilities and services which are customary in connection with such an operation.
2. Construct lodging accommodations, which will include parking, landscaping, and all other related facilities and services which are customary in connection with such an operation. (A room furnishing plan will be approved by the Secretary.)

(c) The Concessioner shall start said program, at the option of the Secretary, only after approval of plans and specifications for each project.

The Concessioner shall provide the Secretary with such evidence or documentation, as may be satisfactory to the Secretary, to demonstrate that such program is being carried forward and available for public use no later than one year after being notified to proceed. The determination of completion will be at the sole discretion of the Secretary.

At the discretion of the Secretary, after consultation with the Concessioner, the investment required in the Improvement Program may be shifted between programs, or to new projects, as the Secretary determines necessary and appropriate.

(d) The Concessioner may, at the discretion of the Secretary, be relieved in whole or in part of any or all of the obligations of the improvement program for such stated periods as the Secretary may deem proper upon written application by the Concessioner showing circumstances beyond its control warranting such relief.

SEC. 2. ACCOMMODATIONS, FACILITIES AND SERVICES. (a) The Secretary requires and hereby authorizes the Concessioner during the term of this contract to provide accommodations, facilities, and services for the public at Keller Ferry Marina within Coulee Dam National Recreation Area as follows:

REQUIRED AND AUTHORIZED

- 1). Boat Moorage and Facilities
- 2). Houseboat and Boat Rental Facilities and Services
- 3). Retail Facilities and Services, which will include, but not necessarily be limited to, grocery items, general merchandise, camper and fishing supplies, snack/fast foods, gifts, public showers/laundry.
- 4). Floating Docks and Slips
- 5). Marine Fuel and Oil
- 6). Boat Sewage Pumpout Services at no charge to Boating Public.

AUTHORIZED SERVICES

- 1). Motel and Lodging Accommodations and Services
- 2). Food and Beverage Facilities and Services
- 3). Recreational Vehicle/Camper Facilities and Services
- 4). Marine Repair Facilities and Services
- 5). Dry Storage Facilities
- 6). Automobile Gas and related services.

The Concessioner may provide services incidental to the operations authorized hereunder at the request of the Secretary.

(b) The Secretary reserves the right to determine and control the nature, type, and quality of the merchandise and services described herein as authorized and required to be sold or furnished by the Concessioner within the area. Operations under this contract and the administration thereof by the Secretary shall be subject to the laws of Congress governing the area and the rules, regulations, and policies promulgated thereunder, whether now in force or hereafter enacted or promulgated, including but not limited to the United States Public Health Service requirements. Concessioners must also comply with current applicable criteria promulgated by the United States Department of Labor's Occupational Safety and Health Act of 1970 (OSHA) and those provisions outlined in the National Park Service's Safety and Occupational Health Policy associated with visitor safety and health.

SEC. 3. PLANT, PERSONNEL, AND RATES. (a)(1) The Concessioner shall maintain and operate the said accommodations, facilities, and services to such extent and in such manner as the Secretary may deem satisfactory, and shall provide the plant, personnel, equipment, goods, and commodities necessary therefor, provided that the Concessioner shall not be required to make investments inconsistent with a reasonable opportunity to realize a profit on its operations hereunder commensurate with the capital invested and the obligations assumed.

(2) All rates and prices charged to the public by the Concessioner for accommodations, services, or goods furnished or sold hereunder shall be subject to regulations and approval by the Secretary. Reasonableness of rates and prices will be judged primarily by comparison with those currently charged for comparable accommodations, services, or goods furnished or sold outside of the areas administered by the National Park Service under similar conditions, with due allowance for length of season, provision for peak loads, average percentage of occupancy, accessibility, availability and cost of labor and materials, type of patronage, and other conditions customarily considered in determining charges, but due regard may also be given to such other factors as the Secretary may deem significant.

(3) The Concessioner shall require its employees to observe a strict impartiality as to rates and services in all circumstances. The Concessioner may, subject to the prior approval of the Secretary, grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted hereunder. The Concessioner will provide federal employees conducting official business reduced rates for lodging, essential transportation, and other specified services in accordance with procedures established by the Secretary.

(b)(1) The Concessioner may be required to have its employees who come in direct contact with the public, so far as practicable, to wear a uniform or badge by which they may be known and distinguished as the employees of the Concessioner. The Concessioner shall require its employees to exercise courtesy and consideration in their relations with the public.

(2) The Concessioner shall review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Secretary to be inconsistent with the proper administration of the area and enjoyment and protection of visitors and shall take such actions as are necessary to fully correct the situation.

(3) The Concessioner shall comply with the requirements of (a) Title VII of the Civil Rights Act of 1964, as well as Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, except that a Concessioner engaging in activities on or near an Indian Reservation may give preference in hiring to Indians consistent with 42 USC 2000e-2(i) of Title VII of the Civil Rights Act of 1964 as implemented in applicable Department of Labor regulations, (b) Title V, Sections 503 and 504 of the Rehabilitation Act of September 26, 1973, P.L. 93-112 as amended in 1978, (c) 41 CFR, Part 60-2, which prescribes affirmative action requirements for contractors and subcontractors, (d) the Age Discrimination in Employment Act of December 15, 1967, (P.L. 90-202), as amended by P.L. 95-256 of April 6, 1978, and (e) the Architectural Barriers Act of 1968 (P.L. 90-480), which requires government contractors and subcontractors to take affirmative action to employ and to advance in employment qualified handicapped individuals and to make facilities accessible to or usable by handicapped persons so that they will not be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by an Executive agency or by the United States Postal Service. The Concessioner shall also comply with regulations heretofore or hereafter promulgated, relating to nondiscrimination in employment and providing accessible facilities and services to the public and shall do nothing in advertising for employees which will prevent those covered by these laws from qualifying for such employment and use of their facilities. Regulations heretofore promulgated are set forth in Exhibit "B" attached hereto and made a part hereof.

SEC. 4. GOVERNMENT LAND AND IMPROVEMENTS. (a) The Secretary hereby assigns for use by the Concessioner during the term of this contract, certain parcels of land and Government Improvements, if any, (as described in Exhibit "A" hereto) necessary to conduct the operations authorized hereunder. The Secretary reserves the right to withdraw such assignments or part thereof at any time during the term of this contract if, in his judgment, (1) such withdrawal is necessary for the purpose of protecting visitors or area resources, or (2) the operations utilizing such assigned lands are terminated pursuant to Section 11 hereof. Any permanent withdrawal of assigned lands or improvements which are essential for conducting the operation authorized hereunder will be considered by the Secretary as a termination pursuant to Section 11 hereof. The Secretary shall compensate the Concessioner for any possessory interest in such withdrawn properties at book value as described in Section 12 hereof, or, in the event that Concessioner Improvements in which the Concessioner has a possessory interest are to be replaced by

the Concessioner within the area, in accordance with fair value compensation for possessory interest described in subsection 12(b) hereof.

(b) "Government Improvements" as used herein means the buildings, structures, utility systems, fixtures, equipment, and other improvements upon the lands assigned hereunder, if any, constructed or acquired by the government and provided by the government for the purpose of this contract. The Concessioner shall have a possessory interest in improvements it makes to Government Improvements. In the event that such possessory interest is acquired by the government or a successor Concessioner at any time, the Concessioner will be compensated for such possessory interest pursuant to Section 12 hereof.

(c) The Secretary shall have the right at any time to enter upon the lands and improvements utilized by the Concessioner hereunder for any purpose he may deem reasonably necessary for the administration of the area and the government services therein.

(d) The Concessioner may construct or install upon the assigned lands such buildings, structures, and other improvements as are necessary for the operations required hereunder, subject to the prior written approval by the Secretary of the location, plans, and specifications thereof. The Secretary may prescribe the form and contents of the application for such approval. The desirability of any project, as well as the location, plans, and specifications thereof, will be reviewed in accordance with the provisions of the National Environmental Policy Act of 1969 and the National Historic Preservation Act of 1966.

(e) If during the term hereof a Government Improvement requires major repairs and/or improvements that serve to prolong the life of the Government Improvement to an extent requiring capital investment for major repair, such capital investment shall be borne by the Concessioner. Such expenditures shall be consistent with a reasonable opportunity for the Concessioner to realize a profit on its operations. Where capital improvements to Government acquired or constructed facilities supporting the concession operation, including roads, parking, and utility systems, are determined by the Secretary to be necessary and economically feasible for the accommodation of park visitors they shall be made by the Concessioner. If the Secretary determines that the required improvements are necessary but economically infeasible for the Concessioner, such improvements may be made by the National Park Service subject to the availability of appropriated funds.

