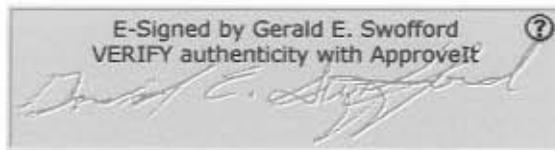


APPROVAL CHECKLIST FOR CONCESSION CONTRACTING
NORTHEAST REGION

Addendum to "Revised Delegations of Concession Contracting Authority", dated December 14, 2001, has delegated authority to the Regional Director to award, execute, amend and terminate concession contracts. The Regional Director's authority in such actions is limited to authorizations having anticipated gross receipts of less than \$3 million annually and terms of 10 years or less.

The following checklist contains the approvals required that are conditions of the delegation of authority to the Regional Director. These approvals are required prior to consideration by the Regional Director.

Subject: Contract No. CC-FIIS07-05



Submitted by:

Approvals Received (Obtain signature below or reference the approval document):

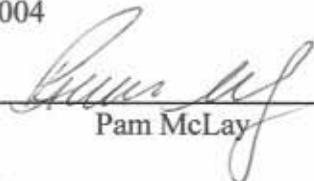
Franchise Fee Determination: Dornbusch Associates October 4, 2004

Appraisal for LSI baseline data: Wallace R. Bennett, Jr. May 18, 2004

Regional Solicitor: April 5, 2005

Public notice for Prospectus: November 9, 2004

Chief of Lands, Concessions and Leasing:


Pam McLay

For actions with anticipated gross receipts of \$3 million or more annually or terms of more than 10 years in duration:

WASO Solicitor: N/A

Director: N/A

UNITED STATES DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

COMMERCIAL VISITOR SERVICES

**WATCH HILL
SAILORS HAVEN
BARRETT BEACH/TALISMAN**

OF

FIRE ISLAND NATIONAL SEASHORE

CONCESSION CONTRACT CC-FIIS007-05

Fire Island Concessions LLC

P.O. Box 4

Sayville, New York 11782

telephone: (631) 567-7005

Covering the Period

May 1, 2005 through April 30, 2015

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THIS CONTRACT is made and entered into by and between the United States of America, acting in this matter by the Director of the National Park Service, through the Regional Director of the Northeast Region,(hereinafter referred to as the "Director"), and Fire Island Concessions, LLC, a corporation organized and existing under the laws of the State of New York (hereinafter referred to as the "Concessioner"):

W I T N E S S E T H:

THAT WHEREAS, Fire Island National Seashore is administered by the Director as a unit of the national park system 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, to accomplish these purposes, the Director has determined that certain visitor services are necessary and appropriate for the public use and enjoyment of the Area and should be provided for the public visiting the Area; and

WHEREAS, the Director desires the Concessioner to establish and operate these visitor services at reasonable rates under the supervision and regulation of the Director; and

WHEREAS, the Director desires the Concessioner to conduct these visitor services in a manner that demonstrates sound environmental management, stewardship, and leadership;

NOW, THEREFORE, pursuant to the authority contained in the Acts of August 25, 1916 (16 U.S.C. 1, 2-4), and November 13, 1998 (Pub. L. 105-391), and other laws that supplement and amend the Acts, the Director and the Concessioner agree as follows:

SEC. 1. TERM OF CONTRACT

This Concession Contract No. CC-FIIS007-05 ("CONTRACT") shall be effective as of May 1, 2005, and shall be for the term of ten (10) years until its expiration on April 30, 2015 if the Concessioner satisfactorily completes the Concession Facilities Improvement Program described in Section 9(d) of this CONTRACT. If the Concessioner fails to complete this program to the satisfaction of the Director within the time specified, then this CONTRACT shall be for the term of five (5) years until its expiration on April 30, 2010. The Director may extend this shortened term (but not beyond the original date of expiration of this CONTRACT) in circumstances where the Director determines that the delay resulted from events beyond the control of the Concessioner.

SEC. 2. DEFINITIONS

The following terms used in this CONTRACT will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

(a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws (e.g., 36 CFR

Part 51), whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

- (b) "Area" means the property within the boundaries of Fire Island National Seashore.
- (c) "Best Management Practices" or "BMPs" are policies and practices that apply the most current and advanced, means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this CONTRACT. BMPs are expected to change from time to time as technology evolves with a goal of sustainability of the Concessioner's operations. Sustainability of operations refers to operations that have a restorative or net positive impact on the environment.
- (d) "Capital Improvement" shall have the meaning set forth in Exhibit A to this CONTRACT.
- (e) "Concession Facilities" shall mean all Area lands assigned to the Concessioner under This CONTRACT and all real property improvements assigned to or constructed by the Concessioner under this CONTRACT. The United States retains title and ownership to all Concession facilities.
- (f) "Days" shall mean calendar days.
- (g) "Director" means the Director of the National Park Service, acting on behalf of the Secretary of the Interior and the United States and his duly authorized representatives.
- (h) "Exhibit" or "Exhibits" shall mean the various exhibits, which are attached to this CONTRACT, each of which is hereby made a part of this Contract.
- (i) "Gross receipts" means 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 by this CONTRACT, including, gross receipts of subconcessioners, as herein defined, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:
- (1) intracompany earnings on account of charges to other departments of the operation (such as laundry);
 - (2) charges for employees' meals, lodgings, and transportation;
 - (3) cash discounts on purchases;
 - (4) cash discounts on sales;
 - (5) returned sales and allowances;

- (6) interest on money loaned or in bank accounts;
- (7) income from investments;
- (8) income from subsidiary companies outside of the Area;
- (9) sale of property other than that purchased in the regular course of business for the purpose of resale;
- (10) sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies; and
- (11) receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

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. All revenues received from charges for in-room telephone or computer access shall be included in gross receipts.

(j) "Gross receipts of subconcessioners" means the total amount received or realized by, or realized by or accruing to, subconcessioner from all sources, as a result of the exercise of the rights conferred by a subconcession contract. A subconcessioner will report all of its gross receipts to the Concessioner without allowances, exclusions or deductions of any kind or nature.

(k) "Leasehold Surrender Interest" shall have the meaning set forth in Exhibit A to this CONTRACT.

(l) "Leasehold Surrender Interest Value" or the "value" of a Leasehold Surrender Interest shall have the meaning set forth in Exhibit A to this CONTRACT.

(m) "Major Rehabilitation" shall have the meaning set forth in Exhibit A to this CONTRACT.

(n) "Possessory Interest" shall have the meaning set forth in Exhibit A to this CONTRACT.

(o) "Real Property Improvements" shall have the meaning set forth in Exhibit A to this CONTRACT.

(p) "Subconcessioner" means a third party that, with the approval of the Director, has been granted by a concessioner rights to operate under a concession contract (or any portion thereof), whether in consideration of a percentage of revenues or otherwise.

(q) "Superintendent" means the manager of the Area.

(r) "Visitor services" means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by section 3(a) of this CONTRACT.

SEC. 3. SERVICES AND OPERATIONS

(a) Required and Authorized Visitor Services

During the term of this CONTRACT, the Director requires and authorizes the Concessioner to provide the following visitor services for the public within the Area:

(1) Required Visitor Services. The Concessioner is required to provide the following visitor services during the term of this CONTRACT as described in Exhibit B:

Food and Beverage services; and

Marina docking services with reserved slips for official National Park Service use; and

Retail merchandise sales; and

Battery charging and boating supplies; and

Groceries and sundries; and

Camping and fishing supplies; and

Sewage pump-out services; and

Campground operation; and

Boating supplies; and

Restroom services.

(2) Authorized Visitor Services. The Concessioner is authorized, but not required to provide the following visitor services during the term of this CONTRACT as described in Exhibit B:

Souvenirs and gift items; and

Interpretive material (books, postcards, posters, photographs); and

Limited apparel; and

Cameras, binoculars; and

Liquor, beer and wine, by the drink; and

Overnight Employee housing; and

Boat and kayak rentals; and

Lodging.

(b) Operation and Quality of Operation

The Concessioner shall provide, operate and maintain the required and authorized visitor services and any related support facilities and services in accordance with this CONTRACT to such an extent and in a manner considered satisfactory by the Director. Except for any such items that may be provided to the Concessioner by the Director, the Concessioner shall provide the plant, personnel, equipment, goods, and commodities necessary for providing, operating and maintaining the required and authorized visitor services in accordance with this CONTRACT. The Concessioner's authority to provide visitor services under the terms of this CONTRACT is non-exclusive.

(c) Operating Plan

The Director, acting through the Superintendent, shall establish and revise, as necessary, specific requirements for the operations of the Concessioner under this CONTRACT in the form of an Operating Plan (including, without limitation, a risk management program, that must be adhered to by the Concessioner). The initial Operating Plan is attached to this CONTRACT as Exhibit B. The Director in his discretion, after consultation with the Concessioner, may make reasonable modifications to the initial Operating Plan that are in furtherance of the purposes of this CONTRACT and are not inconsistent with the terms and conditions of the main body of this CONTRACT.

(d) Merchandise and Services

(1) The Director reserves the right to determine and control the nature, type and quality of the visitor services described in this CONTRACT, including, but not limited to, the nature, type, and quality of merchandise, if any, to be sold or provided by the Concessioner within the Area.

(2) All promotional material, regardless of media format (i.e. printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this CONTRACT must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.

(3) The Concessioner, where applicable, will develop and implement a plan satisfactory to the Director that will assure that gift merchandise, if any, to be sold or provided reflects the purpose and significance of the Area, including, but not limited to, merchandise that reflects the conservation of the Area's resources or the Area's geology, wildlife, plant life, archeology, local Native American culture, local ethnic culture, and historic significance.

(e) Rates

All rates and charges to the public by the Concessioner for visitor services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this CONTRACT. The Concessioner's rates and charges to the public must be approved by the

Director in accordance with Applicable Laws and guidelines promulgated by the Director from time to time.

(f) Impartial Rates and Services

(1) Subject to Section (f)(2) and (f)(3), in providing visitor services, the Concessioner must require its employees to provide strictly impartial rates and services in all circumstances. The Concessioner shall comply with all Applicable Laws relating to nondiscrimination in providing visitor services to the public including, without limitation, those set forth in Exhibit C.

(2) The Concessioner may grant complimentary or reduced rates under such circumstances as are customary in businesses of the character conducted under this CONTRACT. However, the Director reserves the right to review and modify the Concessioner's complimentary or reduced rate policies and practices as part of its rate approval process.

(3) The Concessioner will provide Federal employees conducting official business reduced rates for lodging, essential transportation and other specified services necessary for conducting official business in accordance with guidelines established by the Director. Complimentary or reduced rates and charges shall otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

Sec. 4. CONCESSIONER PERSONNEL

(a) Employees

(1) The Concessioner shall provide all personnel necessary to provide the visitor services required and authorized by this CONTRACT.

(2) The Concessioner shall comply with all Applicable Laws relating to employment and employment conditions, including, without limitation, those set forth in Exhibit C.

(3) The Concessioner shall ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Concessioner shall have its employees who come in direct contact with the public, so far as practicable, wear a uniform or badge by which they may be identified as the employees of the Concessioner.

(4) The Concessioner shall establish pre-employment screening, hiring, training, employment, termination and other policies and procedures for the purpose of providing visitor services through its employees in an efficient and effective manner and for the purpose of maintaining a healthful, law abiding, and safe working environment for its employees. The Concessioner shall conduct appropriate background reviews of applicants to whom an offer for employment may be extended to assure that they conform to the hiring policies established by the Concessioner.

(5) The Concessioner shall ensure that its employees are provided the training needed to provide quality visitor services and to maintain up-to-date job skills.

(6) The Concessioner shall review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director 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 correct the situation.

(7) The Concessioner shall maintain, to the greatest extent possible, a drug free environment, both in the workplace and in any Concessioner employee housing, within the Area.

(8) The Concessioner shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and in the Area, and specifying the actions that will be taken against employees for violating this prohibition. In addition, the Concessioner shall establish a drug-free awareness program to inform employees about the danger of drug abuse in the workplace and the Area, the availability of drug counseling, rehabilitation and employee assistance programs, and the Concessioner's policy of maintaining a drug-free environment both in the workplace and in the Area.

(9) The Concessioner shall take appropriate personnel action, up to and including termination or requiring satisfactory participation in a drug abuse or rehabilitation program which is approved by a Federal, State, or local health, law enforcement or other appropriate agency, for any employee that is found to be in violation of the prohibition on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

(b) Employee Housing and Recreation

(1) If the Concessioner is required to provide employee housing under this CONTRACT, the Concessioner's charges to its employees for this housing must be reasonable.

(2) If the visitor services required and/or authorized under this CONTRACT are located in a remote or isolated area, the Concessioner shall provide appropriate employee recreational activities.

SEC. 5. LEGAL, REGULATORY, AND POLICY COMPLIANCE

(a) Legal, Regulatory and Policy Compliance

This CONTRACT, operations thereunder by the Concessioner and the administration of it by the Director, shall be subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this CONTRACT at the Concessioner's sole cost and expense. Certain Applicable Laws governing protection of the environment are further described in this CONTRACT. Certain Applicable Laws relating to nondiscrimination in employment and providing accessible facilities and services to the public are further described in this CONTRACT.

(b) Notice

The Concessioner shall give the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or contractors, and, at its sole cost and expense, must promptly rectify any such violation.

(c) How and Where to Send Notice

All notices required by this CONTRACT shall be in writing and shall be served on the parties at the following addresses. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service. Notices sent to the Director shall be sent to the following address:

Superintendent
Fire Island National Seashore
120 Laurel Street
Patchogue, NY 11772

Notices sent to the Concessioner shall be sent to the following address:

Kenneth F. Stein III
Fire Island Concessions, LLC
P.O. Box 4
Sayville, New York 11782

Sec. 6. ENVIRONMENTAL AND CULTURAL PROTECTION

(a) Environmental Management Objectives

The Concessioner shall meet the following environmental management objectives (hereinafter "Environmental Management Objectives") in the conduct of its operations under this CONTRACT:

- (1) The Concessioner, including its employees, agents and contractors, shall comply with all Applicable Laws pertaining to the protection of human health and the environment.
- (2) The Concessioner shall incorporate Best Management Practices (BMPs) in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this CONTRACT.

(b) Environmental Management Program

- (1) The Concessioner shall develop, document, implement, and comply fully with, to the satisfaction of the Director, a comprehensive written Environmental Management Program (EMP) to achieve the Environmental Management Objectives. The initial EMP shall be developed and submitted to the Director for approval within sixty days of the effective date of this CONTRACT. The Concessioner shall submit to the Director for approval a proposed updated EMP annually.

(2) The EMP shall account for all activities with potential environmental impacts conducted by the Concessioner or to which the Concessioner contributes. The scope and complexity of the EMP may vary based on the type, size and number of Concessioner activities under this CONTRACT.

(3) The EMP shall include, without limitation, the following elements:

(i) Policy. The EMP shall provide a clear statement of the Concessioner's commitment to the Environmental Management Objectives.

(ii) Goals and Targets. The EMP shall identify environmental goals established by the Concessioner consistent with all Environmental Management Objectives. The EMP shall also identify specific targets (i.e., measurable results and schedules) to achieve these goals.

(iii) Responsibilities and Accountability. The EMP shall identify environmental responsibilities for Concessioner employees and contractors. The EMP shall include the designation of an environmental program manager. The EMP shall include procedures for the Concessioner to implement the evaluation of employee and contractor performance against these environmental responsibilities.

(iv) Documentation. The EMP shall identify plans, procedures, manuals, and other documentation maintained by the Concessioner to meet the Environmental Management Objectives.

(v) Documentation Control and Information Management System. The EMP shall describe (and implement) document control and information management systems to maintain knowledge of Applicable Laws and BMPs. In addition, the EMP shall identify how the Concessioner will manage environmental information, including without limitation, plans, permits, certifications, reports, and correspondence.

(vi) Reporting. The EMP shall describe (and implement) a system for reporting environmental information on a routine and emergency basis, including providing reports to the Director under this CONTRACT.

(vii) Communication. The EMP shall describe how the environmental policy, goals, targets, responsibilities and procedures will be communicated throughout the Concessioner's organization.

(viii) Training. The EMP shall describe the environmental training program for the Concessioner, including identification of staff to be trained, training subjects, frequency of training and how training will be documented.

(ix) Monitoring, Measurement, and Corrective Action. The EMP shall describe how the Concessioner will comply with the EMP and how the Concessioner will self-assess its performance under the EMP, at least annually, in a manner consistent with NPS protocol regarding audit of NPS operations. The self-assessment should ensure the Concessioner's conformance with the Environmental Management Objectives and measure performance against environmental goals and targets. The EMP shall also describe procedures to be taken by the Concessioner to correct any deficiencies identified by the self-assessment.

(c) Environmental Performance Measurement

The Concessioner shall be evaluated by the Director on its environmental performance under this CONTRACT, including, without limitation, compliance with the approved EMP, on at least an annual basis.

(d) Environmental Data, Reports, Notifications, and Approvals

(1) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner shall submit to the Director, at least annually, an inventory of federal Occupational Safety and Health Administration (OSHA) designated hazardous chemicals used and stored in the Area by the Concessioner. The Director may prohibit the use of any OSHA hazardous chemical by the Concessioner in operations under this CONTRACT. The Concessioner shall obtain the Director's approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this CONTRACT. The Concessioner shall also submit to the Director, at least annually, an inventory of all waste streams generated by the Concessioner under this CONTRACT. Such inventory shall include any documents, reports, monitoring data, manifests, and other documentation required by Applicable Laws regarding waste streams.

(2) Reports. The Concessioner shall submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner shall also submit to the Director any environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.

(3) Notification of Releases. The Concessioner shall give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature), of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(4) Notice of Violation. The Concessioner shall give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.

(5) Communication with Regulatory Agencies. The Concessioner shall provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this CONTRACT. The Concessioner shall also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner shall allow the Director to participate in any such communications. The Concessioner shall also

provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.

(e) Corrective Action

(1) The Concessioner, at its sole cost and expense, shall promptly control and contain any discharge, release or threatened release, as set forth in this section, or any threatened or actual violation, as set forth in this section, arising in connection with the Concessioner's operations under this CONTRACT, including, but not limited to, payment of any fines or penalties imposed by appropriate agencies. Following the prompt control or containment of any release, discharge or violation, the Concessioner shall take all response actions necessary to remediate the release, discharge or violation, and to protect human health and the environment.

(2) Even if not specifically required by Applicable Laws, the Concessioner shall comply with directives of the Director to clean up or remove any materials, product or by-product used, handled, stored, disposed, or transported onto or into the Area by the Concessioner to ensure that the Area remains in good condition.

(f) Indemnification and Cost Recovery for Concessioner Environmental Activities

(1) The Concessioner shall indemnify the United States in accordance with section 12 of this CONTRACT from all losses, claims, damages, environmental injuries, expenses, response costs, allegations or judgments (including, without limitation, fines and penalties) and expenses (including, without limitation, attorneys fees and experts' fees) arising out of the activities of the Concessioner, its employees, agents and contractors pursuant to this section. Such indemnification shall survive termination or expiration of this CONTRACT.

(2) If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in its sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner shall be liable for and shall pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section shall preclude the Concessioner from seeking to recover costs from a responsible third party.

(g) Weed and Pest Management

The Concessioner shall be responsible for managing weeds, and through an integrated pest management program, harmful insects, rats, mice and other pests on Concession Facilities assigned to the Concessioner under this CONTRACT. All such weed and pest management activities shall be in accordance with Applicable Laws and guidelines established by the Director.

(h) Protection of Cultural and Archeological Resources.

The Concessioner shall ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner, including the Concessioner's employees, agents and contractors, except in accordance with Applicable Laws, and only with the prior approval of the Director. Discoveries of any archeological resources by the Concessioner shall be promptly reported to the Director. The Concessioner shall cease work or other disturbance which may impact any protected site or archeological resource until the Director grants approval, upon such terms and conditions as the Director deems necessary, to continue such work or other disturbance.

SEC. 7. INTERPRETATION OF AREA RESOURCES**(a) Concessioner Obligations**

(1) The Concessioner shall provide all visitor services in a manner that is consistent with and supportive of the interpretive themes, goals and objectives of the Area as reflected in Area planning documents, mission statements and/or interpretive prospectuses.

(2) The Concessioner may assist in Area interpretation at the request of the Director to enhance visitor enjoyment of the Area. Any additional visitor services that may result from this assistance must be recognized in writing through written amendment of Section 3 of this CONTRACT.

(3) The Concessioner is encouraged to develop interpretive materials or means to educate visitors about environmental programs or initiatives implemented by the Concessioner.

(b) Director Review of Content

The Concessioner must submit the proposed content of any interpretive programs, exhibits, displays or materials, regardless of media format (i.e. printed, electronic, or broadcast media), to the Director for review and approval prior to offering such programs, exhibits, displays or materials to Area visitors.

SEC. 8. CONCESSION FACILITIES USED BY THE CONCESSIONER

(a) Assignment of Concession Facilities

(1) The Director hereby assigns the following Concession Facilities to the Concessioner for the purposes of this CONTRACT:

- (i) certain parcels of Area land as described in Exhibit D upon which, among other matters, the Concessioner may be authorized to construct real property; and
- (ii) certain real property improvements described in Exhibit D in existence as of the effective date of this CONTRACT, as may be modified from time to time to include additional real property improvements completed in accordance with the terms and conditions of this CONTRACT.

(2) The Director shall from time to time amend Exhibit D to reflect changes in Concession Facilities assigned to the Concessioner, including, without limitation, amending Exhibit D to reflect the addition of real property improvements completed in accordance with the terms and conditions of this CONTRACT and to reflect the withdrawal of concession facilities as set forth below.

(b) Concession Facilities Withdrawals

The Director may withdraw all or portions of these Concession Facilities assignments at any time during the term of this CONTRACT if:

- (1) the withdrawal is necessary for the purpose of conserving, preserving or protecting Area resources or visitor enjoyment or safety;
- (2) the operations utilizing the assigned Concession Facilities have been terminated or suspended by the Director; or

- (3) land or real property improvements assigned to the Concessioner are no longer necessary for the concession operation.

(c) Effect of Withdrawal

Any permanent withdrawal of assigned Concession Facilities which the Director or the Concessioner considers to be essential for the Concessioner to provide the visitor services required by this CONTRACT will be treated as a termination of this CONTRACT pursuant to Section 16. The Concessioner will be compensated pursuant to Section 17 for the value of any Leasehold Surrender Interest it may have, if any, in permanently withdrawn Concession Facilities. No other compensation is due the Concessioner in these circumstances.

(d) Right of Entry

The Director shall have the right at any time to enter upon or into the Concession Facilities assigned to the Concessioner under this CONTRACT for any purpose he may deem necessary for the administration of the Area.

(e) Personal Property

(1) Personal Property Provided by the Concessioner. The Concessioner shall provide all personal property, including without limitation removable equipment, furniture and goods, necessary for its operations under this CONTRACT, unless such personal property is provided by the Director as set forth in subsection (e)(2).

(2) Personal Property Provided by the Government. The Director may provide certain items of government personal property, including without limitation removable equipment, furniture and goods, for the Concessioner's use in the performance of this CONTRACT. The Director hereby assigns government personal property listed in Exhibit E to the Concessioner as of the effective date of this CONTRACT. This Exhibit E will be modified from time to time by the Director as items may be withdrawn or additional items added. The Concessioner shall be accountable to the Director for the government personal property assigned to it and shall be responsible for maintaining the property as necessary to keep it in good and operable condition. If the property ceases to be serviceable, it shall be returned to the Director for disposition.

(f) Condition of Concession Facilities

The Concessioner has inspected the Concession Facilities and any assigned government personal property, is thoroughly acquainted with their condition, and accepts the Concession Facilities, and any assigned government personal property, "as is."

(g) Utilities Provided by the Director

The Director may provide utilities to the Concessioner for use in connection with the operations required or authorized hereunder when available and at rates to be determined in accordance with Applicable Laws.

(h) Utilities Not Provided by the Director

If the Director does not provide utilities to the Concessioner, the Concessioner shall, with the written approval of the Director and under any requirements that the Director shall prescribe, secure necessary utilities at its own expense from sources outside the Area or shall install the utilities within the Area with the written permission of the Director, subject to the following conditions:

- (1) Any water rights deemed necessary by the Concessioner for use of water on Area or other federal lands must be acquired at the Concessioner's expense in accordance with applicable State procedures and law. Upon expiration or termination of this CONTRACT for any reason, the Concessioner must assign these water rights to the United States without compensation, and these water rights will become the property of the United States;
- (2) If requested by the Director, the Concessioner must provide to the Director any utility service provided by the Concessioner under this section to such extent as will not unreasonably restrict anticipated use by the Concessioner. Unless otherwise agreed by the Concessioner and the Director in writing, the rate per unit charged the Director for such service shall be approximately the average cost per unit of providing such service; and
- (3) All appliances and machinery to be used in connection with the privileges granted in this subsection, as well as the plans for location and installation of such appliances and machinery, shall first be approved by the Director.

SEC. 9. CONSTRUCTION OR INSTALLATION OF REAL PROPERTY IMPROVEMENTS**(a) Construction of Real Property Improvements**

The Concessioner may construct or install upon lands assigned to the Concessioner under this CONTRACT only those real property improvements that are determined by the Director to be necessary and appropriate for the conduct by the Concessioner of the visitor services required and/or authorized under this CONTRACT. Construction or installation of real property improvements may occur only after the written approval by the Director of their location, plans, and specifications. The form and content of the application and the procedures for such approvals, as may be modified by the Director from time to time, are set forth in Exhibit F. All real property improvements constructed or installed by the Concessioner will immediately become the property of the United States and be considered Concession Facilities.

(b) Removal of Real Property Improvements

- (1) The Concessioner may not remove, dismantle, or demolish real property improvements in the Area without the prior approval of the Director.

(2) Any salvage resulting from the authorized removal, severance or demolition of a real property improvement within the Area shall be the property of the United States.

(3) In the event that an assigned real property improvement is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concessioner, at its expense, shall promptly, upon the request of the Director, restore the site as nearly as practicable to its original condition.

(c) Leasehold Surrender Interest

(1) This CONTRACT hereby provides the Concessioner, subject to all applicable definitions, requirements and limitations of this CONTRACT and Exhibit A, a Leasehold Surrender Interest in Capital Improvements constructed by the Concessioner under the terms of this CONTRACT, including, but not limited to, those Capital Improvements constructed as part of the Concession Facilities Improvement Program and those Capital Improvements which result from the Major Rehabilitation of an existing real property improvement. Upon completion of a Major Rehabilitation by the Concessioner, an existing real property improvement assigned to the Concessioner in which the Concessioner had no Leasehold Surrender Interest prior to the Major Rehabilitation shall be considered as a Capital Improvement for all purposes of this CONTRACT.

(2) This CONTRACT may provide the Concessioner a Leasehold Surrender Interest in real property improvements resulting from possessory interest obtained under the terms of a possessory interest concession contract. Exhibit G describes the real property improvements, if any, in which the Concessioner has such a Leasehold Surrender Interest and states the value of this Leasehold Surrender Interest as of the effective date of this CONTRACT.

(3) The Concessioner shall not obtain Leasehold Surrender Interest under this CONTRACT except as may be provided in Exhibit A and Exhibit F. Among other matters, no Leasehold Surrender Interest shall be obtained as a result of expenditures from the Repair and Maintenance Reserve described in this CONTRACT, and this CONTRACT does not provide a Leasehold Surrender Interest as a result of expenditures for repair and maintenance of Concession Facilities of any nature.

(d) Concession Facilities Improvement Program

(1) The Concessioner shall undertake and complete an improvement program (hereinafter "Concession Facilities Improvement Program") costing not less than \$1,258,800 as adjusted for each project to reflect par value in the year of actual construction in accordance with the appropriate indexes of the Department of Labor's CPI-U Index, as published by the Department of Labor.

(2) The Concessions Facilities Improvement Program shall include:

Watch Hill marina rehabilitation

\$700,000

Watch Hill: Rehabilitation of land facilities, boardwalks and decks:	\$498,800
Provide tenant finishes to Barrett Beach/Talisman snack bar	\$ 60,000

The size, scope and location of each project may be adjusted to address planning and other circumstances. However, the requirements set forth in Section 9 (d) (1) shall not change.

(3) The Concessioner shall commence construction under the Concession Facilities Improvement Program on or before July 1, 2005, in a manner that demonstrates to the satisfaction of the Director that the Concessioner is in good faith carrying the Concession Facilities Improvement Program forward reasonably under the circumstances. No construction may begin until the Concessioner receives written approval from the Director of plans and specifications in accordance with Exhibit F. During the period of construction, the Concessioner shall provide the Director with such evidence or documentation, as may be satisfactory to the Director, to demonstrate that the Concession Facilities Improvement Program duly is being carried forward.

(4) The Concessioner shall complete and have the real property improvements available for public use on or before May 1, 2006. The Director may extend this date in circumstances where the Director determines that the delay resulted from events beyond the control of the Concessioner.

SEC. 10. MAINTENANCE

(a) Maintenance Obligation

The Concessioner shall be solely responsible for maintenance, repairs, housekeeping, and groundskeeping for all Concession Facilities to the satisfaction of the Director.

(b) Maintenance Plan

For these purposes, the Director, acting through the Superintendent, shall undertake appropriate inspections, and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements which shall be adhered to by the Concessioner. The initial Maintenance Plan is set forth in Exhibit H. The Director in his discretion may make reasonable modifications to the Maintenance Plan from time to time after consultation with the Concessioner. Such modifications shall be in furtherance of the purposes of this CONTRACT and shall not be inconsistent with the terms and conditions of the main body of this CONTRACT.

(c) Repair and Maintenance Reserve

(1) The Concessioner shall establish and manage a Repair and Maintenance Reserve. The funds in this Reserve shall be used to carry out, on a project basis in accordance with Exhibits F and H, repair and maintenance of Concession Facilities that are non-recurring within a seven-year time frame. Such projects may include repair or replacement of foundations, building frames, window frames, sheathing, subfloors, drainage, rehabilitation of building systems such as electrical,

plumbing, built-in heating and air conditioning, roof replacement and similar projects. Projects will be carried out by the Concessioner as the Director shall direct in writing in advance of any expenditure being made and in accordance with project proposals approved by the Director. No projects may be commenced until the Concessioner receives written approval from the Director.

(2) Projects paid for with funds from the Repair and Maintenance Reserve will not include routine, operational maintenance of facilities or housekeeping and groundskeeping activities. Nothing in this section shall lessen the responsibility of the Concessioner to carry out the maintenance and repair of Concession Facilities or housekeeping and groundskeeping responsibilities as required by this CONTRACT from Concessioner funds exclusive of the funds contained in the Repair and Maintenance Reserve.

(3) The Concessioner shall establish within its accounting system a Repair and Maintenance Reserve. The Concessioner shall debit to this Reserve, within fifteen (15) days after the last day of each month that the Concessioner operates a sum equal to: Three percent (3%) of the Concessioner's gross receipts for the previous month. If the Concessioner fails to make timely debits to the Repair and Maintenance Reserve, the Director may terminate this CONTRACT for default or may require the Concessioner to post a bond in an amount equal to the estimated annual Repair and Maintenance Reserve allocation, based on the preceding year's gross receipts.

(4) The balance in the Repair and Maintenance Reserve shall be available for projects in accordance with the Reserve's purpose. For all expenditures made for each project from the Repair and Maintenance Reserve, the Concessioner shall maintain auditable records including invoices, billings, canceled checks, and other documentation satisfactory to the Director. Failure to expend Repair and Maintenance Reserve Funds when directed by the Director shall be considered as a material breach of this CONTRACT for which the Director may seek monetary damages and other legal relief, including, without limitation, termination of this CONTRACT.

(5) Repair and Maintenance Reserve funds shall not be used for a major rehabilitation as defined in this CONTRACT. The Concessioner shall obtain no ownership, Leasehold Surrender Interest, or other compensable interest as a consequence of the expenditure of Repair and Maintenance Reserve funds.

(6) Any Repair and Maintenance Reserve funds not duly expended by the Concessioner as of the termination or expiration of this CONTRACT shall be retained by the Concessioner (subject to otherwise applicable terms and conditions of this CONTRACT).

SEC. 11. FEES

(a) Franchise Fee

(1) For the term of this CONTRACT, the Concessioner shall pay to the Director for the privileges granted under this CONTRACT a franchise fee equal to three and one half percent (3.5 %) of the Concessioner's gross receipts for the preceding year or portion of a year.

(2) Neither the Concessioner nor the Director shall have a right to an adjustment of the fees except as provided below. The Concessioner has no right to waiver of the fee under any circumstances.

(b) Payments Due

(1) The franchise fee shall be due on a monthly basis at the end of each month and shall be paid by the Concessioner in such a manner that the Director shall receive payment within fifteen (15) days after the last day of each month that the Concessioner operates. This monthly payment shall include the franchise fee equal to the specified percentage of gross receipts for the preceding month.

(2) The Concessioner shall pay any additional fee amounts due at the end of the operating year as a result of adjustments at the time of submission of the Concessioner's Annual Financial Report. Overpayments shall be offset against the following year's fees. In the event of termination or expiration of this CONTRACT, overpayments will first be offset against any amounts due and owing the Government, and the remainder will be paid to the Concessioner.

(3) All franchise fee payments consisting of \$10,000 or more, shall be deposited electronically by the Concessioner using the Treasury Financial Communications System.

(c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed beyond the fifteen (15) day period provided for above. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

(d) Adjustment of Franchise Fee

(1) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this CONTRACT, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated changes" shall mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this CONTRACT which have or will significantly affect the probable value of the privileges granted to the Concessioner by this CONTRACT. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this CONTRACT.

(2) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this CONTRACT.

(3) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.

(4) The negotiation will last for a period of sixty (60) days from the date the Concessioner and the Director agree that extraordinary, unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.

(5) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration must be made by mailing written notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.

(6) Within thirty (30) days of receipt of such a written notice, the Concessioner and the Director shall each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. Unless otherwise agreed by the parties, the arbitration panel shall establish the procedures of the arbitration. Such procedures must provide each party a fair and equal opportunity to present its position on the matter to the arbitration panel.

(7) The arbitration panel shall consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (up, down or unchanged) that is consistent with the probable value of the privileges granted by this CONTRACT within sixty (60) days of the presentations.

(8) Any adjustment to the franchise fee resulting from this Section shall be prospective only.

(9) Any adjustment to the franchise fee will be embodied in an amendment to this CONTRACT.

(10) During the pendency of the process described in this Section, the Concessioner shall continue to make the established franchise fee payments required by this CONTRACT.

SEC. 12. INDEMNIFICATION AND INSURANCE

(a) Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever 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, in any way connected with or arising

out of the activities of the Concessioner, its employees, agents or contractors under this CONTRACT. This indemnification shall survive the termination or expiration of this CONTRACT.

(b) Insurance in General

(1) The Concessioner shall obtain and maintain during the entire term of this CONTRACT at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of this CONTRACT as determined by the Director. The initial insurance requirements are set forth below and in Exhibit I. Any changed or additional requirements that the Director determines necessary must be reasonable and consistent with the types and coverage amounts of insurance a prudent business person would purchase in similar circumstances. The Director shall approve the types and amounts of insurance coverage purchased by the Concessioner.

(2) The Director 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.

(3) At the request of the Director, the Concessioner shall at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner shall provide the Director immediate written notice of any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

(c) Commercial Public Liability

(1) The Concessioner shall provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees, agents or contractors, in carrying out the activities and operations required and/or authorized under this CONTRACT.

(2) This insurance shall be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this CONTRACT, as more specifically set forth in Exhibit I. Furthermore, the commercial general liability package shall provide no less than the coverages and limits described in Exhibit I.