(f) The lands assigned herein are subject to the Columbia Basin Project (hereinafter Project), 16 U.S.C. Sec. 835, and subject at any time to use for Project purposes. Irrigation, navigation and hydroelectrical requirements may cause sudden draw downs of Lake Roosevelt and fluctuations in the lake elevation. The concessioner shall not be allowed compensation for the loss use of the assigned lands or for damages and/or such fluctuations or by Project operations.

SEC. 5. MAINTENANCE. Subject to Section 4(e) hereof, the Concessioner will physically maintain and repair all facilities (both Government and Concessioner's Improvements) used in the operation hereunder, including maintenance of assigned lands and all necessary housekeeping activities associated with the operation to the satisfaction of the Secretary. In order that a high standard of physical appearance, operations, repair and maintenance be maintained, appropriate inspections will be carried out jointly by the Secretary and the Concessioner.

SEC. 6. CONCESSIONER'S IMPROVEMENTS. (a) "Concessioner's Improvements," as used herein, means buildings, structures, fixtures, equipment, and other improvements affixed to or resting upon the lands assigned hereunder in such manner as to be a part of the realty, provided by the Concessioner for the purposes of this contract (excluding improvements made to Government Improvements by the Concessioner), as follows: (1) such improvements upon the lands assigned at the date hereof as described in Exhibit "C" hereto; and (2) all such improvements hereafter constructed upon or affixed to the lands assigned to the Concessioner with the written consent of the Secretary. Concessioner's Improvements do not include any interest in the land upon which the described structures are located.

(b) The Concessioner shall have a possessory interest in all Concessioner's Improvements recognized by this contract. Possessory Interest shall consist of all incidents of ownership except legal title, which shall be vested in the United States. However, such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity and the use or enjoyment of any structure, fixture, or improvement in which the Concessioner has a possessory interest shall be wholly subject to the applicable provisions of this contract and to the laws and regulations relating to the area. The said possessory interest shall not be extinguished by the expiration or other termination of this contract and may not be terminated or taken for public use without just compensation as determined in accordance with Section 12. Wherever used in this contract, "possessory interest" shall mean the interest described in this paragraph.

Performance of the obligations assumed by the Secretary under Section 12 hereof shall constitute just compensation with respect to the taking of a possessory interest in the circumstances therein described.

(c) The Secretary shall have the right at any time to enter upon the lands and improvements utilized by the Concessioner hereunder for any purpose he may deem reasonably necessary for the administration of the area and the government services therein.

(d) Any salvage resulting from the authorized removal, severance, or demolition of a Concessioner's Improvement, or any part thereof, shall be the property of the Concessioner.

(e) In the event that a Concessioner's Improvement is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concessioner shall promptly, upon the request of the Secretary, restore the site as nearly as practicable to a natural condition.

SEC. 7. UTILITIES. (a) The Secretary shall furnish utilities to the Concessioner for use in connection with the operations authorized hereunder, when available, at reasonable rates to be fixed by the Secretary at his discretion and which shall at least equal the actual cost of providing the utility or service unless a reduced rate is provided for in an established policy of the Secretary in effect at the time of billing.

(b) Should any such service not be available or sufficient, the Concessioner may, with the written approval of the Secretary and under such requirements as shall be prescribed by him, secure the same at its own expense from sources outside the area or may install the same within the area subject to the following conditions:

(1) Any water rights deemed necessary by the Concessioner for use of water on federal lands shall be acquired at its expense in accordance with any applicable state procedures and state law. Such water rights, upon expiration or termination of this contract for any reason, shall be assigned to and become the property of the United States without compensation.

(2) Any service provided by the Concessioner under this section shall, if requested by the Secretary, be furnished to the government to such an extent as will not unreasonably restrict anticipated use by the Concessioner. The rate per unit charged the government for such service shall be approximately the average cost per unit of providing such service.

(3) All appliances and machinery to be used in connection with the privileges granted in this section, as well as the plans for location and installation of such appliances and machinery, shall first be approved by the Secretary.

SEC. 8. ACCOUNTING RECORDS AND REPORTS.

(a) The Concessioner shall maintain an accounting system whereby the accounts can be readily identified with the System of Account Classification prescribed by the Secretary. The Concessioner shall submit annually as soon as possible but not later than NINETY (90) days after the 30th day of September, a financial statement for the preceding year as prescribed by the Secretary, and such other reports and data as may be required by the Secretary. If annual gross receipts are in excess of \$1 million, the financial statements shall be audited by an independent certified public accountant or by an independent licensed public accountant certified or licensed by a regulatory authority of a state or other political subdivision of the United States on or before December 31, 1970, in accordance with the auditing standards and procedures promulgated by the American Institute of Certified Public Accountants. If annual gross receipts are between \$250,000 and \$1 million, the financial statements shall be reviewed by an independent certified public accountant or by a licensed public accountant certified or licensed by a regulatory authority of a state or other political subdivision of the United States on or before December 31, 1970, in accordance with the auditing standards and procedures promulgated by the American Institute of Certified Public Accountants.

Financial statements accompanied by remarks such as "prepared from client records without audit" are unacceptable.

The independent licensed or certified public accountant shall include a statement to the effect that the amounts included in the financial report are consistent to those included in the federal and state tax returns. If they are not required to be filed, then a statement showing differences shall be included. The Secretary shall have the right to verify and copy for his own use all such reports from the books, correspondence, memoranda, and other records of the Concessioner and subconcessioners, if any, and of the records pertaining thereto of a proprietary or affiliated company, if any, during the period of the contract, and for such time thereafter as may be necessary to accomplish such verification.

(b) Within ninety (90) days of the execution of this contract or its effective date, whichever is later, the Concessioner shall submit to the Secretary a balance sheet as of the beginning date of the term of this contract. The balance

sheet shall be audited by an independent certified public accountant or by an independent licensed public accountant, certified or licensed by a regulatory authority of a state or other political subdivision of the United States on or before December 31, 1970. The balance sheet shall be accompanied by a schedule that identifies and provides details for all assets in which the Concessioner claims a possessory interest. The schedule must describe these assets in detail showing for each such asset the date acquired, useful life, cost and book value.

(c) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five (5) calendar years after the close of business year of the Concessioner and any subconcessioner, have access to and the right to examine any of the pertinent books, documents, papers, and records related to this contract, including federal and state income tax returns.

SEC. 9. FRANCHISE FEE. (a) For the term of this contract, the Concessioner shall pay to the Secretary for the privileges granted herein as follows:

(1) An annual fee for the use of any Government Improvements utilized by the Concessioner hereunder, if any. Such fee and assigned government buildings to be as set forth in Exhibit "A" hereto, but in no event shall the fee exceed the fair annual value of such Government Improvements as determined by the Secretary.

(2) In addition to the foregoing, a further sum equal to ONE PERCENT (1%) of the Concessioner's gross receipts, as herein defined, for the preceding year.

(b) The franchise fee shall be due on a monthly basis in such a manner that payment shall be received by the Secretary within 15 days after the last day of each month that the Concessioner operates. Such monthly payment shall include the annual use fee for assigned Government Improvements, as set forth in Exhibit "A" hereto, divided by the expected number of operating months, as well as the specified percentage of gross receipts for the preceding month. The payment of any additional amounts due at the end of the operating year as a result of adjustments shall be paid at the time of submission of the annual financial report. Overpayments shall be offset against the following year's franchise fees due. All franchise fee payments consisting of \$10,000 or more, shall be deposited electronically by the Concessioner using the Treasury Financial Communications System.

(c) An interest charge will be assessed on overdue amounts for each 30-day period, or portion thereof, that payment is delayed. The percent of interest charged will be based on the current value of funds to the United States Treasury which is published quarterly in the Treasury Fiscal Requirements Manual.

(d)(1) The term "gross receipts," as used herein, shall be construed to mean the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted in this contract, including gross receipts of subconcessioners as hereinafter defined, and commissions earned on contracts or agreements with other persons or companies operating in the area, and excluding gross receipts from the sale of genuine United States Indian and native handcraft, intracompany earnings on account of charges to other departments of the operation (such as laundry), charges for employees' meals, lodgings, and transportation, cash discounts on purchases, cash discounts on sales, returned sales and allowances, interest on money loaned or in bank accounts, income from investments, income from subsidiary companies outside of the area, sale of property other than that purchased in the regular course of business for the purpose of resale, and sales and excise taxes that are added as separate charges to approved sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid governmental agencies, and amounts received as a result of an add-on to recover utility costs above comparable utility charges. All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, shall be included in gross receipts. However, only revenues actually received by the Concessioner from coin operated telephones shall be included in gross receipts.

(2) The term "gross receipts of subconcessioners" as used in subsection (d)(1) of this section shall be construed to mean the total amount received or realized by, or accruing to, subconcessioners from all sources as a result of the exercise of the rights conferred by subconcession contracts hereunder without allowances, exclusions, or deductions of any kind or nature whatsoever and the subconcessioner shall report the full amount of all such receipts to the Concessioner within 45 days after the 31st day of December of each year. The subconcessioner shall maintain an accurate and complete record of all items listed in subsection (d)(1) of this section as exclusions from the Concessioner's gross receipts and shall report the same to the Concessioner with the gross receipts. The Concessioner shall be entitled to exclude items listed in subsection (d)(1) in computing the franchise fee payable to the Secretary as provided for in subsection (a) hereof.