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

(4) From time to time, as conditions in the insurance industry warrant, the Director may modify Exhibit I to revise the minimum required limits or to require additional types of insurance, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

(d) Property Insurance

- (1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this CONTRACT.
- (2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities for all or part of their replacement cost as specified in Exhibit I in amounts no less than the Director may require during the term of the CONTRACT. The minimum values currently in effect are set forth in Exhibit I.
- (3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.
- (4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this CONTRACT, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 13 shall apply to such insurance proceeds. The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.
- (5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this CONTRACT to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.
- (6) The commercial property package shall include the coverages and amounts described in Exhibit I.

SEC. 13. BONDS AND LIENS

(a) Bonds

The Director may require the Concessioner to furnish appropriate forms of bonds in amounts reasonable in the circumstances and acceptable to the Director, in order to ensure faithful performance of the Concessioner's obligations under this CONTRACT.

(b) Lien

As additional security for the faithful performance by the Concessioner 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 any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all

personal property of the Concessioner used in performance of the CONTRACT hereunder within the Area and any Leasehold Surrender Interest of the Concessioner.

SEC. 14. ACCOUNTING RECORDS AND REPORTS

(a) Accounting System

- (1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this CONTRACT, including but not limited to the Concessioner's repair and maintenance obligations. The Concessioner's system of accounts classification shall be directly related to the Concessioner Annual Financial Report Form issued by the Director.
- (2) If the Concessioner's annual gross receipts are \$250,000 or more, the Concessioner must use the accrual accounting method.
- (3) In computing net profits for any purposes of this CONTRACT, the Concessioner shall keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this CONTRACT 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.

(b) Annual Financial Report

- (1) The Concessioner shall submit annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").
- (2) If the annual gross receipts of the Concessioner are in excess of \$1,000,000, the financial statements shall be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.
- (3) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.
- (4) If annual gross receipts are less than \$500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Financial Reports

(1) Balance Sheet. Within ninety (90) days of the execution of this CONTRACT or its effective date, whichever is later, the Concessioner shall submit to the Director a balance sheet as of the beginning date of the term of this CONTRACT. The balance sheet shall be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant. The balance sheet shall be accompanied by a schedule that identifies and provides details for all capital improvements in which the Concessioner claims a Leasehold Surrender Interest. The schedule must describe these capital improvements in detail showing for each such capital improvement the date acquired, constructed or installed.

(2) Statements of Reserve Activity. The Concessioner shall submit annually, not later than one hundred twenty (120) days after the end of the Concessioner's accounting year, a statement reflecting total activity in the Maintenance Reserve for the preceding accounting year. The statement must reflect monthly inflows and outflows on a project by project basis.

SEC. 15. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this CONTRACT:

(a) Insurance Certification

As specified in Section 12, the Concessioner shall, at the request of the Director, provide the Director with a Certificate of Insurance for all insurance coverages related to its operations under this CONTRACT. The Concessioner shall give the Director immediate written notice of any material change in its insurance program, including without limitation, any cancellation of required insurance coverages.

(b) Environmental Reporting

The Concessioner shall submit environmental reports as specified in Section 6 of this CONTRACT, and as otherwise required by the Director under the terms of this CONTRACT.

(c) Miscellaneous Reports and Data

The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under the CONTRACT or otherwise, including, but not limited to, operational information.

SEC. 16. SUSPENSION, TERMINATION, OR EXPIRATION

(a) Suspension

The Director may temporarily suspend operations under this CONTRACT in whole or in part in order to protect Area visitors or to protect, conserve and preserve Area resources. No compensation of any nature shall be due the Concessioner by the Director in the event of a suspension of

operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

(b) Termination

(1) The Director may terminate this CONTRACT at any time in order to protect Area visitors, protect, conserve, and preserve Area resources, or to limit visitor services in the Area to those that continue to be necessary and appropriate.

(2) The Director may terminate this CONTRACT if the Director determines that the Concessioner has materially breached any requirement of this CONTRACT, including, but not limited to, the requirement to maintain and operate visitor services to the satisfaction of the Director, the requirement to provide only those visitor services required or authorized by the Director pursuant to this CONTRACT, the requirement to pay the established franchise fee, the requirement to prepare and comply with an Environmental Management Program, the requirement to duly expend funds from the repair and maintenance reserve and the requirement to comply with Applicable Laws.

(3) In the event of a breach of the CONTRACT, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the CONTRACT for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the CONTRACT for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 16(a).

(4) The Director may terminate this CONTRACT upon the filing or the execution of a petition in bankruptcy by or against the Concessioner, a petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, an assignment by the Concessioner for the benefit of creditors, a petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this CONTRACT or any part thereof upon execution, attachment or other process of law or equity. The Director may terminate this CONTRACT if the Director determines that the Concessioner is unable to perform the terms of CONTRACT due to bankruptcy or insolvency.

(5) Termination of this CONTRACT for any reason shall be by written notice to the Concessioner.

(c) Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of

creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this CONTRACT or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, NPS considers that this CONTRACT is not a lease but an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365.

(d) Requirements in the Event of Termination or Expiration

(1) In the event of termination of this CONTRACT for any reason or expiration of this CONTRACT, the total compensation due the Concessioner for such termination or expiration shall be as described in Section 17 of this CONTRACT. No other compensation of any nature shall be due the Concessioner in the event of a termination or expiration of this CONTRACT, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this CONTRACT for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner shall, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, repair any injury occasioned by installation or removal of such property, and ensure that Concession Facilities are in at least as good condition as they were at the beginning of the term of this CONTRACT, reasonable wear and tear excepted. The removal of such personal property must occur within thirty (30) days after the termination of this CONTRACT for any reason or its expiration (unless the Director in particular circumstances requires immediate removal).

(3) To avoid interruption of services to the public upon termination of this CONTRACT for any reason, or upon its expiration, the Concessioner, upon the request of the Director, shall consent to the use by another operator of the Concessioner's personal property, excluding inventories if any, not including current or intangible assets, for a period of time not to exceed one (1) year from the date of such termination or expiration. The other operator shall pay the Concessioner an annual fee for use of such property, prorated for the period of use, in the amount of the annual depreciation of such property, plus a return on the book value of such property equal to the prime lending rate, as published by the Federal Reserve System Board of Governors, effective on the date the operator assumes managerial and operational responsibilities. In such circumstances, the method of depreciation applied shall be either straight line depreciation or depreciation as shown on the Concessioner's Federal income tax return, whichever is less. To avoid interruption of services to the public upon termination of this CONTRACT for any reason or its expiration, the Concessioner shall, if requested by the Director, sell its existing inventory to another operator at the purchase price as shown on applicable invoices.

SEC. 17. COMPENSATION

(a) Just Compensation

The compensation provided by this Section shall constitute full and just compensation to the Concessioner for all losses and claims occasioned by the circumstances described below.

(b) Compensation for CONTRACT Expiration or Termination

If, for any reason, including CONTRACT expiration or termination, the Concessioner shall cease to be authorized by the Director to conduct operations under this CONTRACT, the Concessioner shall convey to a person designated by the Director (including the Director if appropriate) any Leasehold Surrender Interest it has under the terms of this CONTRACT and the Director shall, subject to the terms and conditions of this CONTRACT, assure that the Concessioner is paid the Leasehold Surrender Interest Value.

(c) Procedures for Establishing the Value of a Leasehold Surrender Interest

At any time during the term of this CONTRACT, the Concessioner shall, when requested by the Director, enter into negotiations with the Director as to the value of the Concessioner's Leasehold Surrender Interest under this CONTRACT. In the event that such negotiations fail to determine an agreed upon value within a reasonable period of time as determined by the Director, the Director or the Concessioner may initiate arbitration proceedings to determine such value upon written request to the other party. Such arbitration proceedings shall be conducted in accordance with the arbitration procedures set forth in Exhibit A. In these circumstances, the Concessioner and the Director shall each select an arbiter. The two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel in accordance with Exhibit A. The arbitration panel shall consider the written submissions and any oral presentations made by the Concessioner and the Director and shall determine the value of the Leasehold Surrender Interest consistent with the terms of this CONTRACT, including without limitation Exhibit A. The arbitration panel shall also provide a means to calculate the change in the value of such Leasehold Surrender Interest as may occur for up to two (2) years from the date of the initial determination. The determination of the arbitration panel shall be binding on the Director and the Concessioner.

(d) Compensation for Personal Property

No compensation is due the Concessioner from the Director or a successor concessioner for the Concessioner's personal property used in operations under this CONTRACT. However, the Director or a successor concessioner may purchase such personal property from the Concessioner subject to mutually agreed upon terms. Personal property not removed from the Area by the Concessioner in accordance with the terms of this CONTRACT shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws. Any cost or expense incurred by the Director as a result of such disposition may be offset from any amounts owed to the Concessioner by the Director to the extent consistent with Applicable Laws.

SEC. 18. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

(a) This CONTRACT is subject to the requirements of Applicable Laws, including, without limitation, 36 CFR Part 51, with respect to proposed assignments and encumbrances, as those terms are defined by Applicable Laws. Failure by the Concessioner to comply with Applicable Laws is a material breach of this CONTRACT for which the Director may terminate this CONTRACT for default. The Director shall not be obliged to recognize any right of any person or entity to an interest in this CONTRACT of any nature, including, but not limited to, Leasehold Surrender Interest or operating rights under this CONTRACT, if obtained in violation of Applicable Laws.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to Applicable Laws, including without limitation, 36 CFR Part 51, of the requirements of Applicable Law and this CONTRACT.

Sec. 19. GENERAL PROVISIONS

(a) The Director and Comptroller General of the United States, or any of their duly authorized representatives, shall have access to the records of the Concessioner as provided by the terms of Applicable Laws.

(b) All information required to be submitted to the Director by the Concessioner pursuant to this CONTRACT is subject to public release by the Director to the extent provided by Applicable Laws.

(c) Subconcession or other third party agreements, including management agreements, for the provision of visitor services required and/or authorized under this CONTRACT are not permitted.

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

(e) Any and all taxes or assessments of any nature that 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.

(f) 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 from this CONTRACT but this restriction shall not be construed to extend to this CONTRACT if made with a corporation or company for its general benefit.

(g) This CONTRACT is subject to the provisions of 43 CFR, Subtitle A, Subpart D, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

(h) This CONTRACT contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this CONTRACT. This CONTRACT may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(i) This CONTRACT does not grant rights or benefits of any nature to any third party.

(j) The invalidity of a specific provision of this CONTRACT shall not affect the validity of the remaining provisions of this CONTRACT.

(k) Waiver by the Director or the Concessioner of any breach of any of the terms of this CONTRACT by the other party shall not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the CONTRACT. The subsequent acceptance of any payment of money or other performance required by this CONTRACT shall not be deemed to be a waiver of any preceding breach of any term of the CONTRACT.

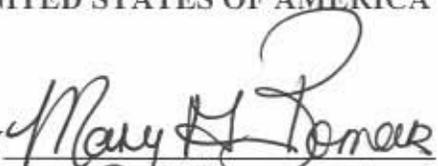
(l) Claims against the Director (to the extent subject to 28 U.S.C.2514) arising from this CONTRACT shall be forfeited to the Director by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof within the meaning of 28 U.S.C. 2514.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this CONTRACT as of the _____ day of _____, 2004.

CONCESSIONER

UNITED STATES OF AMERICA

BY 
President,
Fire Island Concessions, LLC

BY 
Regional Director, Northeast Region
National Park Service

ATTEST:

BY 
TITLE: ADMINISTRATIVE OFFICER

**EXHIBIT A
LEASEHOLD SURRENDER INTEREST**

This Exhibit A to this CONTRACT establishes certain terms and conditions of the CONTRACT regarding the nature, scope and applicable conditions of leasehold surrender interest. In event of any inconsistency between this Exhibit A and Exhibit F of this CONTRACT this Exhibit A shall prevail.

Section 1. Definitions.

“Arbitration” means binding arbitration conducted by an arbitration panel. All arbitration proceedings conducted under the authority of this Exhibit A will utilize the following procedures unless otherwise agreed by the Concessioner and the Director. One member of the arbitration panel will be selected by the Concessioner, one member will be selected by the Director, and the third (neutral) member will be selected by the two party-appointed members. The neutral arbiter must be a licensed real estate appraiser. The expenses of the neutral arbiter and other associated common costs of the arbitration will be borne equally by the Concessioner and the Director. The arbitration panel will adopt procedures that treat each party equally, give each party the opportunity to be heard, and give each party a fair opportunity to present its case. Determinations must be made by a majority of the members of the panel and will be binding on the Concessioner and the Director.

A “capital improvement” is a structure, fixture, or non-removable equipment provided by the Concessioner pursuant to the terms of this CONTRACT and located on lands of the United States within the area. A capital improvement does not include any interest in land. Additionally, a capital improvement does not include any interest in personal property of any kind including, but not limited to, vehicles, boats, barges, trailers, or other objects, regardless of size, unless an item of personal property becomes a fixture as defined in this Exhibit A.

“Construction cost” of a capital improvement means the total of the incurred eligible direct and indirect costs necessary for constructing or installing the capital improvement that are capitalized by the concessioner in accordance with Generally Accepted Accounting Principals (GAAP).

“Consumer Price Index” means the national “Consumer Price Index--All Urban Consumers” published by the Department of Labor. If this index ceases to be published, the Director will designate another regularly published cost-of-living index approximating the national Consumer Price Index.

“Depreciation” means the loss of value in a capital improvement as evidenced by the condition and prospective serviceability of the capital improvement in comparison with a new unit of like kind.

“Eligible direct costs” means the sum of all incurred capitalized costs (in amounts no higher than those prevailing in the locality of the project), that are necessary both for the construction of a capital improvement and are typically elements of a construction contract. Eligible direct costs may include, without limitation, the costs of (if capitalized in accordance with GAAP and in amounts no higher than those prevailing in the locality of the project): building permits; materials, products and equipment used in construction; labor used in construction; security during construction; contractor’s shack and temporary fencing; material storage facilities; power line installation and utility costs during construction; performance bonds; and contractor’s (and subcontractor’s) profit and overhead (including job supervision, worker’s compensation insurance and fire, liability, and unemployment

insurance).

"Eligible indirect costs" means, except as provided in the last sentence of this definition, the sum of all other incurred capitalized costs (in amounts no higher than those prevailing in the locality of the project) necessary for the construction of a capital improvement. Eligible indirect costs may include, without limitation, the costs of (if capitalized in accordance with GAAP and in amounts no higher than those prevailing in the locality of the project): architectural and engineering fees for plans, plan checks; surveys to establish building lines and grades; environmental studies; if the project is financed, the points, fees or service charges and interest on construction loans; all risk insurance expenses and ad valorem taxes during construction. The actual capitalized administrative expenses (in amounts no higher than those prevailing in the locality of the project did) of the Concessioner for direct, on-site construction inspection are eligible indirect costs. Other administrative expenses of the Concessioner are not eligible indirect costs.

"Fixtures and non-removable equipment" are manufactured items of personal property of independent form and utility necessary for the basic functioning of a structure that are affixed to and considered to be part of the structure such that title is with the Director as real property once installed. Fixtures and non-removable equipment do not include building materials (e.g., wallboard, flooring, concrete, cinder blocks, steel beams, studs, window frames, windows, rafters, roofing, framing, siding, lumber, insulation, wallpaper, paint, etc.). Because of their special circumstances, floating docks (but not other types of floating property) that may be constructed by the Concessioner pursuant to the terms of this CONTRACT are considered to be non-removable equipment for leasehold surrender interest purposes only. Except as otherwise indicated in Exhibit A, the term "fixture" includes the term "non-removable equipment."

"Leasehold surrender interest" solely means a right to payment in accordance with this CONTRACT for related capital improvements that the Concessioner makes or provides within the area on lands owned by the United States pursuant to the terms and conditions of this CONTRACT. The existence of a leasehold surrender interest does not give the Concessioner, or any other person, any right to conduct business in a park area, to utilize the related capital improvements, or to prevent the Director or another person from utilizing the related capital improvements. The existence of a leasehold surrender interest does not include any interest in the land on which the related capital improvements are located.

"Leasehold surrender interest value" means the amount of compensation the Concessioner is entitled to be paid for a leasehold surrender interest in capital improvements in accordance with this CONTRACT. The leasehold surrender interest value in existing capital improvements under the terms of this CONTRACT is an amount equal to:

- (1) The initial construction cost of the related capital improvement;
- (2) Adjusted by (increased or decreased) the same percentage increase or decrease as the percentage increase or decrease in the Consumer Price Index from the date the Director approves the substantial completion of the construction of the related capital improvement to the date of payment of the leasehold surrender interest value;
- (3) Less depreciation of the related capital improvement on the basis of its condition as of the date of termination or expiration of this CONTRACT, or, if applicable, the date on which the Concessioner ceases to utilize a related capital improvement (e.g., where the related capital improvement is taken out of service by the Director pursuant to the terms of this

CONTRACT).

“Major rehabilitation” means a planned, comprehensive rehabilitation of an existing structure that:

- (1) The Director approves in advance and determines is completed within 18 months from start of the rehabilitation work (unless a longer period of time is approved by the Director in special circumstances); and
- (2) The construction cost of which exceeds fifty percent of the pre-rehabilitation value of the structure.

“Pre-rehabilitation value” of an existing structure means the replacement cost of the structure less depreciation.

“Real property improvements” means real property other than land, including, but not limited to, capital improvements.

“Related capital improvement” or “related fixture” means a capital improvement in which the Concessioner has a leasehold surrender interest.

“Replacement cost” means the estimated cost to reconstruct, at current prices, an existing structure with utility equivalent to the existing structure, using modern materials and current standards, design and layout.

“Structure” means a building, dock, or similar edifice affixed to the land so as to be part of the real estate. A structure may include both constructed infrastructure (e.g., water, power and sewer lines) and constructed site improvements (e.g., paved roads, retaining walls, sidewalks, paved driveways, paved parking areas) that are permanently affixed to the land so as to be part of the real estate and that are in direct support of the use of a building, dock, or similar edifice. Landscaping that is integral to the construction of a structure is considered as part of a structure. Interior furnishings that are not fixtures are not part of a structure.

“Substantial completion of a capital improvement” means the condition of a capital improvement construction project when the project is substantially complete and ready for use and/or occupancy.

Section 2. Obtaining a leasehold surrender interest.

The Concessioner will obtain leasehold surrender interest in capital improvements constructed in accordance with the terms and conditions of this CONTRACT, including, without limitation, the terms and conditions of this Exhibit A to the CONTRACT.

Section 3. Authorizing the construction of a capital improvement.

The Director may only authorize or require the Concessioner to construct capital improvements on area lands in accordance with the terms and conditions of this CONTRACT and for the conduct by the Concessioner of visitor services, including, without limitation, the construction of capital improvements necessary for the conduct of visitor services.

Section 4. Requirements for beginning to construct a capital improvement.

Before beginning to construct any capital improvement, the Concessioner must obtain written approval from the Director in accordance with the terms of this CONTRACT, including the terms and conditions of this Exhibit A and Exhibit F. The request for approval must include appropriate plans and specifications for the capital improvement and any other information that the Director may specify. The request must also include an estimate of the total construction cost of the capital improvement. The estimate of the total construction cost must specify all elements of the cost in such detail as is necessary to permit the Director to determine that they are elements of construction cost as defined in this Exhibit. (The approval requirements of this and other sections of this CONTRACT also apply to any change orders to a capital improvement project and to any additions to a structure or replacement of fixtures as described in this CONTRACT.)

Section 5. Requirements after substantial completion of a capital improvement.

Upon substantial completion of the construction of a capital improvement in which the Concessioner is to obtain a leasehold surrender interest, the Concessioner must provide the Director a detailed construction report in accordance with the terms and conditions of this CONTRACT, including without limitation Exhibit A and Exhibit F. The construction report must be supported by actual invoices of the capital improvement's construction cost together with, if requested by the Director, a written certification from a certified public accountant. The construction report must document, and any requested certification by the certified public accountant must certify, that all components of the construction cost were incurred and capitalized by the Concessioner in accordance with GAAP, and that all components are eligible direct or indirect construction costs as defined in this Exhibit. Invoices for additional construction costs of elements of the project that were not completed as of the date of substantial completion may subsequently be submitted to the Director for inclusion in the project's construction cost.

Section 6. Determining construction cost for purposes of leasehold surrender interest value.

After receiving the detailed construction report (and certification, if requested), from the Concessioner, the Director will review the report, certification and other information as appropriate to determine that the reported construction cost is consistent with the construction cost approved by the Director in advance of the construction and that all costs included in the construction cost are eligible direct or indirect costs as defined in this Exhibit A. The construction cost determined by the Director will be the final determination of construction cost for purposes of the leasehold surrender interest value in the related capital improvement unless the Concessioner requests arbitration of the construction cost under Section 7 of this Exhibit A. The Director may at any time review a construction cost determination (subject to arbitration under Section 7 of this Exhibit A) if the Director has reason to believe that it was based on false, misleading or incomplete information.

Section 7. Arbitrating the construction cost of a capital improvement.

If the Concessioner requests arbitration of the construction cost of a capital improvement determined by the Director, the request must be made in writing to the Director within 3 months of the date of the Director's determination of construction cost under Section 6 of this Exhibit A. The arbitration procedures are described in Section 1 of this Exhibit A. The decision of the arbitration panel as to the construction cost of the capital improvement will be binding on the concessioner and the Director.

Section 8. Actions the Concessioner may or must take regarding leasehold surrender interest.

The Concessioner:

- (a) May encumber a leasehold surrender interest in accordance with the terms of this CONTRACT;
- (b) Where applicable, must transfer its leasehold surrender interest in connection with any assignment, termination or expiration of this CONTRACT; and
- (c) May waive or relinquish a leasehold surrender interest.

Section 9. Extinguishment of a leasehold surrender interest.

A leasehold surrender interest may not be extinguished by the expiration or termination of this CONTRACT and a leasehold surrender interest may not be taken for public use except on payment of just compensation. Payment of leasehold surrender interest value pursuant to the terms of this CONTRACT will constitute the payment of just compensation for leasehold surrender interest within the meaning of this CONTRACT and for all other purposes.

Section 10. Leasehold surrender interest under a new concession contract.

If the Concessioner under this CONTRACT is awarded a new concession contract by the Director, and the new concession contract continues a leasehold surrender interest in related capital improvements, then the Concessioner's leasehold surrender interest value (established as of the date of expiration or termination of this CONTRACT) in the related capital improvements will be continued as the initial value of the Concessioner's leasehold surrender interest under the terms of the new concession contract.

Section 11. Payment for leasehold surrender interest if the Concessioner is not awarded a new concession contract.

(a) If the Concessioner is not awarded a new concession contract after expiration or termination of this CONTRACT, or, the Concessioner, prior to such termination or expiration, ceases to utilize under the terms of this CONTRACT capital improvements in which the Concessioner has a leasehold surrender interest, the Concessioner will be entitled to be paid its leasehold surrender interest value in the related capital improvements. The leasehold surrender interest will not be transferred until payment of the leasehold surrender interest value. The date for payment of the leasehold surrender interest value, except in special circumstances beyond the Director's control, will be the date of expiration or termination of this CONTRACT, or the date the Concessioner ceases to utilize related capital improvements under the terms of this CONTRACT. Depreciation of the related capital improvements will be established as of the date of expiration or termination of this CONTRACT, or, if applicable, the date the Concessioner ceases to utilize the capital improvements under the terms this CONTRACT.

(b) In the event that extraordinary circumstances beyond the control of the Director prevent the Director from making the leasehold surrender interest value payment as of the date of expiration or termination of this CONTRACT, or, as of the date the Concessioner ceases to utilize related capital improvements under the terms of this CONTRACT, the payment when made will include interest on the amount that was due on the date of expiration or termination of this CONTRACT or cessation of use for the period after the payment was due until payment is made (in addition to the inclusion of a continuing Consumer Price Index adjustment until the date payment is made). The rate of interest will be the applicable rate of interest established by law for overdue obligations of the United States.

The payment for a leasehold surrender interest value will be made within one year after the expiration or termination of this CONTRACT or the cessation of use of related capital improvements under the terms of this CONTRACT.

Section 12. Process for determining leasehold surrender interest value.

In the event that the Concessioner and the Director cannot reach agreement as to a leasehold surrender interest value where required by the terms of this CONTRACT, the Director will make a final determination of leasehold surrender interest value unless binding arbitration as to the value is requested by the concessioner. The arbitration procedures are described in Section 1. A prior decision as to the construction cost of capital improvements made by the Director or by an arbitration panel in accordance with this Exhibit A are final and not subject to further arbitration.

Section 13. Payment of leasehold surrender interest by a new concessioner.

A new concession contract awarded to a new concessioner will require the new concessioner to pay the Concessioner its leasehold surrender interest value in existing capital improvements as determined under Section 12.

Section 14. Obtaining additional leasehold surrender interest by undertaking a major rehabilitation or adding to a structure in which the concessioner has a leasehold surrender interest.

If the Concessioner, with the written approval of the Director, undertakes a major rehabilitation or adds a new structure (e.g., a new wing to an existing building or an extension of an existing sidewalk) to an existing structure in which the Concessioner has a leasehold surrender interest, the Concessioner will increase its leasehold surrender interest in the related structure, effective as of the date of substantial completion of the major rehabilitation or new structure, by the construction cost of the major rehabilitation or new structure. The Consumer Price Index adjustment for leasehold surrender interest value purposes will apply to the construction cost as of the date of substantial completion of the major rehabilitation or new structure. Approvals for major rehabilitations and additions to structures are subject to the same requirements and conditions applicable to new construction as described in this CONTRACT.

Section 15. Obtaining additional leasehold surrender interest by replacing a fixture in which the Concessioner has a leasehold surrender interest.

If the Concessioner replaces an existing fixture in which the Concessioner has a leasehold surrender interest with a new fixture, the Concessioner will increase its leasehold surrender interest by the amount of the construction cost of the replacement fixture less the construction cost of the replaced fixture.

Section 16. Obtaining a leasehold surrender interest in existing real property improvements in which no leasehold surrender interest exists.

(a) If the main body of this CONTRACT requires the Concessioner to replace fixtures in real property improvements in which there is no leasehold surrender interest (e.g., fixtures attached to an existing government facility assigned by the Director to the Concessioner), a leasehold surrender interest will be obtained by the Concessioner in such replacement fixtures subject to the approval and determination of construction cost and other conditions contained in CONTRACT.

(b) If the main body of this CONTRACT requires the Concessioner to undertake a major rehabilitation of a structure in which there is no leasehold surrender interest (e.g., a government-constructed facility assigned to the Concessioner), upon substantial completion of the major rehabilitation, the Concessioner will obtain a leasehold surrender interest in the structure. The initial construction cost of this leasehold surrender interest will be the construction cost of the major rehabilitation. Depreciation for purposes of leasehold surrender interest value will apply only to the rehabilitated components of the related structure.

Section 17. No leasehold surrender interest results from repair and maintenance of real property improvements.

The Concessioner will not obtain initial or increased leasehold surrender interest as a result of repair and maintenance of real property improvements unless a repair and maintenance project is a major rehabilitation.

**EXHIBIT B
OPERATING PLAN**

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I. INTRODUCTION

This Operating Plan between Fire Island Concessions, LLC, (hereinafter referred to as the "Concessioner"), and the Director of the National Park Service through the Superintendent, Fire Island National Seashore (hereinafter referred to as the "Service") shall serve as a supplement to Concession Contract CC-FIIS007-05 (hereinafter referred to as the "CONTRACT"). It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within Fire Island National Seashore which are assigned to the Concessioner for the purposes authorized by the CONTRACT. Fire Island National Seashore shall be represented by the Superintendent's designee in all matters pertaining to this operating plan, unless otherwise noted.

In the event of any conflict between the terms of the CONTRACT and this Operating Plan, the terms of the CONTRACT, including its amendments, shall prevail.

This plan will be reviewed annually by the Superintendent's designee in consultation with the Concessioner and revised as determined necessary by the Superintendent of Fire Island National Seashore. The Superintendent's designee is the Concessions Management Specialist, Fire Island National Seashore.

Revisions shall not be inconsistent with the CONTRACT. Revisions must be reasonable and in furtherance of the purposes of the CONTRACT.

The Service's responsibilities are subject to the availability of appropriated funds.

II. REQUIRED SERVICES¹

A. FOOD AND BEVERAGE SERVICES

1. Snack Bar and Restaurant service shall be provided through the Operating Season. The Operating Season is defined as: May 15 through October 15. If May 15 is a Monday or Tuesday operations are to be open the previous Saturday. If October 15 is a Thursday or Friday, operations are to be open through the following Sunday. Within the Operating Season there are Spring, Summer and Fall Seasons. In 2009 Spring is from May 8 through June 26; Summer is from June 27 through Labor Day, September 7; and Fall is from September 8 until October 25. The Food and Beverage services will open on May 16 and close on October 25.

The Service will monitor the level of customer demand at all food and beverage outlets and, after consultation with the Concessioner, make written adjustments to the following operating hours as needed:

See Attachment 1 of this agreement for a current Schedule of Operations.

¹ see Contract Sec.3 for full list of required services

2. Snack bar menus shall include, but not be limited to, deli items, grill service and snacks. All menu items shall be of high quality and quantity, consistent with deli-type foods served on the mainland of Long Island.

All menus will maintain selections and price ranges that accommodate the general population of Park visitors.

The Watch Hill table service restaurant menu shall offer selections consistent with typical family lunch or dinner depending upon the time of the day.

Reservations may be accepted and honored. However, not less than 10 percent of all seating will be maintained on a first come, first served basis.

When possible and practical, the Concessioner shall include locally grown food on the menu.

Beverages may be served in glass as an adjunct to table service, but glass must not be permitted to leave the serving area.

3. Tiki Bar and the Restaurant Bar:

The Concessioner shall comply with applicable State laws and regulations for the service of alcoholic beverages.

Liquor, beer and wine may be sold by the drink, solely when food is being prepared and served. No promotional activities will center on alcoholic beverages (e.g., happy hour, two-for-one sales.)

No glass bottles shall be used for drink sales in the snack bars, stores, the Tiki Bar or the Restaurant Bar if not as an adjunct to table service.

4. The Concessioner will purchase environmentally preferable products and/or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose, where economically and technically feasible and appropriate.

B. MARINA SERVICES

1. Seven slips are reserved for Service use at Watch Hill; three slips are reserved for Service use at Sailors Haven. Slips reserved for Service use shall be without charge.

At Sailors Haven, intermittent provision must be made for loading and unloading the Service barge at slip number 32. The docking and unloading will occur on a week-

day except in emergency situations as declared by the Superintendent. Advance notice to the Concessioner of 24 hours will be provided. The time of such interruption will be no more than 8 hours. However, boats more than 35 feet long that may be berthed in slip #26 to #32 will have to be temporarily moved.

2. Two Fire Island Concessions employees (21 years of age or older) shall be on site 24-hours a day during the Summer Season and on spring and fall weekends, one at Sailors Haven and one at Watch Hill. For emergency purposes, the name and contact location of this attendant shall be posted at a location agreed upon by the Superintendent, and said information given to the Ranger-in-Charge.

Sailors Haven: See Attachment 1 of this document for a schedule of the required dockmaster hours.

Watch Hill: The dock master's office must be staffed 24-hours a day on Friday and Saturday on weekends during the Summer Season and Friday, Saturday and Sunday on holiday weekends during the entire operating season. See Attachment 1 of this document for a schedule of the required dockmaster hours.

3. The Concessioner and Superintendent's designee shall meet at least once weekly during the season to discuss Concession operations to address any issues.
4. The Concessioner shall enforce a stay limit of two weeks (fourteen consecutive days) during the summer season. A portion of the marina may be used for reservations, but at least one-half of the slips must be available on a first-come, first-served basis. This applies to all categories of marina slips. The waiting list policies shall be in writing and posted on the Fire Island Concessions' website.
5. The Concessioner shall record each slip rental by boat name and registration number, registering person, address, phone number, boat length, amount paid, date and time of entry and exit. These records shall be available to the Service weekly.
6. A report of the total number of boats docked daily in the Watch Hill and Sailors Haven marinas will be forwarded to the Concession Specialist by the 15th of the month.
7. The Concessioner shall provide free sewage pump-out services for slip renters at Watch Hill and Sailors Haven. Pump-out services for others will be provided at a charge to be approved by the Superintendent.
8. The Concessioner shall paint a dotted white line on the A, B, C, D, and E Docks at Watch Hill in order to enforce a prohibition of chairs, tables, coolers, and other materials from being placed as obstructions to through pedestrian traffic. On C and D docks, the obstruction-free area will be between the boats and the white line. On A, B, and E docks, the obstruction-free area will be on the outside of the white line. At

Sailors Haven, all chairs, tables, coolers and other materials shall be allowed on the outside of the white line. (The inside of the dock is defined as the area next to the boats and/or slips and the outside of the dock is the area next to the land.)

9. Picnic Areas: All picnic tables and grills and grill stands are to be checked and maintained on a daily basis. Ashes shall be removed from grills on a daily basis. Further maintenance requirements for grills and picnic tables are found in the Maintenance Plan, Exhibit E.

C. MERCHANDISING OPERATIONS

1. Groceries, sundries, camping and fishing supplies shall be sold at Watch Hill and Sailors Haven. Any requests for additional items must be approved by the Superintendent. The Superintendent will review sales items for appropriateness and reserves the right to require the removal or restriction of certain items. All merchandise must be marked with a selling price.
2. Watch Hill and Sailors Haven stores shall sell boating supplies including oil and electrical fuses. Boating supplies shall include the sale or rental of the electrical utility cords that are necessary to interface with the marinas' electrical service.
3. All retail services shall comply with the guidelines established by DO-48, "Concessioner Review Policy, Operational Performance Standards" and Handcrafts, Gifts and Merchandise." The "Gift Shop Mission Statement," is attached as Attachment 2.
4. The Concessioner will provide environmentally preferable products (that have a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose) when possible.
5. Cigarette vending machines shall not be placed in the park.

D. CAMPGROUND

1. At Watch Hill 26 individual campsites and one group site will be provided. All campsites can only be accessed by foot.
2. Camping equipment must be completely removed and the site cleaned, including removing ashes from the grills, prior to each rental.
3. The Concessioner will enforce a stay limit of two weeks (fourteen consecutive days).
4. Dogs are allowed but must be kept on a leash at all times.

5. The Concessioner will record by name at least one individual and/or organization per campsite including address, phone number, amount paid, date and time of entry and exit using an accountable system acceptable to the Service. These records will be available to the Service as necessary.
6. The Concessioner shall grant a 50% discount to "Golden Age" and Golden Access" passport holders for camping fees and any other discount programs such as may be developed by the Service for comparable U.S. fees for camping. Such a discounted rate shall be specifically stated in the approved rate schedule. Note: The "Golden Eagle" passport and National Parks Pass, which are annual entrance permits, do not cover camping fees.
7. A written waiting list policy shall be available to visitors on the Fire Island Concessions' Website.

III. AUTHORIZED SERVICES²

- A. Boat and Kayak rentals shall be approved by the Superintendent before they may be offered to the public. Type, size and manner of rental will be considered.
- B. All gift and souvenir sales, interpretive materials and apparel will conform to the following guideline:

Gift shops will offer items, which have a direct relationship to Fire Island National Seashore, its environment, its history, or other related environmental or cultural topics. This will provide visitors with opportunities to buy memorabilia of their park visit while at the same time obtaining information or educational messages related to the park's resources. Refer to Gift Shop Mission Statement in Attachment 2 to this Operating Plan.

IV. QUALITY CONTROL

- A. The Service and the Concessioner will inspect and monitor Concession facilities and services to:
 - Ensure public health and safety;
 - Ensure provision of satisfactory, adequate services;
 - Ensure that rates for public services and products have been authorized by the Superintendent;
 - Ensure that employee living and working conditions are satisfactory; and

² see Section 3 of the Contract for the contractual list of authorized services

- Ensure that buildings, equipment, marina and campground are well maintained and in compliance with applicable codes.