(e) Within one-hundred twenty (120) days after the end of the second year period of this contract, thereafter each five year period, or as otherwise specified, at the instance of either party hereto, the amount and character of the franchise fees provided for in this section will be reconsidered. Such request shall be made in writing within 120 days after the end of the applicable contract year but cannot be made before the end of such year.

In the event that the Secretary and the Concessioner cannot agree upon an adjustment of the franchise fees within 120 days from the date of the request for renegotiation as made by either party, the position of the Concessioner must be reduced to writing within 30 days therefrom and submitted to the Secretary for a determination of appropriate fees consistent with the fair value of any assigned Government Improvements and the probable value to the Concessioner of the privileges granted by this contract based upon a reasonable opportunity for a profit in relation to both gross receipts and capital invested.

If desired by the Concessioner, an advisory arbitration panel will be established (one member to be selected by the Secretary, one by the Concessioner, and the third by agreement of the original two) for the purpose of recommending to the Secretary appropriate franchise fees. The Secretary and the Concessioner shall share equally the expenses of such advisory arbitration. The written determination of the Secretary as to franchise fees shall be final and conclusive upon the parties hereto.

Any new fees established will be retroactive to the commencement of the applicable period for which notice of reconsideration is given and be effective for the remaining term of the contract, unless subsequent negotiations establish yet a different franchise rate.

If new rates are greater than existing rates, the Concessioner will pay all back fees due with the next regular payment. If new rates are less than the existing rate, the Concessioner may withhold the difference between the two rates from future payments until he has recouped the overpayment.

Any new franchise fees will be evidenced by an amendment to the contract, unless based upon the written determination of the Secretary, in which event a copy of the determination will be attached hereto and become a part hereof, as fully as if originally incorporated herein.

SEC. 10. BOND AND LIEN. The Secretary may, at his discretion, require the Concessioner to furnish a surety bond acceptable to the Secretary conditioned upon the faithful performance of this contract, in such form and in such amount as the Secretary may deem adequate. As additional security for the faithful performance by the Concessioner of all of its obligations under this contract and the payment to the government of all damages or claims that may result from the Concessioner's failure to observe such obligations, the government shall have at all times the first lien on all assets of the Concessioner within the area. The Secretary may subordinate said lien to any mortgage, bond, or other evidences of security for any indebtedness permitted under Section 13(d) of this contract.

SEC. 11. TERMINATION. (a) The Secretary may terminate this contract in whole or part for default at any time and may terminate this contract in whole or part when necessary for the protection of visitors or area resources. The operations authorized hereunder may be suspended in whole or in part at the discretion of the Secretary when necessary to protect the health and safety of visitors and employees or to protect area resources. Termination or suspension shall be by written notice to the Concessioner and, in the event of proposed termination for default, the Secretary shall give the Concessioner a reasonable period of time to correct stated deficiencies. Termination for default shall be utilized in circumstances where the Concessioner has breached any requirements of this contract, including failure to maintain and operate the required accommodations, facilities, and services to the satisfaction of the Secretary in accordance with the Secretary's requirements hereunder.

(b) In the event of termination of this contract when necessary for the protection of visitors or area resources or for default, the compensation to the Concessioner for such termination shall be as described in Section 12, "Compensation."

(c) In the event it is deemed necessary to suspend operations hereunder in whole or in part to protect the visitors or resources of the area, the Secretary shall not be liable for any compensation to the Concessioner for losses occasioned thereby, including but not limited to lost income, profit, wages, or other monies which may be claimed.

(d) To avoid interruption of service to the public upon the expiration or termination of this contract for any reason, the Concessioner, upon the request of the Secretary, will

- (1) continue to conduct the operations authorized hereunder for a reasonable time to allow the Secretary to select a successor, or
- (2) consent to the use by a temporary operator, designated by the Secretary, of the Concessioner's Improvements and personal property, if any, not including current or intangible assets,

used in the operations authorized hereunder upon fair terms and conditions, provided that the Concessioner shall be entitled to an annual fee for the use of such improvements and personal property, prorated for the period of use, in the amount of the annual depreciation on such improvement and personal property plus a return on the book value of such improvements and personal property equal to the prime lending rate, effective on the date the temporary operator assumes managerial and operational responsibilities, as published by the Federal Reserve System Board of Governors or as agreed upon by the parties involved. In this instance the method of depreciation used shall be either straight line depreciation or depreciation shown on Federal Tax Returns.

SEC. 12. COMPENSATION.

(a) Just Compensation: The compensation described herein shall constitute full and just compensation to the Concessioner from the Secretary for all losses and claims occasioned by the circumstances described below.

(b) Contract expiration or termination where operations are to be continued: If for any reason, including contract expiration or termination as described herein, and subject to the limitation on compensation for possessory interest contained in subsection (d) hereof, the Concessioner shall cease to be required by the Secretary to conduct the operations authorized hereunder, or substantial part thereof, and, at the time of such event the Secretary intends for substantially the same or similar operations to be continued by a successor, whether a private person, corporation or an agency of the government, (i) the Concessioner will sell and transfer to the successor designated by the Secretary its possessory interest in Concessioner and Government Improvements, if any, as defined under this contract, and all other property of the Concessioner used or held for use in connection with such operations; and (ii) the Secretary will require such successor, as a condition to the granting of a contract to operate, to purchase from the Concessioner such possessory interests, if any, and such other property, and to pay the Concessioner the fair value thereof.

The fair value of any possessory interest in Government Improvements and all Concessioner Improvements specifically made to roads, parking lots, utility systems and bay excavation, shall be book value, as described in Section 12(c) hereof. In the event that such possessory interest is acquired by a successor, the successor will not be permitted to revalue such possessory interest.

The fair value of possessory interest in Concessioner's Improvements shall be deemed to be the sound value of the improvement to which it relates at the time of transfer of such possessory interest, without regard to the term or other benefits of the contract. The sound value of any structure, fixture, or improvement shall be determined upon the basis of reconstruction cost less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.

The fair value of merchandise and supplies shall be replacement cost including transportation. The fair value of equipment shall be replacement cost less depreciation and obsolescence.

If the Concessioner and the successor, excepting government agencies, cannot agree upon the fair value of any item or items, either party may serve a request for arbitration upon the other party, and the fair value of the item or items in question shall be determined by the majority vote of a board of three arbitrators, selected as follows: Each party shall name one member of such board and the two members so named shall select the third member. If either party fails to appoint an arbitrator within 15 days after the other shall have appointed an arbitrator and served written notice, including the name and address of the arbitrator appointed, upon the other party, then the American Arbitration Association shall be requested by the Secretary to appoint an arbitrator to represent the party failing to make the appointment. The costs and expenses of the arbitrator appointed by the American Arbitration Association to represent the party failing to make the appointment shall be paid for by that party. The two arbitrators so named shall select the third member. If the third member is not selected within 15 days after the appointment of the latter of the other two arbitrators, the American Arbitration Association shall be requested by the Secretary to appoint the third arbitrator. In requesting that the American Arbitration Association appoint an arbitrator in the situations discussed above, the Secretary shall request that the person or persons appointed shall be impartial and specially qualified in commercial and real estate appraisal. The fair value determined by the Board of Arbitrators shall be binding on the parties. The compensation and expenses of the third member shall be paid by the Concessioner and one-half of the amount so paid shall be added to the purchase price. Before reaching its decision, the board shall give each of the parties a fair and full opportunity to be heard on the matters in dispute.

If the successor is a government agency and there is a dispute as to the fair value of any possessory interest, or other items, an advisory arbitration panel will be established at the request of the Concessioner (one member to be selected by the Secretary, one by the concessioner, and the third by agreement of the original two) for the purpose of recommending to the Secretary an appropriate fair value. The Secretary and the Concessioner shall share equally the expenses of such advisory arbitration. The written decision of the Secretary as to such fair value will be final and binding upon all parties.

(c) Contract expiration or termination where operations are to be discontinued: If for any reason, including contract expiration or termination as described herein, the Concessioner shall cease to be required by the Secretary to conduct the operations authorized hereunder, or substantial part thereof, and the Secretary at the time chooses to discontinue such operations, or substantial part thereof within the area, and/or to abandon, remove, or demolish any of the Concessioner's Improvements, if any, then the Secretary will take such action as may be necessary to assure the Concessioner of compensation for (i) its possessory interest in Concessioner Improvements, and Government Improvements, if any, in the amount of their book value (unrecovered cost as shown in Federal Income Tax Returns); (ii) the cost to the Concessioner of restoring any assigned land to a natural condition, including removal and demolition (less salvage), if required by the Secretary; and (iii) the cost of transporting to a reasonable market for sale such movable property of the Concessioner as may be made useless by such determination. Any such property that has not been removed by the Concessioner within a reasonable time following such determination shall become the property of the United States without compensation therefor.