Public health inspections will be conducted in accordance with model codes prescribed by the United States Public Health Service (USPHS). The USPHS and the Suffolk County Health Department and the State of New York may inspect food service operations. The Concessioner shall comply with the codes set forth by the Suffolk County Health Department, the State of New York and the USPHS, whichever is the most stringent.

Results of the USPHS inspections will be forwarded to the Concessioner by the Superintendent's designee in a timely manner. The Concessioner shall provide to the Service copies of Suffolk County Health Department and State of New York inspections within one week of their receipt by the Concessioner.

Upon request, the Concessioner shall cooperate with the Service in scheduling inspections and in accompanying Service staff. Some inspections may be made without advance notice.

The Concessioner shall participate with the Service in establishing abatement plans to correct deficiencies. Abatement plans will be approved by the Superintendent. The Concessioner shall comply with correction dates established by the USPHS and the Superintendent.

B. Concessioner shall recycle all cooking and motor oils.

V. MANAGEMENT, ORGANIZATION AND RESPONSIBILITIES

A. Concessioner:

The Concessioner shall employ a General Manager, who has the responsibility for complying with and carrying out the policies and directives of the Service, as well as those of the Concessioner in operating the authorized Concession facilities in Fire Island National Seashore. The General Manager shall be the primary contact between the Concessioner and the Service. There shall be an on-site manager for each site at all times; whether that manager is also the General Manager or someone else shall be fully known by the staff.

B. National Park Service:

The Superintendent manages the total park operation and carries out the policies and directives of the Service, including oversight of Concession contracts. The Superintendent, through his or her designee, reviews, supervises, and coordinates Concession activities related to Fire Island National Seashore.

The Superintendent's designee reviews and coordinates the Concessioner's day-to-day activities; reviews operational and maintenance activities; rates, service, and schedule changes; equal employment opportunity and affirmative action plans; advertisements; construction proposals; annual financial reports; insurance coverage; and any other contract requirements. He\she ensures necessary evaluations and inspections are performed. He\she also ensures that all Concessioner rates are approved based upon current rate comparison studies or applicable guidelines and acts as a liaison between the Concessioner and Superintendent. All correspondence, inspections and reports will be routed through the Superintendent's designee for all matters under this Contract.

All services, rates, menus, operating dates and hours, facility improvements and new construction will be reviewed by the Superintendent's designee, and shall be approved by the Superintendent prior to implementation.

VI. REPORTS

The Concessioner is responsible for submitting to the Service the following reports:

- | | | |
|--|------|---|
| (1) Annual Financial Report | Due: | No later than 120 days after the last day of the Concessioner's fiscal year |
| (2) Certificate(s) of Insurance | Due: | One week prior to opening |
| (3) Liquor License | Due: | Prior to opening the first year and whenever amended or renewed thereafter |
| (4) The Risk Management Program updates | Due: | Prior to opening |
| (5) Safety Inspections (Minimum) | Due: | Prior to opening |
| (6) Environmental Program (EMP) updates ³ | Due: | Annually February 1 |

The service is responsible for conducting the following inspections and submitting the following reports:

- | | | |
|--|------|--|
| (1) Pre-season Inspection | Due: | Two weeks prior to opening |
| (2) Periodic Operation Evaluation | Due: | Prior to opening and twice during season |
| (3) Risk Management Program Evaluation | Due: | During operating season |
| (4) U.S. Public Health Inspection | Due: | Minimum of one annually |
| (5) Close-out Inspection | Due: | Two weeks after closing |

³ Sec.6(b) of the Contract

VII. UTILITY RESPONSIBILITY

The Concessioner is responsible for obtaining applicable utility services. The Service will aid the Concessioner on a reimbursable basis where services are not otherwise available. All costs of service are the responsibility of the Concessioner.

Rates for utility services, which are furnished to the Concessioner by the Service, shall be based on costs.

Water will be provided to the Concessioner by the Service through the water service acquired from the Suffolk County Water Authority (SCWA). The Service will bill the Concessioner twice a year, in July and October. The Concessioner will pay 25% of the Sailors Haven SCWA bills and 75% of the Watch Hill SCWA bills. The Service will submit a bill of collection (BOC) to the Concessioner within 30 days of receipt of the SCWA bills.

Reimbursement for sewage will be billed as a percentage of the SCWA bills for Watch Hill and Sailors Haven. The sewage rate will be \$ 0.25375 for each gallon of water usage allocated to the Concessioner.

Utility services provided by the Service will be turned on at least two weeks prior to the Concessioner's opening date and will remain on a minimum of two weeks after the closing date.

VIII. SCHEDULE OF OPERATION

The Concessioner shall submit a written schedule of proposed opening and closing dates and operating hours for all Concession facilities by January 31 for the Superintendent's approval. Weather and visitor use may cause specific dates of operating seasons to fluctuate; these dates will be approved by the Superintendent as appropriate. Any activities outside the established operating dates and hours may be considered as special events and subject to the fees, costs, and approval process of such event requests.

All Concession facilities must be open and staffed during the Operating Season. The Operating Season is defined as: May 15 through October 15. Pre-Season and Post-Season operations for school groups also require the Superintendent's approval. If May 15 is a Monday or Tuesday facilities are to be open for business the previous Saturday. If October 15 is a Thursday or Friday, facilities shall be open for business through the following Sunday. The Concessioner may extend the season or operate year-round with the approval of the Superintendent. The Service is organized to provide services described in this Contract and Operating Plan only through the Operating Season. If changes to utility systems are necessary to accommodate an extended season, such changes shall be at the Concessioner's expense.

IX. SPECIAL EVENTS

The Concessioner shall deliver to the Superintendent's designee, written requests to the Superintendent for approval of special events. A Special Event is defined as any activity not contained within the normal operations under this Contract. Normal operations would be defined as providing the services to the general public as outlined within this Contract during the hours of operations as authorized by the Superintendent.

Special Use Permits will be issued by the Service, and any costs borne by the Service will be billed to the Concessioner.

X. RATES

Rate Determination: It is the objective of the Service that the Concessioner's rates and charges to the public are commensurate with the level of services and facilities provided, and are reasonable, justified, and comparable with similar services and facilities provided by the private sector. Reasonableness of rates will be in accordance with current Service Concessions Management Guidelines.

Food and beverage items: rates will be approved using the Core Menu methodology.

Convenience items: rates will be approved based on mark-up percentages.

Merchandise items: rates will be approved using the competitive market declaration.

Campground: rates will be approved using the direct comparability method.

Marina: rates will be approved using the direct comparability method.

The Concessioner will submit written requests to the Superintendent's designee for all rate approvals at least **45 days prior** to anticipated implementation date. Requests for rate change will be processed as expeditiously as possible, but no new rates may be charged to the public until and unless such rates are approved by the Superintendent. The Concessioner shall suggest **two** comparable properties in competitive markets to use as comparisons for determining appropriate rates on Fire Island.

All requests for changes in rates after May 15 must be thoroughly documented as to need and must be approved by the Service before they can be put into effect.

The Concessioner will post all rates for goods and services provided to the visiting public. Rates for camping shall be posted at the campground, ranger station and visitor information center.

XI. PROTECTION/SECURITY/SAFETY

A. Concessioner

The Concessioner shall continually develop a Risk Management Program and Plan by annually improving said plan as needed in time for Service review by May 1. When no changes to the plan are deemed to be necessary the Concessioner shall request concurrence from the Superintendent by written notification through the Superintendent's designee.

The Concessioner shall accept insurance company inspections, when offered, and provide copies of said inspections to the Superintendent. The Concessioner shall provide copies of inspections conducted by regulatory agencies to the Superintendent.

Safety inspections will be conducted by the Concessioner and shall be conducted according to a predetermined schedule and documented on a checklist.

Concession personnel responsible for making sanitation and safety inspections shall accompany Service and the Public Health Service officials on their inspections.

The Concessioner will report all law enforcement matters to the appropriate District Ranger as soon as possible after learning of the incident.

The Concessioner shall provide and maintain fire extinguishers, and life rings in its assigned areas as per Federal, State and Local codes. The Concessioner is solely responsible for providing alarms and theft deterrent systems to their facilities.

The Concessioner shall post after hours emergency contact telephone numbers at the marinas, snack bars, and the restaurant. The emergency contact list must be approved by the Superintendent prior to opening day and as updates are posted throughout the operating season.

Incident Reports: The Concessioner will immediately report to the Service, through the appropriate District Ranger: injury sustained by a visitor or employee in a Concession facility and/or all medical emergencies; property damage over \$500; any fire; any incident that affects the park's resources; and any known or suspected violations of the law involving persons not employed by the Concessioner.

Human Illness Reporting: All employee and/or visitor illness complaints shall be promptly reported to the Service through the appropriate District Ranger so that thorough investigating procedures can be completed as necessary.

The Concessioner shall possess during the periods of operation, all permits and licenses required by State, County, Municipal and Federal law and a New York State Liquor License.

All vehicular equipment used as part of the Concessioner's operation shall be properly registered, licensed, insured, and maintained by the Concessioner in accordance with applicable laws. Current proof of insurance is required in the amount stated in the Contract, Exhibit I, Insurance Requirements.

Drivers of Concession-owned vehicles used in Concession operations shall have a valid state operator's license for the size and class of vehicle driven. Seat belts will be worn whenever vehicles or equipment are operated. Proper personal protective equipment (PPE) must also be worn when operating equipment. The Concessioner will be responsible for ensuring that Concession employees are trained in proper use of vehicles and equipment. The Concessioner is responsible for providing and maintaining PPE and for providing training in the proper use of PPE.

Enforcement of Rules and Regulations: Concession personnel are expected to enforce all rules and regulations as outlined in this Contract and as set by the Concessioner. Service Rangers are not expected to be the primary enforcement. Concession personnel will be expected to make two visitor contacts to enforce a rule or regulation. If after two attempts, the visitor (s) is (are) not compliant, the Ranger-in-charge should be called for assistance. Concession personnel should use discretion to contact the Ranger-in-charge immediately if conditions warrant earlier law enforcement intervention.

The Concessioner may decide to employ security personnel to enforce the applicable rules and regulations. If the Concessioner chooses to employ security personnel, such personnel may act as private citizens but have no authority to take law enforcement actions or carry firearms.

Fire protection and suppression shall be provided jointly by the Service and the Concessioner. The Concessioner shall ensure that all buildings and areas within the assigned areas meet Fire and Life Safety Codes and that fire detection and suppression equipment meet applicable codes and is in good operating conditions at all times.

The Concessioner shall be solely responsible for compliance with all building, health sanitation, life-safety, building codes, health and sanitation codes.

The Concessioner shall monitor weather conditions and Service warnings of dangerous weather and shall apprise customers and employees of same.

B. Service

The Superintendent has the authority to assign operational performance ratings to the Concessioner including the Concessioner's safety performance under its Risk Management Program and Environmental Management Plan (EMP)

The Superintendent's designee will recommend operational performance ratings to the Superintendent and obtain whatever expertise is needed to evaluate the Concessioner's performance of its Risk Management and Environmental Programs at least once during the operating season, prior to December 1.

A representative of the Service will investigate all visitor-related accidents, all employee accidents requiring medical attention, and all accidents involving property belonging to the Service.

The Service will respond to emergency calls involving public safety, civil disturbances, and violations of the law, fires, hazardous substance spills and releases.

XII. COMPLAINTS

The Concessioner shall answer all written complaints and provide copies of the correspondence to the Superintendent's designee. The Service will investigate all complaints and the Concessioner will cooperate with the investigation to determine the cause of the complaint and practical remedy.

In order to initiate valid and responsive visitor comments, the following notice will be prominently posted at all Concessioner cash registers, payment areas, on the dock master's building and the campground bulletin board. Message is to be in letters at least 24 points in size and not handwritten.

This service is operated by Fire Island Concessions, LLC, a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner and maintaining facilities in an acceptable condition. Prices are approved by the National Park Service based upon price comparisons with those charged by similar private enterprises outside the Park for similar services with due consideration for appropriate differences in operating conditions.

**Please address comments to: Superintendent
Fire Island National Seashore
120 Laurel Street
Patchogue, New York 11772**

XIII. EMPLOYEES AND EMPLOYMENT

Concession employees shall project a hospitable, friendly, helpful, positive attitude and be capable and willing to answer visitor questions about the park and general information.

The Concessioner shall not employ in any status a Service employee, their spouse, or their minor children without prior written approval of the Superintendent.

Employee Identification – Concession employees who come in direct contact with the public shall wear a uniform or otherwise identifiable clothing style and name tag, as approved by the Superintendent, by which they may be distinguished as the employees of the Concessioner.

All Concession personnel are to be neat, clean and present an attractive personal appearance.

XIV. CONCESSIONER EMPLOYEE TRAINING

Employee orientation is the responsibility of the Concessioner. Such orientation should take place before the beginning of the summer season and be attended by the Superintendent's designee when possible. At least one Concession employee certified in CPR will be on duty at all times in food service operations. Concession employees are invited to attend the Service's pre-season orientation training including First Aid, and CPR courses. At least two Concession employees for each site shall be First Aid and CPR certified and listed with Service personnel. The Service will provide a training session on the mission of the Service for Concession employees prior to July 1 each year.

An active, on-going, training program for the development of necessary skills and techniques must be provided for all employees. These sessions shall stress work performance, and also include product and service presentation, safety, cleanliness, employee attitudes, environmental management and Service philosophy and policy. All sessions on safety must be in writing.

XV. PUBLIC INFORMATION AND ADVERTISING

All literature available or distributed to the public (including web sites), referring to Concession service must be submitted in writing to the Superintendent's designee and approved by the Superintendent prior to publication or use.⁴ All such material shall identify the Concessioner as "an authorized Concessioner of the Fire Island National Seashore, National Park Service, Department of the Interior." The Concessioner shall

⁴ See Contract, Sec.3(d)(2)

cooperate with the Service to provide timely information to its patrons regarding park programs and regulations concerning visitor use and resource protection.

Public signs for which the Concessioner is responsible must be appropriately located, accurate, attractive and well maintained. All signs are to be prepared in a professional manner, consistent with Service standards, appropriate for the purpose they serve and be approved by the Superintendent prior to installation.

Every marina and campground customer who pays for a space will receive a handout printed at the Concessioner's expense on minimum 30 percent post-consumer recycled content paper that explains the rules and regulations for use of the marina and campground. It also will highlight safety notices and provide information on the Service's and Concessioner's Environmental programs. The Service will work with the Concessioner in development of this handout. The Concessioner will maintain a display rack and provide written park visitor information at the convenience stores. The Service will provide the information.

The Concessioner shall implement and maintain a customer comment system that is current with such programs used in the hospitality industry and Service policy. At a minimum, customers will be provided an opportunity to rate service, merchandise quality, prices, appearance and cleanliness. The results shall be made available to the Service who will review them jointly with the Concessioner to determine areas for improvement.

XVI. CONCESSIONER HOUSING

Limited housing is assigned by Exhibit D for the Concessioner's use. The Concessioner will be responsible for payment of all utilities. The housing shall be subject to periodic inspection as with all assigned property. The Service will give no less than 48 hours notice prior to conducting an inspection. Occupancy of the house at any time shall not exceed 2 persons per bedroom for overnight use.

The Concessioner will assure employee compliance with health, fire, and safety code regulations and Service policies and guidelines.

XVII. SMOKING IN PUBLIC BUILDINGS

Smoking is prohibited in all buildings assigned to the Concessioner including the living quarters. The Concessioner will post notices in all public buildings as necessary.

XVIII. QUIET HOURS

Quiet hours will be enforced by the Concessioner between the hours of 10:00 PM and 6:00 AM within the Concession facilities, the campground and the Concessioner's housing area.

XIX. RECYCLING, CONSERVATION AND LITTER REDUCTION

The Concessioner shall adhere to Executive Order 13101, State and local standards for processing waste and recyclable materials.⁵

Source Reduction: The Concessioner will implement a source reduction program, in compliance with E.O. 13101, designed to minimize its use of disposable products in its operations. Reusable and recyclable products are preferred over "throwaways." and plastics will be used as little as possible and polystyrene will not be allowed. Where disposable products are needed, products will be used which have the least impact on the environment. The use of post-consumer recycled products whenever possible is encouraged.

Recycling and Beverage Container Programs: The Concessioner shall participate fully in the beverage container redemption/recycling program in compliance with E.O. 13101. The Concessioner shall implement a recycling program, which fully supports the efforts of the Service. Products to be recycled include but are not limited to paper newsprint, cardboard, bimetals, plastics, aluminum, glass, used cooking oil, antifreeze, and batteries. The Concessioner shall provide access to and use of recycling programs to the Service and its cooperators. The Concessioner shall deliver the collected recyclable material to an approved recycling center on the mainland.

The Concessioner shall recycle all cooking oils with licensed contractors and provide receipts to the Superintendent's designee.

Water and Energy Conservation: The Concessioner will implement water and energy conservation measures for each of its operations. As new technologies are developed, the Concessioner will explore the possibility of integrating them into existing operations where there is potential efficiency, reduced water or energy consumption, or reduced impacts on the environment.

The Concessioner shall inform the public and assure compliance with the Service Carry In Carry Out (CICO) policy.

⁵ See Exhibit H of the Contract, (Maintenance Plan)

Climate Friendly Park: Fire Island National Seashore has been designated as a Climate Friendly Park. The goal of Climate Friendly Parks is to reduce the carbon footprint in national parks and to educate the national park visitor as to what they can do to reduce their carbon footprint both at their parks and in their homes. The Concessioner is expected to support the Service's initiatives set within the Climate Friendly Park program.

XX. HAZARDOUS WASTE PROGRAM

The Concessioner must comply with all Federal, State and local regulations regarding hazardous waste. The Concessioner shall minimize the use of hazardous materials; proposal for use of any product containing material safety data sheets (MSDS) must be presented to the Superintendent's designee for approval by the Superintendent.

When a release of a hazardous or non-hazardous chemical or biological product occurs, proper corrective, cleanup, and safety actions must be implemented immediately and the Superintendent's designee notified.