(d) Contract Termination for Default for Unsatisfactory Performance Where Operations are to be Continued. Notwithstanding any provision of this contract to the contrary, in the event of termination of this contract for default for failure to maintain and operate the required accommodations, facilities and services to the satisfaction of the Secretary in accordance with the Secretary's requirements hereunder, compensation for the Concessioner's possessory interest in Concessioner's Improvements, if any, shall be at book value as described in Subsection 12(c) herein.

(e) Other Compensation. In the event of termination of this contract or portions thereof for the purpose of protecting visitors or area resources, the Concessioner may be compensated

(in addition to the applicable compensation described in subsections (b) or (c) above) for such other costs as the Secretary, at his discretion, considers necessary to compensate the Concessioner for actual losses occasioned by such termination, including, but not limited to, and as the needs appear, cost of relocating from one building to another building, reasonable severance pay to employees that may be affected, penalties for early loan repayments, and reasonable overhead expenses required by such termination, but not for lost profit or other anticipated gain from the operations authorized hereunder or anticipated sale or assignment of the Concessioner's assets, including this contract or any of its benefits.

SEC. 13. ASSIGNMENT OR SALE OF INTERESTS. (a)(1) The Concessioner and/or any person or entity which owns a controlling interest (as herein defined) in a Concessioner's ownership (collectively defined as the "Concessioner" for the purposes of this section) shall not assign or otherwise sell or transfer responsibilities under this contract or the concession operations authorized hereunder, nor sell or otherwise assign or transfer (including, without limitation, mergers, consolidations, reorganizations, or other business combinations) a controlling interest in such operations, this contract, or a controlling interest in the Concessioner's ownership, as defined herein, without the prior written approval of the Secretary. Failure to comply with this provision or the procedures described herein shall constitute a material breach of this contract for which this contract may be terminated immediately by the Secretary without regard to the procedures for termination for default described in Section 11 hereof, and the Secretary shall not be obliged to recognize any right of any person or entity to an interest in this contract or to own or operate the operations authorized hereunder acquired in violation hereof.

(2) The Concessioner shall advise the person(s) or entity proposing to enter into a transaction described in Subsection (a)(1) above that the Secretary shall be notified and that the proposed transaction is subject to review and approval by the Secretary. The Concessioner shall request the Secretary's approval of the proposed transaction and shall promptly provide the Secretary all relevant documents related to the transaction, and the names and qualifications of the person(s) or entity involved in the proposed transaction.

(b)(1) The Secretary, in exercising the discretionary authority set forth herein, shall among other matters, take into consideration the management qualifications of individuals or entities which would thereby obtain an interest in the facilities

or services authorized hereunder, the experience of such individuals or entities with similar operations, and the ability of such individuals or entities to operate the concession operations authorized hereunder in the public interest under the regulation of the Secretary.

(2) For purposes of this section, the term "controlling interest" in a Concessioner's ownership shall mean, in the instance of a corporate concessioner, an interest beneficial or otherwise, of sufficient outstanding voting securities or capital of the Concessioner so as to permit exercise of substantial managerial influence over the operations of the Concessioner, and, in the instance of a partnership, limited partnership, joint venture, or individual entrepreneurship, any beneficial ownership of the capital assets of the Concessioner sufficient to permit substantial managerial influence over the operations of the Concessioner. The Secretary will determine, at the request of interested parties, whether or not an interest in a Concessioner constitutes a controlling interest within the meaning hereof.

(c) The Concessioner may not enter into any agreement with any entity or person except employees of the Concessioner to exercise substantial management responsibilities for the operation authorized hereunder or any part thereof without written approval of the Secretary at least 30 days in advance of such transaction.

(d) No mortgage shall be executed and no bonds, shares of stock, or other evidence of interest in, or indebtedness upon, the assets of the Concessioner, including this contract, in the area, shall be issued, except for the purposes of installing, enlarging, or improving, plant equipment and facilities, provided that such assets, including possessory interests, or evidences of interests therein, in addition, may be encumbered for the purposes of purchasing existing concession plant, equipment, and facilities. In the event of default on such a mortgage, encumbrance, or such other indebtedness, or of other assignment transfer, or encumbrance, the creditor or any assignee thereof, shall succeed to the interest of the Concessioner in such assets but shall not thereby acquire operating rights or privileges which shall be subject to the disposition of the Secretary.

SEC. 14. APPROVAL OF SUBCONCESSION CONTRACTS.

All contracts and agreements (other than those subject to approval pursuant to Section 13 hereof) proposed to be entered into by the Concessioner with respect to the exercise by others of the privileges granted by this contract in whole or part shall be considered as subconcession contracts and shall be submitted

to the Secretary for his approval and shall be effective only if approved. However, agreements with others to provide vending or other coin-operated machines shall not be considered as subconcession contracts. In the event any such subconcession contract or agreement is approved, the Concessioner shall pay to the Secretary monthly on the same schedule as is set forth for payment of franchise fees in Section 9 of this contract a sum equal to FIFTY PERCENT (50%) of any and all fees, commissions, or compensation payable to the Concessioner thereunder, which shall be in addition to the franchise fee payable to the Secretary on the gross receipts of subconcessioners as provided for in Section 9 of this contract.

SEC. 15 INSURANCE AND INDEMNITY.

(a). General. The Concessioner shall save, hold harmless, defend, and indemnify the United States of America, its agents and employees for losses, damages, or judgments and expenses on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death, or property damage of any nature whatsoever, and by whomsoever made, arising out of the activities of the Concessioner, his employees, subcontractors, or agents under the contract. The types and amounts of insurance coverage purchased by the Concessioner shall be approved by the Secretary.

The Concessioner shall annually, or at the time insurance is purchased, provide the Secretary with a Statement of Concessioner Insurance and Certificate of Insurance as evidence of compliance with this section and shall provide the Secretary thirty (30) days' advance written notice of any material change in the Concessioner's insurance program hereunder.

The Secretary will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

(b). Property Insurance. The Concessioner will, in the event of damage or destruction, repair or replace those buildings, structures, equipment, furnishings, betterments and improvements and merchandise determined by the Secretary to be necessary to satisfactorily discharge the Concessioner's obligations under this contract and for this purpose shall provide fire and extended insurance coverage on both Concessioner Improvements and assigned Government Improvements in such amounts as the Secretary may require during the term of this contract. Those values currently in effect are set forth in Exhibit "D" to this contract. The exhibit will be revised at least every 3 years, or sooner if there is a substantial increase in values.

Such insurance shall provide for the Concessioner and the United States of America to be named insureds as their interest may appear. Insurance provisions respecting replacement at the "same site" shall be waived. In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore, or replace Concessioner and Government Improvements, equipment, furnishings, and other personal property hereunder, as directed by the Secretary. The lien provision of Section 10 shall apply to such insurance proceeds.

(c). Additional Property Damage Requirements--Government Improvements, Property and Equipment.

The following additional requirements shall apply to structures, all or any part of which are "Government Improvements" as defined in Section 4(b).

(1) The insurance policy shall contain a loss payable clause approved by the Secretary which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States.

(2) The use of insurance proceeds for repair or replacement of government structures will not alter their character as government structures and the Concessioner shall gain no possessory interest therein.

(d). Public Liability. The Concessioner shall provide Comprehensive General Liability insurance against claims occasioned by actions or omissions of the Concessioner in carrying out the activities and operations authorized hereunder. Such insurance shall be in the amount commensurate with the degree of risk and the scope and size of such activities authorized herein, but in any event, the limits of liability shall not be less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate and property damage of at least \$25,000 per occurrence and \$50,000 annual aggregate. If claims reduce available insurance below the required per occurrence limits, the Concessioner shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a Comprehensive General Liability Policy, may be used to achieve the required limits.

From time to time, as conditions in the insurance industry warrant, the Secretary reserves the right to revise the minimum required limits.

All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America or shall provide that the United States of America is named an additional insured.

Specific types of coverages the Concessioner shall purchase and maintain during the term of this contract include Comprehensive General Liability, with extensions which provide Contractual Liability, Liquor Liability, and Watercraft Liability.

The Concessioner shall also obtain the following additional coverages:

a. Automobile Liability

The Concessioner shall provide the following coverages respecting vehicles owned and/or operated by the Concessioner: Comprehensive Automobile Liability, Uninsured Motorist coverages, and Statutory "No-Fault" coverages, as required by the state of operation.

b. Workers' Compensation

Statutory Workers' Compensation as required in the state of operation or Voluntary Compensation endorsement and Employers' Liability Coverage.

SEC. 16. PROCUREMENT OF GOODS, EQUIPMENT, AND SERVICES.

In computing net profits for any purposes of this contract, the Concessioner agrees that its accounts will be kept in such a manner that there will be no diversion or concealment of profits in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies, or services from sources controlled by or under common ownership with the Concessioner or by any other device.

SEC. 17. DISPUTES. (a) Except as otherwise provided in this contract, any dispute or claim concerning this contract which is not disposed of by agreement shall be decided by the Director, National Park Service, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Concessioner.

The decision of the Director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Concessioner mails or otherwise furnishes to the Director a written notification of appeal addressed to the Secretary. In accordance with the rules of the Board of Contract Appeals, the decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

In connection with any appeal proceeding under this clause, the Concessioner shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute or claim hereunder, the Concessioner shall proceed diligently with the performance of the contract or as otherwise required in accordance with the Director's decision.

Claims shall be considered hereunder only if a notice is filed in writing with the Director within 30 days after the Concessioner knew or should have known of the facts or circumstances giving rise to the claim.

(b) This section does not preclude consideration of legal questions in connection with decisions provided for in paragraph (a) above; provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(c) The provisions of this clause shall not apply to any claim of a precontractual nature nor of a noncontractual nature such as tort claims, nor with respect to discretionary acts or refusals to act by the United States, including but not limited to the establishment of utility rates and rates to the public hereunder and terminations or suspensions of the contract for protection of visitors or area resources, nor to any other discretionary relief or action, nor in relation to action or inaction by the United States in its sovereign capacity. Decisions of the Director, National Park Service, concerning the matters mentioned in this subsection shall be final administrative determinations.

SEC. 18. GENERAL PROVISIONS. (a) Reference in this contract to the "Secretary" shall mean the Secretary of the Interior, and the term shall include his duly authorized representatives.

(b) The Concessioner is not entitled to be awarded or to have sole negotiating rights to any federal procurement or service contract by virtue of any provision of this contract.

(c) Notwithstanding any other provision hereof, the Secretary reserves the right to provide directly or through cooperative or other nonconcession agreements with nonprofit organizations any accommodations, facilities, or services to area visitors which are part of and appropriate to the park interpretive program.

(d) That any and all taxes which may be lawfully imposed by any state or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

(e) No member of, or delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

(f) This contract may not be extended, renewed, or amended in any respect except when agreed to in writing by the Secretary and the Concessioner.

IN WITNESS WHEREOF, the parties hereto have hereunder subscribed their names and affixed their seals.

Dated at Washington, D.C., this 27th day of March, 1992.

CONCESSIONER:
Roosevelt Recreational Enterprises

UNITED STATES OF AMERICA:

BY [Signature]
Title Chief Exec Officer
Date 9/27/91

BY [Signature] 
Director
National Park Service

ATTEST:

BY [Signature]
George S. Phillips
Printed Name

PO Box 37
Address
Coulee Dam, WA 99116

EXHIBIT "A"
GOVERNMENT-OWNED STRUCTURES ASSIGNED TO
Roosevelt Recreational Enterprises
Pursuant To
CONCESSION CONTRACT NO. CC-CODA003-92

<u>Building Number</u>	<u>Description</u>	<u>Annual Fee</u>
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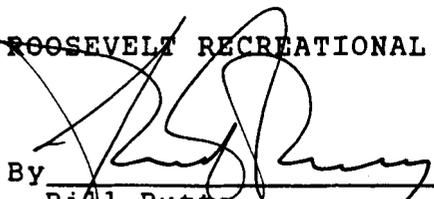
N O N E

Total annual amount due pursuant
to subsection 9(a)(1)-----NONE

Approved, effective March 27, 1992

~~ROOSEVELT RECREATIONAL ENTERPRISES~~

UNITED STATES OF AMERICA

By 
Bill Butts
Chief Executive Officer

By 
Director
National Park Service

NOTE: Land Assignment Map included in Maintenance Plan.

*****Coulee Dam National Recreation Area*****

EXHIBIT "B"

NONDISCRIMINATION

SECTION I

REQUIREMENTS RELATING TO EMPLOYMENT
AND
SERVICE TO THE PUBLIC

A. EMPLOYMENT: During the performance of this concession contract, the Concessioner agrees as follows:

(1) The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, national origin, or disabling condition. 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 Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provisions of this nondiscrimination clause.

(2) The Concessioner will, in all solicitations or advertisements for employees placed by or on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.

(3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Within 120 days of the commencement of a contract, every government-contractor or subcontractor holding a contract that generates gross receipts which exceed \$50,000 or more and having 50 or more employees shall prepare and

maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

(5) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this concession contract or with any of such rules, regulations, or orders, this concession contract may be cancelled, terminated, or suspended in whole or in part and the Concessioner may be declared ineligible for further government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided bylaw.

(8) The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

B. CONSTRUCTION, REPAIR, AND SIMILAR CONTRACTS: The preceding provisions A(1) through (8) governing performance of work under this contract, as set out in Section 202 of Executive Order No. 11246, dated September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this contract, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this contract, and for that purpose the term "Contract" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term "Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contracts by the Concessioner.

C. FACILITIES: (1) Definitions: As used herein: (i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner; (ii) facility shall mean any and all services, facilities, privileges, and accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from: (i) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition; (ii) discriminating by segregation or other means against any person because of race, color, religion, sex, age, national origin, or disabling condition in furnishing or refusing to furnish such person the use of any such facility.

(3) The Concessioner shall post a notice in accordance with federal regulations to inform the public of the provisions of this subsection, at such locations as will ensure that the notice and its contents will be conspicuous to any person seeking accommodations, facilities, services, or privileges. Such notice will be furnished the Concessioner by the Secretary.

(4) The Concessioner shall require provisions identical to those stated in subsection C herein to be incorporated in all of the Concessioner's contracts or other forms of agreement for use of land made in pursuance of this agreement.

SECTION II

ACCESSIBILITY

Title V, Section 504 of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general

public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

PART A

DISCRIMINATION PROHIBITED

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

1. Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
2. Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
3. Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;
4. Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;
5. Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program;
6. Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

7. Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage or opportunity enjoyed by others receiving an aid, benefit, or service.

PART B

EXISTING FACILITIES

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

EXHIBIT "C"

"Concessioner Improvements" Utilized By
Roosevelt Recreational Enterprises, Inc., pursuant to
Section 6 of
Concession Contract No. CC-CODA003-92

Improvements as Described at Section 6(a) and Located within
Coulee Dam National Recreation Area in Which the Concessioner
Holds a Possessory Interest as Described in Section 6(b):

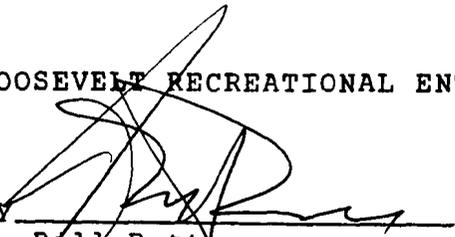
Description

- Houseboat Service Dock, 310 feet, access ramps and marine gasoline pumps, one 12,000-gallon storage tank, boat rental facility (20' x 60')
- Warehouse/Houseboat/Maintenance Building (64' x 47')
- Sewage Disposal System, including Drainfield (four 2,500-gallon tanks, lift station, 1,200-foot forced main, 1,728 linear feet drainfield)
- Houseboat Parking Lot, Access Loop to Dock, Spur Roads
- Covered Moorage Dock (50 slips); Courtesy Dock
- Sewage Disposal System, including septic tank, drainfield (Store)

Exhibit "C" approved, effective March 27, 1992

ROOSEVELT RECREATIONAL ENTERPRISES

UNITED STATES OF AMERICA

By 
Bill Butts
Chief Executive Officer

By  
Director
National Park Service

EXHIBIT "D"

BUILDING REPLACEMENT COST FOR INSURANCE PURPOSES

CONCESSIONER: Roosevelt Recreational Enterprises

CONCESSION CONTRACT NO. CC-CODA003-92

The replacement costs set forth herein are established for the sole purpose of ensuring adequate property insurance coverage and shall not be construed as having application for any other purpose.