XXI. INTEGRATED PEST MANAGEMENT⁶

The control of pests by chemical and other means is subject to Service approval. Procedures are outlined in the Service's Integrated Pest Management Program. Specific problems can be referred to the park's Integrated Pest Management Coordinator.

XXII. DESIGN AND CONSTRUCTION

The Service must approve plans and specifications for all construction prior to the start of each project. Submittals should be made in a time frame, which allows for all necessary reviews and clearances and in accord with Exhibit F of the CONTRACT. Plans and specifications must be prepared in accordance with NPS-48, Design and Construction and NPS-10, Drafting Guideline.

XXIII. INVESTMENT AND IMPROVEMENT PROGRAM

The Concession Facilities Improvement Program shall include the following minimum schedule of work.

Estimated Investments:

	<u>Year one</u>	<u>Year two</u>	<u>Year three</u>	<u>Year four</u>	<u>Year five.</u>
Watch Hill Marina	\$167,015	\$142,402	\$30,520	\$124,192	\$ 75,854
Watch Hill land services	\$ 90,975	\$479,061	\$14,781	\$ -0-	\$ -0-
Unallocated					\$134,854
	<u>\$1,258,800</u>	<u>\$257,990</u>	<u>\$621,463</u>	<u>\$45,301</u>	<u>\$124,192</u>
					<u>\$209,854</u>

⁶ See Exhibit H Section H and Contract Section 6(g)

Watch Hill	Proposed Dollar Amount
Land Services	
Replace roof, including fascias and soffits on asset 30492 (Watch Hill Restaurant) Replace siding and windows on north and west side of asset 30492 (Watch Hill Restaurant) and add outdoor service area. Replace service door; and add sliding door off Sunset Deck and replace front door Renovate restaurant interior, to include: interior demolition to building shell; rewiring interior of restaurant, limited plumbing in bar area, new sheetrock and lighting, new wood floor, new bar and bench seating area; Bathroom renovation to include new ceramic tile floor, new wall finishes, new plumbing fixtures, new stalls, lighting and ventilation	\$506,738
Replace unserviceable government assigned personal property (as defined in Exhibit E); and Concessioner owned personal property in Asset 30492 (Watch Hill Restaurant)	\$48,400
Replace boardwalk and deck surface around restaurant. Rehabilitate/replace existing railings	\$14,781
Pergolas	\$14,898
Total Land Services	\$584,817
Marina	
<ul style="list-style-type: none"> • Replace 20,480 sf of deck surface with composite material; and widen C-dock (173ft x 10ft est.) • Replace deck surface of A Land A/B walkway and B Land (plus extension) • Repair and/or replace substructure as needed on Boardwalk Dock B/C 	\$204,827
Upgrade utility stanchions at 8 dock sections (Dock A, B, ABT(2), C, CDT(2), D) within 5 years.	\$53,730
Marina Dock Rehabilitation <ul style="list-style-type: none"> • Structurally stabilize E-dock; 423 linear feet. Stabilization will include tie-backs, dead men, whalers, or equivalent method. Straighten north end bulkhead using appropriate (Service approved) methods • Upgrade marina fastening system to include new 3x8 timbers and timber bolts • Repair bulkhead from Garbage Building (Asset 19006) to Pumpout Holding Tank (Asset 111855) • Expand B-dock 	\$241,285
A/B Tee dock tie back replacement and Repairs	\$24,108
C/D Tee dock tie back replacement	\$8,375
Install water meter	\$6,804
Total Marina	\$613,983
Amount of CFIP not yet assigned to a project as of May 1, 2009	\$134,854
Total CFIP	\$1,258,800

The total listed for the improvement program shall be considered a minimum investment. If there are savings on individual rehabilitation items they shall be applied to other project needs as may be approved by the Superintendent.

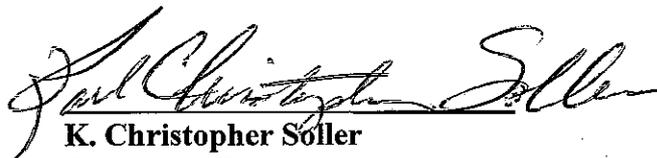
XXIV. INSURANCE

Exhibit I of Contract CC-FIIS007-05 stipulates the types of insurance the Concessioner shall carry.

As conditions change in the construction industry, the Service will provide replacement cost estimates for structures assigned to the Concessioner. These shall be considered to be minimum cost estimates for use under the Exhibit I requirements.

Dated at **FIRE ISLAND NATIONAL SEASHORE** this 8th day of May, 2009

NATIONAL PARK SERVICE



K. Christopher Soller
Superintendent
Fire Island National Seashore

Proposed 2009 (not yet fully submitted by FIC)

Watch Hill	Dockmaster's Office	Snack Bar	Restaurant	Tiki Bar	Store	Bathrooms
Pre-Season Spring School Group	N/A	As Desired	Event Based with Approval	Not Open	As desired	As Needed for School Groups
Spring Season- Opening to 6/25	Mon-Thur 11 AM to 4:30 PM Fri/Sat/Holiday Sunday 9 AM to 10 PM Sunday 9AM to 6 PM	M-F 11-4 Sat-Sun 9-4 Opens 5/16	Friday 5-12 Saturday 5-12 Last Call 11:30 PM Opens Memorial Day Weekend	Fri-Sat 12 PM -10 PM Sun 12 PM - 4PM Last Call 9:45 PM	M-F 11-4 Sat-Sun 11-4 Opens 5/16	Open 24 Hours
Summer Season 6/26-Labor Day	Sun-Thur 8 AM to 11 PM Fri/Sat/Holiday Sunday 8 AM-12 AM (Security 12AM to 8 AM)	M-Th 9:30-5:15 Fri 7-5:15 Sun 7:00-6:30	Thursday-Friday 5 PM-12 PM Last Call 11:30 PM Sunday 3-7 PM	Thur-Sat 12 PM -10 PM Sun 12 PM - 7 PM Last Call 9:45 PM	M-Th 9:30-5:15 F-S 9:30-8:30 Sun 9:30-6:30	Open 24 Hours
Fall Season Labor Day to Closing	Mon-Thur 9 AM to 4 PM Fri/Sat/Holiday Sunday 7 AM to 10 PM Sunday 9AM to 6 PM	M-F 11-4 Sat-Sun 11-4 Closes 10/12	Friday 5-12 Saturday 5-12 Last Call 11:30 PM Closes 10/24	Fri-Sat 12 PM -10 PM Sun 12 PM - 6 PM Last Call 9:45 PM	M-F 11-4 Sat-Sun 11-4 Closes 10/12	Open 24 Hours
Post-Season Fall School Group	N/A	As Desired	Event Based with Approval	Not Open	As Desired	As Needed for School Groups

Sailors Haven	Dockmaster's Office	Snack Bar	Gift Shop	Bathrooms
Pre-Season Spring School Group	N/A	As Desired	As desired	As Needed for School Groups
Spring Season- May 8 to 6/25	Sun-Thur 9 AM to 7 PM Fri/Sat/Hol Sun 7 AM to 12 PM	M-F 10-1:30 Sat-Sun 10-4	M-F 10-1:30 Sat-Sun 10-4	Open 24 Hours
Summer Season 6/26-Labor Day	Sun-Thur 9 AM to 11 PM Fri/Sat 7AM to 12 PM	M-F 10:15 -5:15 Sat-Sun 9-6:15	M-F 10:15-5:15 Sat-Sun 9-6:15	Open 24 Hours
Fall Season Labor Day to October 25	Sun-Thur 9 AM to 7 PM Fri/Sat/Hol Sun 7 AM to 12 PM	M-F 11-3 Sat-Sun 11-3	M-F 11-3 Sat-Sun 11-3	Open 24 Hours
Post-Season Fall School Group	N/A	As Desired		As Needed for School Groups

Not submitted/discussed: Sailors Haven Dockmaster's hours.
 May be some changes to stores and snack bars.

Attachment Two

GIFT SHOP MISSION STATEMENT
FIRE ISLAND NATIONAL SEASHORE

Purpose

Merchandise outlets in national parks provide a necessary service to the visitor. They provide an extension of the park's interpretive program by furthering an understanding of the park's natural, cultural and environmental resources and an opportunity for visitors to purchase mementos of their visit. To accomplish this, gift and souvenir items should have a direct relationship to Fire Island National Seashore, its environment, its history and other related topics.

This Gift Shop Mission Statement provides park objectives for the sale of gifts, providing priority to those items which interpret the park and the area as well as foster cultural appreciation and environmental awareness.

Objectives

1. Fire Island National Seashore will identify themes and categories to guide the Concessioner in the implementation of these objectives. Gifts and souvenirs which do not have an identifiable relationship to Fire Island National Seashore, its environment, its natural/cultural history or other related topics will be phased out of the inventory.
2. The Concessioner will provide ongoing training to retail personnel to ensure interpretive/educational messages are conveyed by sale items and to ensure the quality, authenticity and origin of merchandise.
3. Handcraft items representing the park and regional themes will be encouraged and sought. Handcraft items from other regions of the United States are discouraged.
4. When possible and appropriate, informational displays will be adjacent to sale items or informational tags will be attached to sales items to illustrate the item's relationship to one or more park themes.
5. Sales items with park interpretive and environmental or cultural educational value will be provided prominent display space.
6. Gifts and souvenirs representing park themes will be sought within a broad price range, providing visitors the opportunity to purchase items from both expensive and inexpensive categories.
7. The Concessioner has the responsibility to select appropriate merchandise that supports the Gift Shop Mission Statement and to comply with the current National Park Service Concession Management Guidelines. The purchase of new merchandising inventory will be

phased over a reasonable period of time and items, which do not sell, regardless of how well they support themes, need not be sold or reordered.

8. The following items are not permitted and will not be sold:
 - Items that are mislabeled as to character or origin or otherwise misrepresenteded.
 - Archaeological specimens or objects of American Indian origin over 100 years old.
 - Animal skins or taxidermy specimens or items containing animal parts.
 - Merchandise that offends normal standards of taste or which has been judged to be offensive or inappropriate.
9. The above objectives are for gift and souvenir sales items. It is recognized that the Concessioner will also sell grocery, camping, boating, activity items, clothing, sundries and other general merchandise necessary and appropriate to meet the needs of the visitor.

Gift and Souvenir Themes

1. Outdoor and water-oriented recreational activities and related safety concerns.
2. Natural history of the area, including geology, wildlife and plant life of the area and forest and riparian ecology.
3. Climate Friendly Parks

EXHIBIT C

NONDISCRIMINATION

Section I: Requirements Relating to Employment and Service to the Public

A. Employment

During the performance of this 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 provision of this nondiscrimination clause.

(2) The Concessioner will, in all solicitations or advertisements for employees placed by 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 No. 11246 of September 24, 1965, as amended by Executive Order No. 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 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 CONTRACT or with any of such rules, regulations, or orders, this CONTRACT may be canceled,

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 by law.

(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 No. 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 A(8) governing performance of work under this CONTRACT, as set out in Section 202 of Executive Order No. 11246 of 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:

- (h) 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, 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.

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.

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 service 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.

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 D

ASSIGNMENT OF LAND AND REAL PROPERTY IMPROVEMENTS (CONCESSION FACILITIES)

Land and buildings are assigned as described herein and depicted in the following four pages of graphics consisting of three aerial photographs and one colored drawing.

The red line drawing is a convention that is used on the graphics to assign land and facilities. The areas inside the red line are assigned to the Concessioner. "Contract Area" shall mean land assigned to the Concessioner.

Two of the aerial photographs depict the Watch Hill area. One is a distant view so as to include the campground, Dune Station restrooms/showers and house that are assigned. Note the red line that is drawn around the campground, restrooms/showers the Concessionaire's house, picnic areas, boat pump-out, garbage transfer station, the boat basins, docks, dock masters office, store, restaurant and snack bar complex, bulkheads around the boat basin, marina restrooms, storage rooms, and boardwalks around the basins.

Bulkheads at the channel entrance to Watch Hill marina are excluded from the land assignment for maintenance of the bulkheads only. The assignment includes bulkheads for maintenance beginning at the first slip on the West side of the entrance and continues around the perimeter of the marina to and including the garbage transfer station on the opposite side of the marina. Grounds are assigned for a distance of 20 feet inland from the boardwalks and bulkheads where there may be no boardwalks.

The white-line rectangle on the distant view of Watch Hill shows the perimeter of the field of view of the following enlarged aerial photograph. There are exclusions that are identified by the white script on the photo as "not in Contract". Exclusions include the "visitor center and first aid station" and the "ferry waiting area."

The Sailors Haven photograph assigns the boat basin, picnic areas, restrooms, bulkheads along the perimeter of the boat basin, pump-out station, garbage transfer station, snack bar and store, boardwalks around the basins, and 20 feet of land inland from the boardwalks.

Bulkheads around the boat basin are included. As with Watch Hill, bulkheads at the channel entrance are excluded from the land assignment for maintenance of the bulkheads only. The red line is intended to be broad enough to require the Concessioner to pick-up litter on and around all bulkheads. Grounds are assigned for a distance of 10 feet inland from the boardwalks.

The Sailors Haven ferry dock is excluded from the land assignment.

The "Barrett-Talisman graphic" depicts the Land assignment in red line drawings that shall include the associated septic tanks and extended areas as described on the graphic. Housing is assigned at both Watch Hill and Sailors Haven. House #11 of 1012 ft² is assigned at Watch Hill; a three bedroom unit of 1210 ft² is assigned at Sailors Haven. Grounds of a 20 foot radius are assigned around the houses and include septic tanks should they be outside of the 20 foot zone.