I. GOVERNMENT BUILDINGS

<u>Building Number</u>	<u>Description</u>	<u>Insurance Replacement Value</u>
------------------------	--------------------	------------------------------------

N O N E

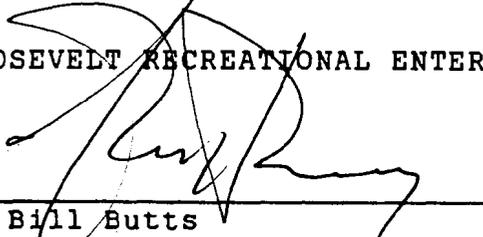
II. CONCESSIONER IMPROVEMENTS

<u>Description</u>	<u>Insurance Replacement Value</u>
-- 310 feet sections of floating boat docks with access ramps, marine gasoline pumps, hoses, and 12,000 gallon storage tank, boat rental facility.	\$257,000
-- Warehouse/Houseboat Maintenance Building	\$168,900
-- Sewage Disposal Systems, including Drainfield	--
-- Bay Excavation	--
-- Houseboat Parking Lot, with Access Loop to Docks, and Spur Roads	--
-- 50 Slip-Covered Moorage Docks, Courtesy Docks, Miscellaneous Moorage	\$187,000
TOTAL -----	\$612,900

Exhibit "D" approved, effective March 27, 1992.

ROOSEVELT RECREATIONAL ENTERPRISES

UNITED STATES OF AMERICA

By 
Bill Butts
Chief Executive Officer

By 
Director
National Park Service

**MAINTENANCE PLAN
KELLER FERRY MARINA
COULEE DAM NATIONAL RECREATION AREA**

This Maintenance Plan shall serve as a supplement to the concession contract, CC-CODA003-90, between Roosevelt Recreational Enterprises and Coulee Dam National Recreation Area. In the event of disagreement or misunderstanding, the concession contract will prevail.

The National Park Service will conduct periodic inspections to evaluate operational and physical plant conditions and will provide an inspection report to the Concessioner. By reference, the standards for the operation, appearance, and maintenance of facilities as required by NPS-48, "Concessions Guidelines" are incorporated herein. All applicable local, State and Federal codes and regulations will be adhered to.

Maintenance is considered to be all work necessary to continue routine upkeep of equipment and facilities such as repair, stabilization, renovation, and replacement of parts. Any rehabilitation or modification, including improvements that would result in a possessory interest, must be approved by the Superintendent. The Concessioner is expected to identify and direct the implementation of a routine maintenance program without waiting for the NPS evaluation to identify problem areas. The Concessioner land assignment map is attached pursuant to section 4 of the contract.

This plan will remain in effect until superseded or amended after consultation with the Concessioner.

CONCESSIONER RESPONSIBILITIES

Grounds

1. Provide litter and debris pickup within assigned area, including grounds, roads, sidewalks, shoreline and parking lots.
2. Excess building material and supplies will be properly stored to provide minimum visual impact. Upon written notification, nuisance or unsightly conditions shall be removed within 30 days to maintain visual quality of the area. Non site related supplies and/or materials shall not be stored on-site.
3. Drainage structures and surface trenches installed by NPS shall be kept free-flowing by the Concessioner.
4. All solid waste will be properly stored in sanitary receptacles ready for collection on a regular basis.

5. Grasses will be mowed and shrubs trimmed and watered to provide an acceptable public appearance.
6. Maintain and repair all fences, outdoor lighting and watering devices within assigned area.
7. Noxious weeds within the Concessioner assigned area shall be controlled by the Concessioner under NPS guidelines and will be directly monitored by a certified NPS applicator. (Copy of guidelines provided).

Buildings/Structures/Watercraft

1. Maintain and repair all Concessioner-owned buildings, structures, walkways including rental boats and docks.
2. Provide all interior/exterior painting, staining, varnishing and application of other protective coatings as needed, depending upon condition. (Colors will be approved by the Superintendent).
3. During the period of operation, provide all daily housekeeping and routine cleaning, i.e. floors, etc.
4. Maintain, repair and/or replace heating, plumbing, electrical systems and fixtures, as needed.
5. Correct all safety deficiencies.

Gasoline System

1. Maintain and repair the marine fueling facilities and distribution system.
2. Marina operations must have on-site and ready for use, materials designed to contain and pickup fuel spills.
3. The gasoline system must meet new EPA regulations.

Hazardous Waste

1. Marina operations are required by Federal Regulation, Code 40, Part 112 to have on-site a written Spill Prevention Control and Countermeasures Plan, certified by a Registered Engineer and approved by the Superintendent.

Signs

1. Provide, install and maintain all concessioner signs relating to operations and facilities. (All signs are to be compatible with NPS sign standards and approved by the Superintendent).
2. Exterior informational signs must be reviewed and approved by the NPS sign committee prior to construction. RRE shall be represented by a minimum of one RRE employee on the sign committee.

Water

1. Maintain and repair all water feed lines within the building and out to existing shutoff valves on concession owned structures. A map is attached identifying those lines which are concessioner responsibility and shall be revised as appropriate. Winterization and freeze protection is a concessioner responsibility for their lines.

Sewer

1. Construct, operate and maintain sewerage system within and from all concession owned structures, to and including the disposal field, in compliance with State, County and U.S. Public Health Service requirements.
2. Plans and specifications for new construction and/or modification must have prior approval by Superintendent.

Electrical

1. Maintain, repair and/or replace all service panels and all electrical lines to the metering point supplying power. The Lincoln County PUD will only maintain electrical lines to the transformer.

Fire Protection

1. Maintain, repair and/or replace all safety devices and appurtenances, including but not limited to, the pumper boat, fire extinguishers, fire hoses, emergency lighting, smoke or heat detection systems, sprinkler systems, exit signs and other fire control devices or equipment.
2. Inspect and service all appropriate systems on an annual basis in accordance with National Fire Protection Association standards.
3. Store and dispense flammable liquids and gasoline per applicable codes.

Roads and Parking Lots

1. Maintain and repair concessioner constructed roads, parking lots and spur roads including associated blacktop, drainage systems, wheelstops/curbs up to their connection with NPS roadways.

NATIONAL PARK SERVICE RESPONSIBILITIES

Water and Sewer

1. Construct and provide adequate potable water services to all concession facilities, up to and including water meters or shut off valve.
2. Meter all water feed lines and bill concessioner for usage; maintain all lines up to and including NPS installed meters.
3. Assist with the location and identification of water line and sewer line breaks, and make necessary repairs, if NPS responsibility.
4. Responsible for all water sampling as prescribed by the U.S. Public Health Service.

Other Utilities

1. Electrical power, underground power lines, and distribution equipment will be provided by the local PUD. The NPS is not responsible for power outages and losses and is not responsible for providing alternative or backup power.

Signs

1. Provide all necessary traffic control signs that serve the recreation area, exclusive of concessioner operational signs.

Roads, Parking Lots, Public Launch Ramp

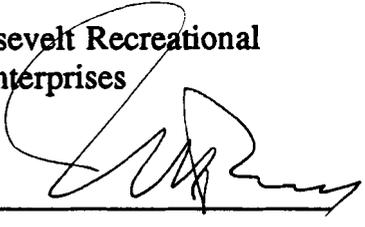
1. Maintain and repair NPS constructed main access roadways and parking lots including associated blacktop, curbs/wheelstops and drainage systems.
2. Maintain and repair the public launch ramp and facilities associated with it, including public courtesy docks.

Fire Protection

1. Provide and maintain all fire hydrants, hoses and hoseboxes.

Roosevelt Recreational
Enterprises

By



Title

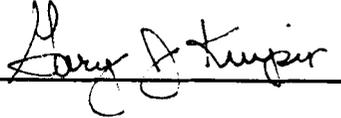
CEO -

Date

9/27/91

Coulee Dam National
Recreation Area

By



Title

Superintendent

Date

9-27-91

**OPERATING PLAN
KELLER FERRY MARINA
COULEE DAM NATIONAL RECREATION AREA**

This plan is intended to provide the necessary day-by-day operational procedures, standards and requirements within the framework of Concession Contract, No. CC-CODA003-90 and in no way alters or changes said contract.

This plan will remain in effect until amended by mutual agreement of the Superintendent, Coulee Dam National Recreation Area and Roosevelt Recreational Enterprises.

The standards, policies and provisions of NPS 48 Concession Guidelines are incorporated herein by reference.

I. Management and Organization

A. Concessioner

1. Operations and management of the marina will be under the direction of Bill Butts, Chief Executive Officer or his representative. An on-site manager will be available at all times during business hours. In the absence of the manager, the assistant manager or responsible supervisor designated to act for the manager will be available on-site.

B. National Park Service

1. The Superintendent is responsible for total park operations including concessions management.

2. The Superintendent's designee is responsible for monitoring all concession operations, conducting evaluations, handling routine daily issues and is the primary point of contact and office of record on all concession matters.

II. Quality of Services

A. Public services offered must be satisfactory as judged by recognized standards of the industry and National Park Service, and the rates for such services must be reasonable as judged by the services offered and statutory criterion.

B. All aspects of the concession operation will be evaluated throughout the year in accordance with NPS 48, Concessions Guidelines.

III. Security and Protection

A. National Park Service

1. Responds to all fires in concession facilities and grounds upon notification with available manpower.
2. Provides and maintains all fire hydrants, hoses and appurtenances.
3. Responds to emergencies upon notification involving public safety, civil disturbances and violations of the law.
4. Investigates visitor and employee accidents.