Effective May 1, 2005

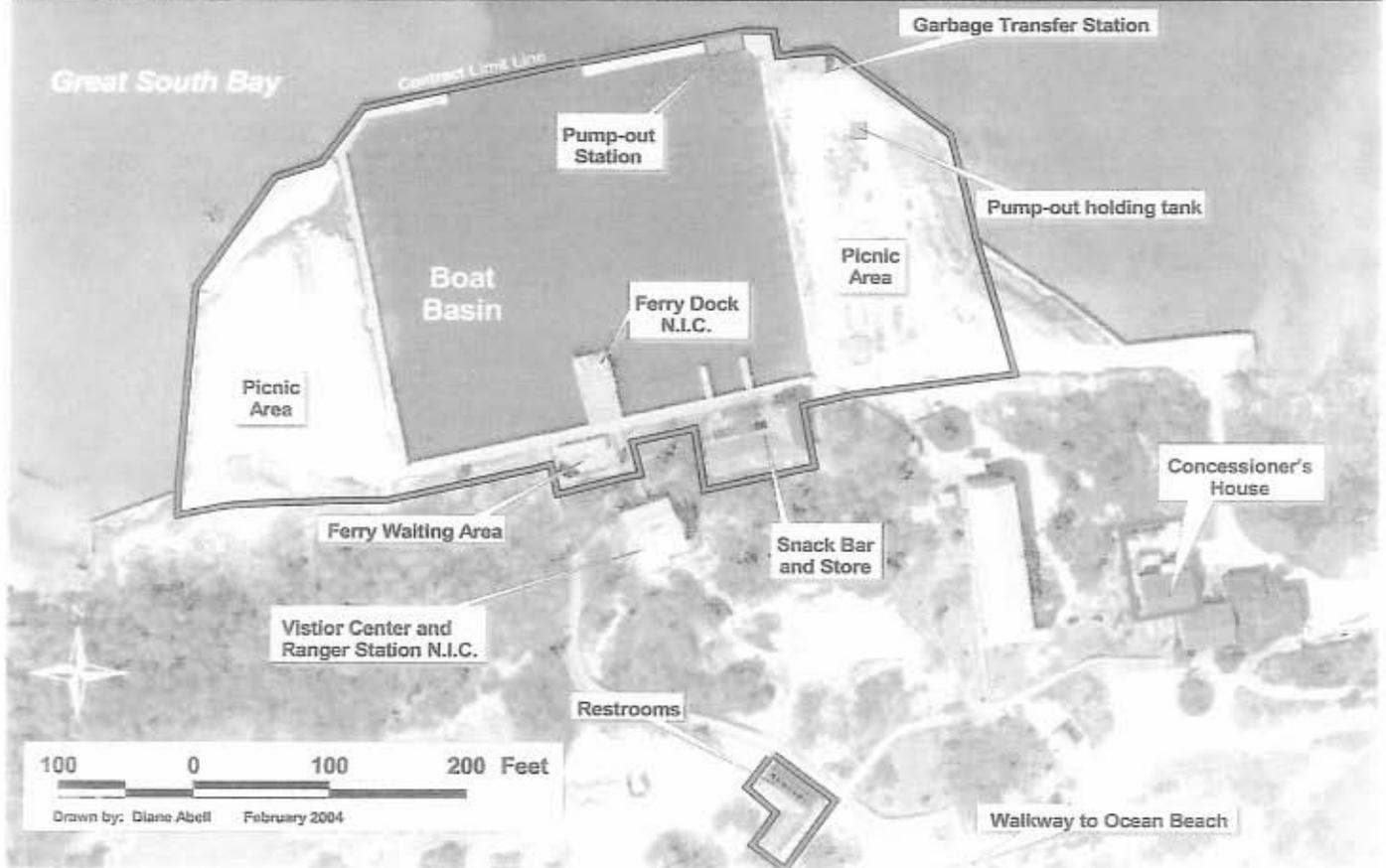
UNITED STATES OF AMERICA

By 
Regional Director, Northeast Region
National Park Service

Fire Island National Seashore

SAILORS HAVEN

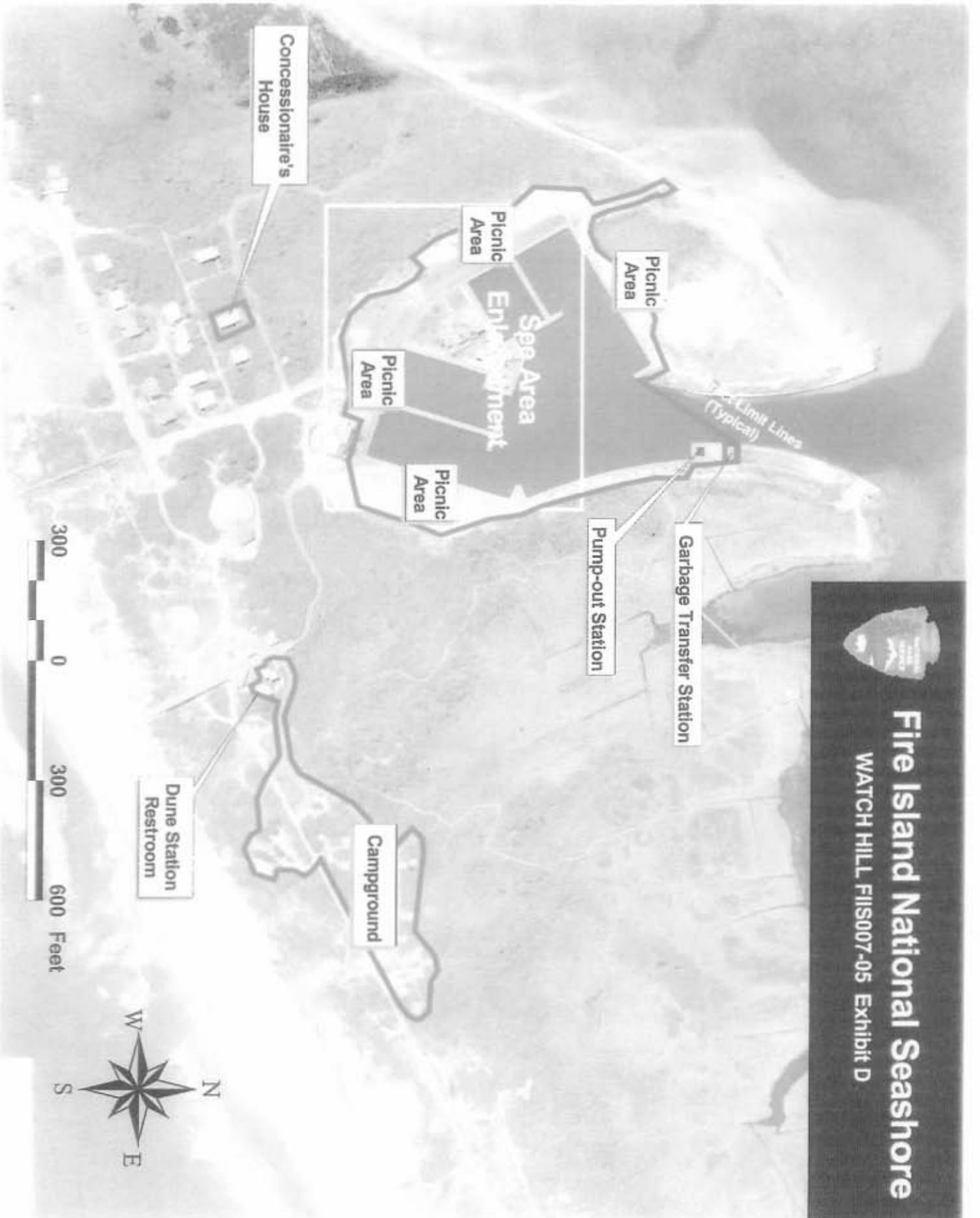
FIIS007-05 Exhibit **D**





Fire Island National Seashore

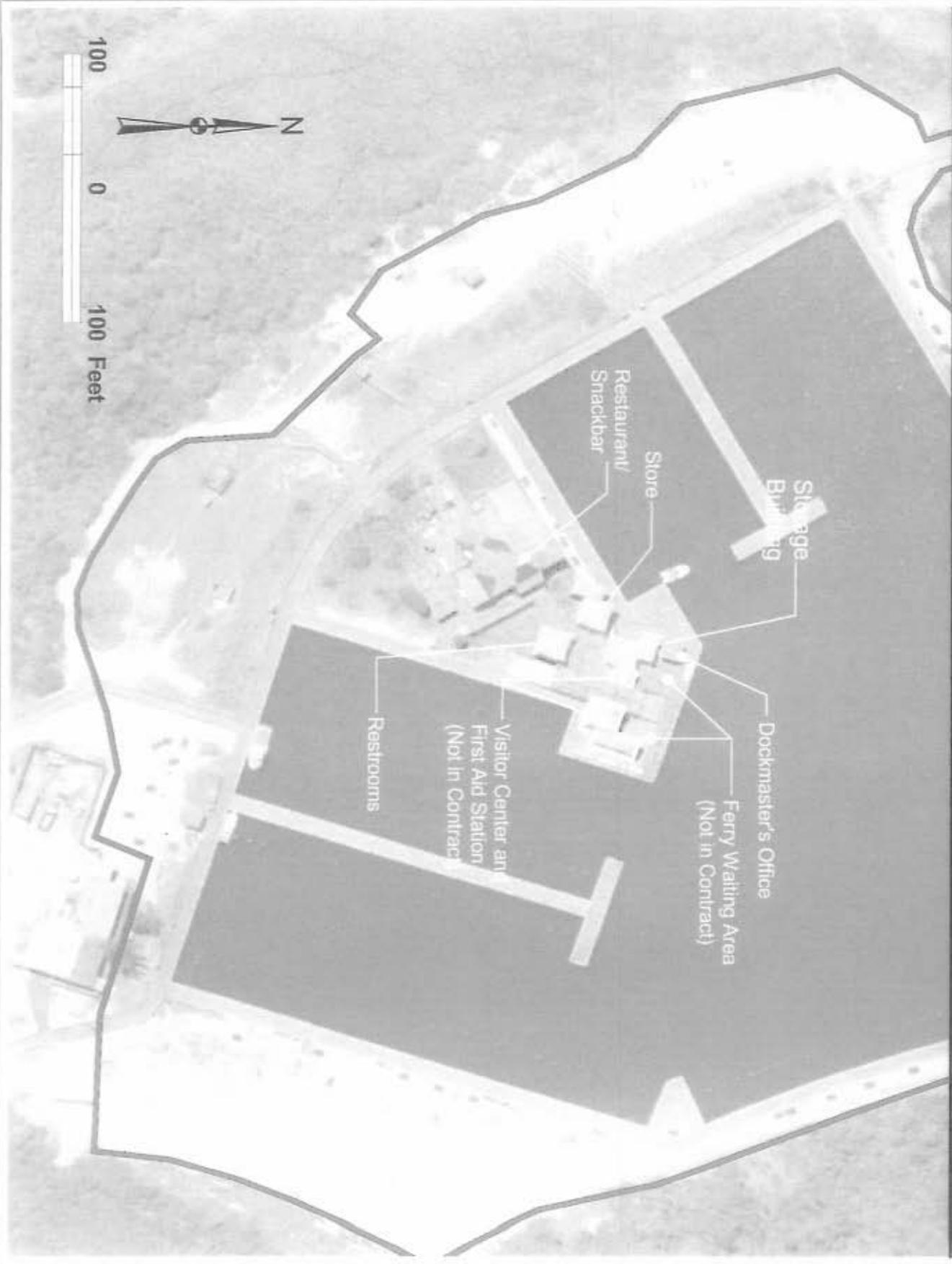
WATCH HILL FIIS007-05 Exhibit D





Fire Island National Seashore

WATCH HILL FISS007-05 Exhibit D - Enlargement

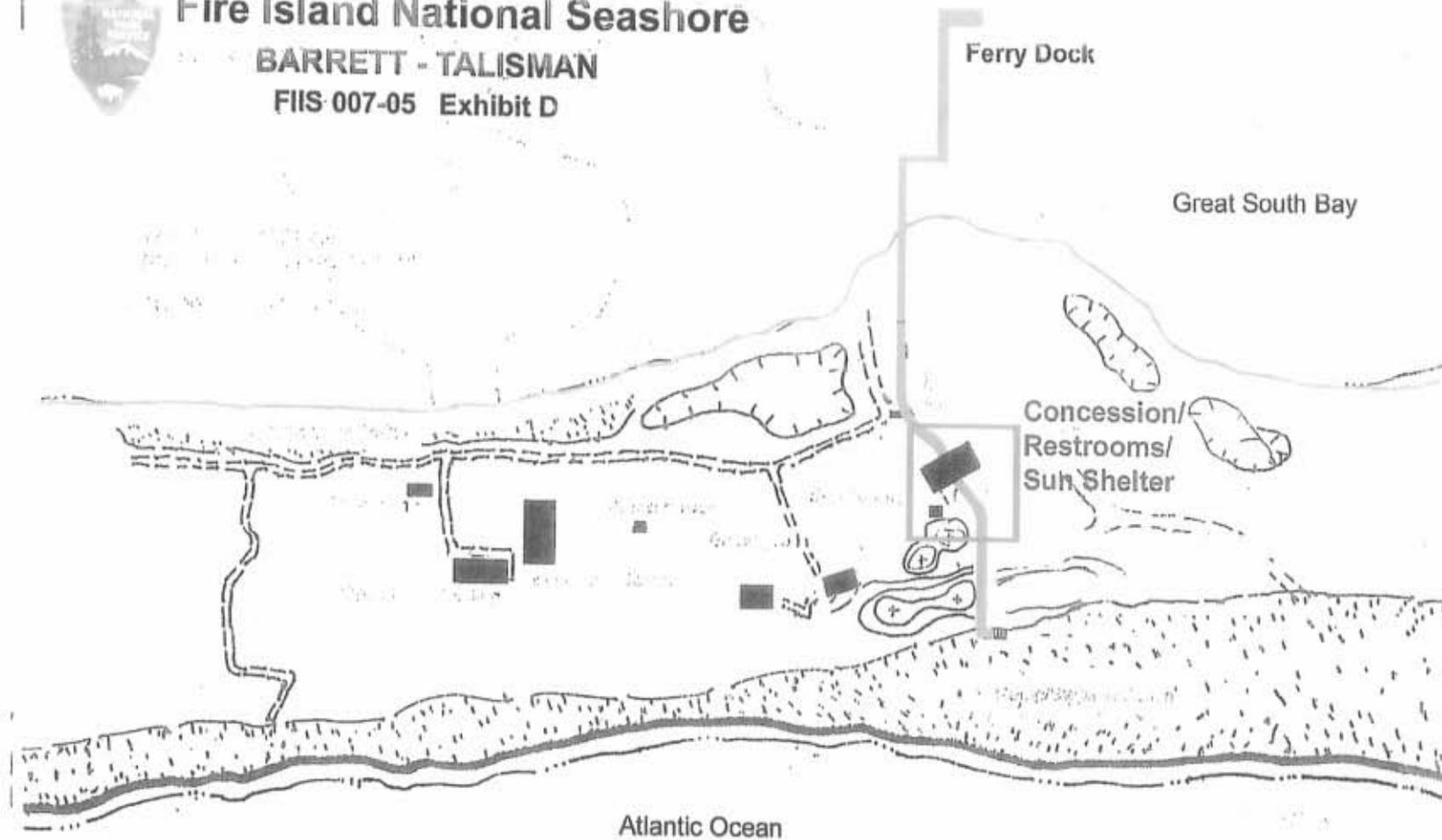




Fire Island National Seashore

BARRETT - TALISMAN

FIIS-007-05 Exhibit D



Note:

Contract includes all areas of the buildings and extending 20 feet from the edge of the foundations.

Exhibit E

Assigned Government Personal Property

As the equipment needs to be replaced, replacement shall be accomplished by the Concessioner at Concessioner expense.

Government personal property is assigned to the Concessioner for the purposes of this CONTRACT as follows:

Description of Item

Bunamatic coffee maker
Peerless 6x5 walk in refrigerator
Peerless 6x5 walk in freezer
New 4X5 windows, new unwrapped
wood cabinet/counter
shelves
utility sink
stainless steel table
frame outside deck (tent)
automatic bar controls, model WBM 851-R-FR
Refrigeration unit (drop box) #8413307 beverage
Ice sink CRT-21 Supreme metal
Glass washer machine SA55NXFH2-3528
bar with brass railing
stainless steel, aluminum pots, pans & strainers
wooden tables
wood chairs
wood bar stools
12x12 water cooler
stainless steel coffee servers, 3 cup
stainless steel tea servers, 1 cup
stainless steel milk servers, 1 cup
National 6'x5' refrigerator
stainless steel ice buckets
15'x5' Exhaust hood with Range Guard fire system, SS
15'x4' stainless steel prep counter
5'x4' stainless steel table with sink
3'x2' stainless steel cutting table
18'x12' stainless steel paddle sink
4'x3' stainless steel table
3 bay 5'x2' stainless steel sink
5 rack aluminum stands
Hobart high pressure stainless steel dishwasher (Pump Broken)
stainless steel sink with hood
10' stainless steel pre-rinse table with sink
Baker Pride pizza oven model Y-600

pizza oven dough trays
metal pizza trays
wire mesh rack
pizza dough tin
roof hood exhaust fan system
stainless steel table top and counter w/shelves
Glow Ray food warmer 1-SIN
stainless steel rack
stainless steel basin sink, Krowne 12-63C
stainless steel ice sink
stainless steel serving table
Cecilware frier EL 40
Star gas grill 6015CB
stainless steel exhaust hood
Arrow stainless steel table
Hobart mixer V-200
Hobart slicer
walk-in freezer c48, Krammer cooling unit (Needs Work)
26 picnic tables and 26 grills in the campground.
8 picnic tables and 3 grills in the group campground site.

Effective, this first day of May, 2005.

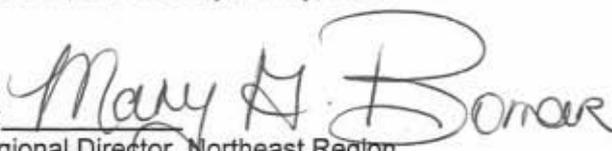
By: 
Regional Director, Northeast Region

Exhibit F**Concessioner Construction, Major Rehabilitation, and Repair and Maintenance Project Procedures****A. Introduction**

This exhibit presents step-by-step procedures for the administration of Concessioner building projects (construction, major rehabilitation, and repair and maintenance projects) within the park Area. Important terms are defined first. Project planning and design are presented second, followed by guidelines for project supervision. All projects undertaken by the Concessioner require a coordinated effort between the Concessioner and the Superintendent. This exhibit applies to the building of new structures or facilities, major rehabilitations, and the repair and maintenance ("R&M projects") of existing Concession Facilities that change the nature, appearance or value of existing Concession Facilities. Rehabilitation projects that are not major rehabilitations as defined in the Contract are considered as R&M projects. Facility operations, custodial and preventive maintenance and maintenance needed for facility operations are not considered R&M projects subject to these procedures. Repair and maintenance is also not to be considered as a project subject to these procedures when the activity does not change the nature, appearance or value of existing Concession Facilities. All projects must be proposed, approved, and accomplished under these procedures. In the event of any inconsistency between this exhibit and the main body of this CONTRACT and Exhibit A, the main body of the CONTRACT and Exhibit A will prevail.

In accordance with the Contract, only certain new construction and major rehabilitation projects may qualify for leasehold surrender interest (LSI). Following these administrative procedures for both LSI and non-LSI projects will enable NPS to approve LSI, as well as to ensure that all requirements of law and NPS policy are undertaken with respect to any project.

In addition, these procedures will enable the appraisal of LSI to occur in an orderly way. The documentation collected and organized by the use of these guidelines will provide a record of decision or "paper trail" of project development and implementation that will assist the park and concessioner in future planning and facility appraisal.

All project activities shall be directed and managed as presented in the "Annual Construction and Repair and Maintenance Management Plan" (CMP). In addition to these activities, the CMP is also to present scheduled project development and implementation, as presented below under Item C, Project Planning and Design, paragraph 1. Individual projects included in the CMP will be authorized by NPS through an approved Project Statement (PS).

Projects may be required to be reviewed under the National Environmental Policy Act (NEPA) of 1969, as amended. Projects within historic and culturally significant areas may require certain building management methods established under the National Historic Preservation Act of 1966, as amended. All construction shall comply with codes and building requirements adopted by NPS, including without limitation and where applicable, the most recent International Building Code (IBC), National Fire Protection Association (NFPA) codes, the Americans with Disabilities Act (ADA) requirements, and NPS management policies.

The Concessioner is responsible for all aspects of project development and implementation. The role of the NPS is to provide direction, authorization and oversight. The Concessioner and the Park staff must work closely together to successfully complete construction projects in a manner that achieves the goals and objectives of the park Area and the NPS.

B. Definition of Terms

"Annual Construction and Repair and Maintenance Management Plan" (CMP): A written document presenting all construction, major rehabilitation and R&M projects to be undertaken by the Concessioner during the following calendar year after the final submittal date.

"Approved Project Documents": Project drawings and specifications approved by the Park Superintendent and used by the Concessioner to direct a contractor in the type, size and quality of projects.

"Change Order": A written agreement between the "Construction Supervisor" and the Contractor or Consultant that changes the contract documents or scope of project work as agreed upon contractually.

"Construction": The removal or assembly of a building, road, utility or any other facility part or material that changes the nature, appearance, or value of that facility.

"Construction Supervisor": A Concessioner employee designated to administer and coordinate day-to-day projects representing the interests of the Concessioner and NPS and assuring quality work is performed that meets the design and specifications of the project. This person must have the authority to direct the contractor in any way that may change the contractual agreement between the Concessioner and the contractor.

"Conventional Design-Bid-Build Methods": Construction developed and implemented under several separate agreements managed and coordinated directly by the Concessioner.

"Contact Person": A Concessioner employee designated as the person to contact with regard to a specific matter, concern, or issue.

"Facilitator": A Concessioner employee designated to have the role of providing structure and agendas for meetings with NPS and who records meeting discussions and outcomes.

"Guaranteed Maximum Price Design-Build Construction Methods": An industry recognized type of construction where project consultants and contractors form an agreement to work as one entity providing facility construction in response to a developed request for proposal issued by the Concessioner. (Reference: Design Build Institute of America).

"Licensed Contractor": An entity performing construction certified or licensed by the State to perform construction services within that State.

"Major Rehabilitation": (Defined in the CONTRACT).

"Project Coordinator": A Concession employee vested with the authority to direct consultants and contractors in the expenditure of construction and R&M funds.