B. Concessioner

1. Provides and maintains (within designated area) fire extinguishers, smoke alarms, first aid equipment and supplies.
2. Provides security coverage of all buildings.
3. Assures employees are trained to respond to on-site fires and emergencies and provides initial response.
4. Reports all concession related accidents to the National Park Service.
5. Supply and maintain a fire boat for fires at all docks and ensures employees working at the fuel dock are trained in its operation.

IV. Season of Operation

A. Concessioner

1. The Concessioner will annually submit proposed opening and closing dates and operating hours to the Superintendent for approval.
2. The marina and all support facilities will be open from mid-May through mid-October, seven (7) days a week.
3. The marina fueling facility will be open year around with off-season refueling available during day light hours, except winter holidays.
4. The concessioner may offer off-season services as determined by visitor need and demand.

B. National Park Service

1. The Superintendent will approve, disapprove, or modify the season and hours of operation and will inform the Concessioner in writing of his reasons.
2. Hours/opening/closing dates may be adjusted with approval of the Superintendents in the event of visitor need or demand, emergencies or unforeseen changes in the weather.

V. Public information and advertising

1. The National Park Service encourages the concessioner to provide interpretive material to their guests through the sale of publications, distribution of literature and information about the park.
2. The NPS agrees to provide the concessioner with a list of recommended publications for sale, copies of park distributions. NPS will provide information and statistics for use in preparing handouts.
3. All information material such as brochures, menus, questionnaires, new releases, etc. must be submitted to the Superintendent prior to printing to determine accuracy and conformance with NPS policies.

VI. Rates

A. Concessioner

1. The concessioner will provide to the Superintendent a list of rates proposed to be charged for goods and services rendered to the public or requests for adjustments to current rates, at least 30 days, prior to the proposed implementation.
2. All rate/price requests must include all necessary data as outlined by the National Park Service Rate Approval Program, NPS-48, Chapter 18.
3. The concessioner will supply comparability data upon request.

B. National Park Service

1. The Superintendent will approve, disapprove or modify concessioner rates or request for adjustments to current rates within 30 days of receipt, and will inform the concessioner of his decision thereof. (If additional time

is needed to complete comparability studies, the concessioner shall be advised).

2. The Superintendent or his representative will make spot checks for rate compliance without prior notice.

VII. Employment and Employee Practice

1. Will not employ, retain or permit to remain upon the premises, any person declared by the Superintendent to be unfit or otherwise objectionable.

2. Will adhere to the Department's labor standards and to all applicable federal and state laws.

3. Spouses or children of NPS employees may not be hired without written approval of the Superintendent.

4. The entire staff must comply with the park pet policy.

5. All employees must wear a uniform and/or name tag that identifies them as a concession employee.

6. Shall submit to the Superintendent, if requested, a list of names and current addresses of employees or photostatic copy of employee driver license.

VIII. Training

1. The concessioner will train all employees in the appropriate public service skills and services.

2. The concessioner, in conjunction with NPS personnel, will provide cross training necessary to ensure that its employees provide the park visitor with accurate information.

IX. Retail Sales Outlets

1. The concessioner is responsible for maintaining high standards of merchandising and display of merchandise offered for sale.

2. The sale of local or Northwest handicraft is encouraged.

X. Lost and Found Items

1. All lost and found property will be reported and handled in a timely, systematic and protective manner. The concessioner will make every effort to return these items to the owner, if identifiable. All other such items must be tagged, showing location found, name and address of the finder and turned into park headquarters within fifteen days.
2. Unclaimed, found property shall be stored at park headquarters for a minimum of 60 days and, unless claimed by the owner and/or authorized representative, may be claimed by the finder with the following exception:

National Park Service employees, park concession employees or members of their family cannot claim any items of found property.

XI. Complaints

1. The Superintendent will advise the concessioner of any concession related complaints.
2. The Concessioner will advise the Superintendent or designated representative, of any complaint received.
3. Copies of written complaints and replies to such complaints will be exchanged after mutual consultation.

XII. Reporting Requirements

1. Visitor use data, i.e. number of houseboat rentals will be furnished to the Superintendent, as may be prescribed by the National Park Service.
2. Accounting records/reports and franchise fee payment requirements are covered fully in Section 8 and 9 of the contract.

XIII. Smoking in Building

1. The Concessioner is required to comply with State of Washington and NPS regulations governing smoking in public places.

XIV. Sanitation and Safety

1. The National Park Service and the concessioner will share responsibility for compliance with all applicable local, State and Federal regulations

pertaining to Safety and Public Health.

2. NPS and concessioner will also be responsible for recognizing, documenting and correction of hazardous situations. The two parties will be jointly responsible for implementing shut-down procedures when such a situation presents a hazard to life and health until the problem is corrected.

3. The concessioner is responsible for meeting all Public Health Service requirements and for employee training in proper sanitation techniques and procedures.

4. The concessioner is responsible for establishing and implementing a self-inspection safety program in accordance with NPS policy and directives.

XV. Routine and Periodic Inspections

1. The concession manager and/or representative will attend all inspections and accept receipt of these reports in person or by mail.

2. The Superintendent's designee will periodically conduct unannounced inspections in accordance with the NPS performance evaluation program. A concession representative will be contacted before the inspection commences.

3. All aspects of the concession operation will be evaluated at least twice a year. An overall rating will be assigned.

4. A Public Health Specialist will periodically conduct an unannounced health and sanitation inspection.

5. The Concessioner will conduct periodic inspections of all concession facilities and make reports available to the park Safety Officer. The park Safety Officer will monitor the safety program as outlined in NPS-48, Chapter 34 Concessioner Loss Program.

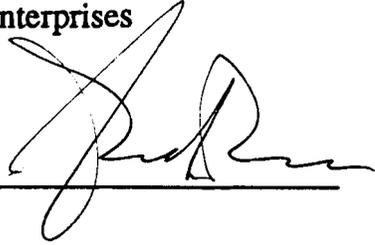
XVI. Plant, Personnel, and Rates

1. Moorage of a Government boat, sale of boat gasoline/supplies and concession office space will be negotiated on a yearly basis.

2. The Concessioner agrees to provide sewage pump out services at no charge to the boating public.

Roosevelt Recreational
Enterprises

By



Title

C.E.O.

Date

9/27/91

Coulee Dam National
Recreation Area

By



Title

Superintendent

Date

9-27-91

ACCOUNT CONTROL PROCEDURE

INTRODUCTION

For the purposes of this Exhibit, the term "Superintendent" hereinafter will refer to the "Superintendent or his/her designee." The term "Concessioner" hereinafter will refer to the Concessioner.

This document is about the use of funds. The source of these funds is established in the contract language at section 9.1.

The Capital Account (CA) is to be used to rehabilitate or construct facilities which directly support concessioner services authorized and/or required under this contract. Examples of appropriate facilities would include lodging, restaurants, gift shops or service stations, as well as concessioner support facilities necessary for the functioning of the primary visitor facilities (such as utility systems, administrative offices, and repair shops). Improper uses would include construction or repair of government visitor facilities (visitor centers, interpretative facilities, entrance stations, restrooms, roads, parking lots, etc.) and government support facilities (employee housing, maintenance buildings, administrative buildings, capital infrastructure such as sewer and water systems, etc.). Expenditures from special account funds may be made only for concessioner visitor service and facility projects constructed upon park land assigned to the concessioner for use in providing the visitor service and facilities authorized by the concession contract. Expenditures for projects on other park lands or for other purposes are unlawful. The CA is for "projects" and is established as a contract obligation. There is no possessory interest accrued by the Concessioner for improvements made by these accounts. Building use fees shall be established or adjusted as appropriate when affected by improvements made using these funds.

Funds in the CA can be invested in various instruments in advance of being used to carry out the concessioner's obligations under the contract. Whatever the method selected to hold the funds pending project work beginning, the parties to this contract agree that all funds will either be held in an account(s) insured by the Federal Deposit Insurance Corporation or a similar insuring activity of the Federal government or all investment instruments will be notes, bills, and bonds issued by the United States Treasury which shall be whole instruments including both principal and interest (no derivative instruments) and which shall be directly backed by the full faith and credit of the United States of America.

The funds in the CA will be held in a separate account(s) established by the concessioner to carry out concessioner obligations under this contract.

Deposits shall be made into the CA account(s) established by the Concessioner to carry out the purposes of the contract. Deposited funds do not become Government funds. Any interest earned on CA balances, becomes an addition to the balance of the CA.

Concessioners are responsible for reporting or ensuring the reporting of CA activity each month and for annually filing, as part of their Annual Financial Report, the schedules that may be required by the Secretary.

The Concessioner shall not be paid or reimbursed in any way for account management. However, account management expenses incurred by third parties in accordance with an account management agreement and with the written approval, in advance, of the Regional Director, may be considered as account expenses.

The Concessioner may, with the approval of the Superintendent, be allowed to charge the CA for actual expenses incurred, in an amount not to exceed ten percent (10%) of approved project expenditures, for reasonable concessioner administrative costs directly associated with carrying out individual projects. The concessioner shall provide a detailed listing of each cost incurred to the Superintendent who shall determine the reasonableness and appropriateness of such expenses prior to their being allowed.

The CA is not to be used for the payment of routine maintenance and operating expenses of the Concessioner. Additionally, they are not to be used for maintenance of government property not assigned to the Concessioner or for government projects or activities not directly related to the provision of the involved concessioner's services.

CA funds are not to be used to pay or otherwise reimburse or credit concessioner annual operating costs or government appropriation accounts.

The contracts entered into by the Concessioner (or others should that be authorized) to undertake projects are private contracts, not government contracts, issued at an arm's length to obtain the best contract price possible. The Concessioner shall not, directly or indirectly, enter into any arrangement or agreement whereby it receives money or other benefits from the contractor.

The Superintendent may require that the CA fund the cost of an independent, third party construction supervisor/inspector to represent the interests of the Government on any project where the Superintendent feels that would be cost effective and necessary to the sound administration of the project.

The Concessioner shall ensure that a Builders Risk Form insurance policy is in effect during the construction. The type and amount of insurance will be approved in writing by the Superintendent. This policy is an appropriate expenditure from the CA.

In the event of any inconsistency between this Exhibit and the main body of the concession contract, the contract shall prevail.

POLICY FOR USE OF THE CAPITAL IMPROVEMENT ACCOUNT

The contract includes specific provisions establishing a Capital Account (CA) describing its purpose or principal goals.

In every case, the Improvement involved must be assigned to the concessioner for either exclusive or non-exclusive use by the concessioner in carrying out the obligations of the Concession Contract. Such assignment should be made by modification of the applicable Exhibit of the contract including a map.

CA projects include project planning, design, and construction of new buildings and infrastructure, rehabilitation of existing buildings and related infrastructure, demolition of old facilities, and site restoration.

The proper use of a CA is to undertake nonrecurring projects of significant capital improvement to real property. It is not for cyclic or routine maintenance of facilities. The CA may not be used for acquisition, lease or maintenance of personal property.

The CA may not be used for any building or facility encumbered by a possessory interest unless such possessory interest is defined in fixed dollar amounts and valued for any compensation purposes at the depreciated book value of those fixed dollar amounts. Similar work on any other Concessioner Improvements must be funded separately by the Concessioner.

Appropriate CA expenses would include major capital expenditures such as foundation, building frame, window frame replacement, sheathing, subfloors, drainage, rehabilitation of building systems such as electrical, plumbing, built-in heating and air conditioning, roofing, and similar. Projects could also include additions to buildings.

The account would not be appropriate for the operating costs of building systems or for minor adjustment and repair that would be the usual, routine responsibility of the concessioner.

The account would not be appropriate for decorating costs, furniture, or periodic re-carpeting or other cosmetic work necessary. Neither would the account be appropriate for cleaning or landscaping care or similar routine upkeep activity.

The CA would not be appropriate for seasonal opening and closing costs.

Decisions are based on the facts of the particular situation. However, appropriate expenditures should typically be non-recurring within a five-to-seven year time frame.

PROJECT NOMINATION AND APPROVAL

1. Spending money from the CA requires a coordinated effort between the concessioner and the Superintendent. Projects must be proposed, prioritized, approved, bid and accomplished with an orderly process that ensures accountability.
2. The National Park Service staff and/or the Concessioner may submit proposals to the Superintendent for the use of the CA using a format established by the Superintendent for "**Account Project Nomination**" (a standard control form). It is intended that a nomination form be the first step in the development of a project file.
3. The Superintendent will establish an Account Committee (AC) to review and recommend approval/disapproval of project nominations. The committee will include at least the Park's Concession Management Specialist and will also include other staff members deemed appropriate by the Superintendent. The Chair will be the park's lead concession operative unless a different appointment is made by the Superintendent. The Superintendent will establish a process to review and approve/disapprove project nominations based on but not limited to the following:

- Applicable Laws and regulations
- NPS Policies
- Concession Contract and Amendments Including the Appropriateness of the Project Given the CA Purposes Stated in this Exhibit
- Operating and Maintenance Plans
- Need, based on resource impacts or human risk factors
- Compliance with NPS planning documents
- Other applicable factors

Upon completion of the review, the AC will prepare a record of the evaluation and a recommendation for approval/disapproval by the Superintendent. The documentation will be placed in the "**Project Statement**" (a standard control form).

*** Lake Roosevelt National Recreation ***
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4. Regional Director approval is required before projects can be advanced for implementation. This review is to consider the appropriateness of each project for accomplishment through the GIA. It is not expected, at this point in the process that projects will have more than a rough estimate for a budget.

5. The **Project Statement** will guide and document each project's implementation through completion. This Statement will contain the following: justification, specific proposal, scope of work, design responsibility, proposed project schedule and compliance requirements. The Project Statement will be signed by the Superintendent and the Concessioner's authorized representative. The signed Project Statement constitutes official authority for the Concessioner to begin work on the project.

The Project Statement will provide a chronological audit trail of the project's decision making activity including meetings, inspections, change orders, etc., from nomination to project completion. Support documents will be maintained in the Project File or reference in the Project Statement where related documents can be found.

SPECIFICATIONS, DESIGN, AND BIDDING

1.(a) Work funded by the CA is to be accomplished through competitive contracts.

1.b. Construction work will not be done by concessioner employees unless the Superintendent determines that there are unusual circumstances that make such work both advantageous and able to be managed effectively. Concessioners may use sole-source contracts only with the prior approval of the Superintendent.

1.c. Concessioner and NPS employees may not bid as independent contractors, or be employed by the contractor for CA projects.

1.d. The Concessioner shall not directly or indirectly, enter into any contract whereby it benefits directly or indirectly through the transfer of funds or other benefits from a CA project contractor.

1.e. Exceptions to these policies may be granted in writing by the Superintendent on a case-by-case basis when there are unusual circumstances, clear advantages to the government, and adequate controls.

2. The Concessioner will develop a project description sufficient to secure an architect, engineer, or construction contractor. These will be reviewed and authorized in writing by the Superintendent.

3. Plans and specifications will be prepared by the Concessioner and will follow NPS-10, NPS-48, and NPS-70. When design is involved in a project, the designs will be reviewed by the Superintendent as appropriate to the project, such as 50%, draft 100% completion, etc. Appropriate time should be allowed for design review, by appropriate NPS staff at park, region, or service center, or by independent consultants.
4. Once plans and specifications are approved, the Concessioner will prepare to advertize or otherwise solicit or secure estimates or bids for the project.
5. For each project, the package for bidding or estimating will include at least the plans and specifications, the General Provisions, and a draft contract or agreement under which the work will be carried out and that has been reviewed and approved by the Superintendent. If lodging and/or meals are provided by the Concessioner as part of the contract, the contract must include this provision and rates. If you are not doing a construction project, prepare an appropriate package for that action and determine how to proceed to bid or otherwise secure cost estimates.
6. If the project is bid, the Concessioner will receive, open, and evaluate project bids.
7. The Concessioner will recommend and justify a contractor from among the bidders or from other sources if a bid process was not used. This recommendation will be accepted/rejected by the Superintendent in writing. Once confirmation has been issued, the Concessioner is authorized to sign a contract and proceed with the project.
8. At this time, the Concessioner will submit to the Superintendent an estimate of the final budget and time schedule for the project.
9. At appropriate intervals the Concessioner will submit to the Superintendent a project progress report enumerating project costs, with invoices, certificates, and other documentation, work accomplished to date.
10. Change orders on project contracts require approval in writing from the Superintendent.
11. Upon certification from the contractor that a project is complete, the project will be inspected jointly by the Concessioner and the Superintendent. The project will not be accepted by the Concessioner until authorized in writing by the Superintendent.
12. Upon project completion, the Concessioner will submit to the Superintendent a project completion report including total project costs, warranties, service manuals, other similar documents, and as-built drawings of the project in the form specified. Invoices, certificates, and other

documentation related to the final segment of work accomplished shall accompany the report and be the basis for final payment of the contractor. Final payment to the contractor and final reimbursement to the concessioner for administrative costs shall not be made until the project has been accepted in writing by the Superintendent. The Concessioner is required to submit a summary of administrative costs for the project.

CONCESSIONER

UNITED STATES OF AMERICA

BY: Wendell George

BY: [Signature]

TITLE: President & CEO

Field Director
Pacific West Field Area
National Park Service

DATE: 7/3/97

DATE: 7/8/97