"Project Statement" (PS): An agreement between NPS and the Concessioner approved by the Park Superintendent that authorizes the development and implementation of individual projects identified in a CMP.

"Registered Technical Professionals": Architects, engineers, or any subject area expert either certified or licensed by the State to perform specialized services or certified by a widely recognized industry regulator held responsible for quality and standard application of technical subject matter.

"Substantially Complete": (Defined in the CONTRACT).

"Total Project Cost": The total of all actual project expenditures (invoiced and paid) for completion of a project.

"Total Project Price": The total of all estimated project expenditures for completion of a project.

C. Project Planning and Design

(1) Submit an Annual Construction and Repair and Maintenance Plan (CMP)

Before approval to proceed with any project is granted by NPS, the Concessioner must submit a CMP for implementation the following year. Some projects may require several years of planning and design before construction. The purpose of the plan is to identify the need and

tentative scope of projects a complete year in advance of actual work to allow adequate time to prepare for project commencement. The CMP should include any intended projects. Projects shown in the plan must include at least a project title; project concept description; a brief statement of justification; and anticipated NEPA and Section 106 planning and compliance established in collaboration with NPS staff.

(2) Notify NPS of Intent-to-Proceed

The Concessioner shall formally notify the Park Superintendent in writing of intent to proceed with any facility planning, design and/or projects. The project must be identified in the CMP the calendar year before to assist the NPS in sequencing and scheduling necessary support staff. The time of notification shall be sufficiently in advance of any Concessioner budget formulation to assure the requirements of the Park Superintendent are included in the project scope before the project is funded.

(3) Identify a Project Coordinator

The Concessioner project coordinator must be identified for each project. This person should have the authority to obligate project expenditures and hire and direct consultants and contractors, and concessioner support staff.

(4) Prepare a Proposed Project Statement (PS)

Arrange and facilitate a project planning conference with NPS staff and prepare a proposed PS to be submitted to the Park Superintendent for review. The conference should be performed on the proposed project site, if needed.

(a) Conference goal and product. The primary goal of the conference is to clearly identify the project concepts and scope at sufficient detail to carry the project through to completion without significant deviation from an approved PS. The product of the conference should be an approved PS prepared by the Concessioner resulting from collaboration between the Concessioner and the Park Superintendent.

(b) Project Statement Content. The PS shall include the following as a minimum: Project description; justification; scope of work, including NEPA and Section 106 planning and compliance; estimated Total Project Price; proposed schedule; milestones of NPS design review and third party project inspection and certification. The elements of the PS will function as check points of accountability and will vary in frequency and scope, contingent upon the nature, complexity and scope of the proposed project.

(c) Leasehold Surrender Interest. If the Concessioner seeks leasehold surrender interest as a result of a construction project, the Concessioner must request and receive the written approval of the proposed construction project by the Park Superintendent in accordance with the terms of this leasehold surrender interest concession contract. An estimate of the amount of leasehold surrender interest shall be identified in advance if the Concessioner requests leasehold surrender interest. The estimated leasehold surrender interest costs shall be separately identified as part of the Total Project Price and substantiated, if requested, with written and competitively acquired price proposals or construction contracts. Not all projects qualify for LSI. LSI is only granted under the terms of this CONTRACT, including, without limitation, its Exhibit A.

(d) Methods of Establishing the Expected Value of Leasehold Surrender Interest. A number of methods are available to estimate the Concessioner's leasehold surrender interest as long as eligible direct and indirect costs are specified. The methods of identifying the expected value of leasehold surrender interest include guaranteed maximum price design-build construction methods, conventional design-bid-build methods, and construction price estimates professionally prepared by subject area experts.

(e) *Professional Services and Construction.* The Concessioner must assure the park in its project statement that for any project requiring professional services, such services shall be acquired from appropriate registered technical professionals. Licensed contractors shall perform all project work unless otherwise approved in writing by the Superintendent. The Concessioner shall provide for registered technical professionals to perform project inspection and/or facility certification, or any other service needed for project implementation at the request of the Park Superintendent.

(f) *NPS Operations.* Any aspect of the proposed project where the scope of work interfaces with NPS operations such as utility service connections or road maintenance operations must be clearly identified in the PS.

(5) *Submit Project Statement for NPS Review*

The proposed PS shall be submitted in written correspondence from the Concessioner to the Park Superintendent requesting review. A PS signed by the Park Superintendent constitutes official authority for the Concessioner to continue further project development to the level specified in written correspondence from the Superintendent. The Concessioner may obtain authority to complete a project when sufficient planning and design has been completed to meet the interests of the park. Projects that do not have the level of required planning are likely to receive only conceptual approval with authorization to proceed with further planning and/or design as required to assure park objectives are met.

(a) *Project Statements Containing Claims for Leasehold Surrender Interest.* A PS must present an estimate of project expenditures to be claimed for LSI purposes. The eligibility of any expenditures for LSI will not be identified until all project planning is complete to the satisfaction of the Park Superintendent, including NEPA and Section 106 compliance, if required. An approved PS serves only as a guide for further project development to the level specified in the PS. The Park Superintendent shall only approve final LSI costs after project completion and written project close-out.

(b) *Design Required for Leasehold Surrender Interest Eligibility and Value.* The Park Superintendent may require an appropriate level of design to determine whether a project is eligible for LSI, and if so, its estimated cost. The level of project planning and design required may include completion of concept design, schematic design, or preliminary engineering design, to clearly identify the elements eligible for LSI. Some projects may require the completion of construction drawings and specifications before the proposed LSI is documented to the satisfaction of the Park Superintendent. All improvements for which LSI is claimed must be defined in record "as-built" construction drawings and specifications when the Concessioner submits its request for LSI at Project Close-out.

(6) *Establish a Project File*

A file of all project documents shall be held by the Concessioner as a chronological audit trail of all project decision-making activity for each project from concept development to completion and NPS acceptance. Each project shall be identified with a unique project number assigned by the Park. All documents entered into the file should have the project identification number clearly displayed on it as part of document identity.

(a) *Leasehold Surrender Interest Project File.* The Project File will become an LSI project file when the Concessioner requests approval of LSI. It shall be established and maintained by the Concessioner and shall include all of the documents identified in section 6(C) of this Exhibit. This file shall be submitted at the time of Project Close-out to the Park Superintendent as the basis for the leasehold surrender interest request. As part of this file, the Concessioner must maintain auditable records of all expenditures attributable to each project and have them available

for review if requested by NPS personnel. Invoices shall contain sufficient information to identify the tasks completed or products delivered as agreed upon in contracts presenting a full scope of work. The file shall clearly provide a "paper trail" between expenditures eligible for LSI purposes and the payment of those expenses.

(b) *Typical Project File.* The organization of a typical project file is presented in the following sections:

Section A. Project Statement. The approved PS, scope of work, and a copy of the notice-to-proceed letter, authorizing planning and design, sent to the Concessioner by the Park Superintendent should be filed in this section.

Section B. Planning. This section should contain documents pertaining to any project planning. Typical documents include those produced for NEPA and Section 106 compliance. Also contained in this section should be any concept design, preliminary design, or schematic design correspondence and documents. When the Park Superintendent grants approval for any of the above stages of project development, correspondence from the Park Superintendent should be filed in this section.

Section C. Assessment. This section should contain a record of any assessment performed during project implementation. Soil, vegetation, floodplain, structural, electrical assessments, for example, should be filed in this section. Any other existing site or facility investigative reports, and all quality assurance documents such as third party project inspection, testing and certification should also be filed in this section.

Section D. Design. This section should contain a record of documents produced and decisions made during the design phase of a project. The design phase typically occurs when project activity has shifted from conceptual discussion to organizing detailed direction provided to a contractor for construction. Correspondence from the Park Superintendent providing design approval should be in this section.

Section E. Project Work. This section should contain a record of decisions made during project work. The letter from the Park Superintendent granting notice-to-proceed with the project should be in this section. All contractor proposals, change-orders, design modification documents, daily construction activity records, weekly meeting minutes, etc. should be in this section. Documentation for larger projects should be organized according to subcontractor activity or standard specification enumeration. The final document filed in this section should be the NPS correspondence sent to the Concessioner providing project acceptance and close-out.

Section F. Financial. This is a very important section where a copy of all contracts and contract modifications should be filed. It is important to assure that all expenditures are accounted for. All expenditures must have sufficient supporting documentation cross-referenced with documents in other file sections, if necessary. Monthly financial detail reports shall be prepared and filed in this section with copies of all project budget documents. This section must contain all correspondence supporting LSI with appropriate cross reference to other sections for clarity of the LSI "paper trail." (For example, cross reference tabs). Also contained in this section shall be a copy of the project acceptance and close-out letter from the Park Superintendent that specifies the amount of leasehold surrender interest, if any, applicable to the project.

Section G. Photo Documentation. Complete documentation, including before-and-after photos, records of any special situations or conditions requiring changes, documentation of methods used, etc., should be kept to support requests for LSI and to assist future maintenance and/or appraisal efforts. Photographic documentation is also usually required for modifications to "listed" historic structures. To be most useful, photos should be filed with the documents they support.

(7) Submit Resource Compliance Documents for Review and Approval

During development of the project statement, responsibility for compliance work will be established. The Concessioner must request the participation of NPS staff early in project

planning to assure uninterrupted project implementation. Development of compliance documentation must occur as soon as possible. Every effort shall be made to perform compliance document preparation tasks concurrently with project planning and design.

(a) *Historic/cultural compliance.* Historic and cultural compliance document approval is required for property listed in or eligible for inclusion in the National Register of Historic Places. Any undertaking affecting property listed shall be performed in accordance with The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings. The Concessioner must document proposed actions using the "XXX Form" (available from the National Park Service) before any work occurs for any project that may affect a historic structure, historic district, cultural landscape, archeological site or historic object or furnishing. Compliance will usually require the preparation of at least "assessment of effect" drawings and specifications to the level of final documents if required. Compliance shall carry through to submission of the "Construction or R&M Completion Report" for many projects where significant changes are made to the historic structure and/or landscape. Therefore, compliance document approval usually will not occur until after submission of project documents. In-park historic compliance review and approval will require at least several weeks from date of submittal. Where submittal is made to the State Historic Preservation Officer or the Advisory Council on Historic Preservation, additional time will be required before approval may be given. This may be performed concurrently with approval of project documents.

(b) *Ground disturbance.* Where ground disturbance will take place submittal of drawings that show area and depth of proposed ground disturbance will be required. Submittal of this document early in project planning is recommended. All project documents that include soil disturbance shall have the following specification included within them:

"Petroglyphs, artifacts, burial grounds or remains, structural features, ceremonial, domestic, and archeological objects of any nature, historic or prehistoric, found within the project area are the property of and will be removed only by the Government. Should Contractor's operations uncover or his/her employees find any archeological remains, Contractor shall suspend operations at the site of discovery; notify the Government immediately of the findings; and continue operations in other areas. Included with the notification shall be a brief statement of the location and details of the findings. Should the temporary suspension of work at the site result in delays, or the discovery site require archeological studies resulting in delays of additional work for Contractor, he/she will be compensated by an equitable adjustment under the General Provisions of the contract."

(c) *Archeological Monitoring.* Monitoring project activity is a requirement of cultural compliance when significant ground disturbance occurs during project work. Any cultural resource monitoring required shall be performed under the direction of the NPS. The NPS shall be notified sufficiently in advance of the need for a monitor and will assist the Concessioner in making arrangements for the services of an archeological monitor at the expense of the Concessioner, if the NPS is unable to provide the expertise.

(d) *National Environmental Policy Act (NEPA) compliance.* NEPA compliance document approval is required before any construction or R&M project occurs for any project that has an impact on the environment. Projects requiring compliance will be identified by the NPS early during project planning. The actual review period length may vary widely depending on the nature, scope, and complexity of the project elements that relate to resource compliance. Projects that have an insignificant effect on park resources usually require a "categorical exclusion" determination--a process that may require sufficient extended lead-time from submittal of review documents. Projects having a significant effect on park resources or that are not part of other NEPA compliance documentation may also require a longer period of implementation.

(8) *Submit Project Documents (PDs) for Review and Approval*

The Concessioner shall submit PDs for review and approval to establish project activity for approval by the Superintendent. Approved PDs establish the full scope of the project and the quality of work to be performed by the Concessioner. The scope of the documents required will be identified in the PS. The scope and detail of the documents will vary depending on the nature and complexity of the project. "Manufacturer's cut-sheets" may be all that is required for some R&M projects, and for others, complete detailed drawings and specifications may be required. The Concessioner is responsible for the technical accuracy and completeness of PDs and shall provide the technical review as needed to assure compliance with all applicable federal, state and local statutes, codes, regulations and appropriate industry standards. Any exception to this will be by written authorization from the Superintendent.

(9) Submit a Project Estimate and Schedule

An estimate of the Total Project Price and completion schedule shall be submitted to the Superintendent before work begins. This is a revision of the Total Project Price and completion schedule estimated in the Project Statement. It is based on the best information available identified during project planning and design.

D. Project Management Procedures

(1) Identify a Project Supervisor

A Project Supervisor shall be identified and vested with the authority to direct the contractor on behalf of the Concessioner. The NPS will direct its communication concerning the nature and progress of day-to-day project activity to this person. This person should have full responsibility for assuring that all construction complies with the approved Project Documents and specified code compliance. The NPS should not take any responsibility for projects until Project Close-out and Acceptance when the NPS receives certification of completed work performed in compliance with Project Documents and all specified codes.

(2) Submit a Total Project Price for Review

(a) All projects completed under the terms of this Contract where LSI is requested shall include submittal of a Total Project Price in writing to the Superintendent for review.

(b) Where no LSI is requested, the Total Project Price is provided as an informational item. Formal approval by the Superintendent is not required.

(3) Notice-to-Proceed with a Project

A "Notice-to-Proceed" with a project will be issued when all submittals requested by the Park Superintendent have been reviewed and approved. The Notice-to-Proceed must be received by the Concessioner in writing before any project work occurs.

(4) Hold a Pre-Project Conference with the Contractor

The Concessioner shall arrange and facilitate a pre-project conference as needed or as requested by the NPS with the Contractor. The purpose of the conference is to provide the NPS the opportunity to meet the Contractor and confirm that the Contractor has full understanding and knowledge of all work to be performed. In addition, the conference provides the opportunity to confirm established communication linkages between the Concessioner, the Contractor and the

NPS. Any questions the Contractor may have regarding any matter of the project or anything about Area access, rules and regulations may also be discussed.

(5) Submit Project Activity Reports (As Required)

A record of project activity shall be provided by the Concessioner on all approved projects. The scope and frequency of performing this documentation shall be identified upon submittal of PDs for Park approval. The Concessioner is responsible for the accuracy and completeness of all design and completed projects.

(a) Content. Project activity reports shall summarize daily project activity recording important observations and decisions. It shall also identify project expenditures to date if required for leasehold surrender interest purposes. The reports shall identify any changes to the approved PDs either by change order or any other variance from approved PDs. The NPS shall be notified immediately, if a change is likely to occur in the Total Project Price where the project involves LSI. (See discussion below for review and approval of change orders and contract modifications.)

(b) Regulatory code compliance and project inspection (as required). Inspection reports specifically addressing regulatory code compliance and adherence to PDs will be required, at the request of the Superintendent, during certain stages of the work. Independent industry certified inspectors or registered professional subject area experts shall perform all inspections and project component certification. Inspection reports shall be prepared that include all findings and results of code compliance inspection. Section and paragraph of applicable codes shall be referenced when deficiencies are noted. Recommendations presenting remediation shall accompany line item deficiencies in the report. All inspection reports shall be included in the final project completion report submitted before project acceptance by the Superintendent.

(6) Submit Requests for Changes in Approved Project Documents

The Superintendent's approval will be required before any significant changes are made to the project scope during the completion of projects, as identified in the approved PDs. The Concessioner shall provide the NPS with written notification immediately upon identifying the need for a change in project scope that effects any of the items listed below. The written notification shall include a request for change in the approved PDs complete with justification and explanation of effect of change on all other aspects of project design and work.

Requests for any significant changes in the approved PDs shall be reported in project activity reports with attachment of any documentation requested. Changes in approved project scope during the work that will require review and approval of the Superintendent include the following:

- (a) Changes affecting natural, cultural and/or historic resources;
- (b) Changes in designated visual appearance;
- (c) Changes in the interface with NPS utility and/or road facility maintenance operations;
- (d) Changes in project scope and/or the estimated leasehold surrender interest, as required for facility improvement projects.

(e) Proposed changes where natural or cultural/historic resources are involved may require a significant period of review depending on the complexity of the concern.

(7) Submittal of Change Orders for Review and Approval (For Leasehold Surrender Interest Only)

When one of the five factors listed above exists, the Concessioner shall submit, for the review and approval of the Park Superintendent, documentation justifying the proposed changes. The Concessioner shall also submit a revised Total Project Price for each proposed change, as needed, indicating the proposed change in estimated LSI. All change orders or any other means of

directing the Contractor that may have the effect of increasing the Total Project Price will require the Park Superintendent's review and approval, if the project has LSI implications.

(8) NPS Project Inspection

The project will be inspected periodically by a representative of the Park Superintendent. The purpose of these inspections is not in lieu of or in any way a substitute for project inspection provided by the Concessioner. The responsibility to assure safe, accountable project activity and for providing the contractor with direction to fulfill the full scope of approved work is the responsibility of the Concessioner.

(9) Project Supervision Documents

Project drawings and specifications must be kept on the project site complete with any design or project modifications, in a well-organized form. The Construction Supervisor shall keep a current "red-line" copy of approved PDs updated daily showing any changes. In addition, a well-organized file of submittals required in the approved PDs and approved where required by professional Architects and/or Engineers must also be kept on the project site with the PDs for periodic inspection by NPS staff.

(10) Substantial Completion Inspection and Occupancy

Joint inspection by the NPS and the concessioner will occur upon notification that the project is substantially complete. A "punch list" of work items will be formulated and performed to "close-out" the project. The Superintendent, in writing will accept the project, when the "punch-list" items are completed.

The Concessioner is not to occupy the facility until authorized in writing by the Park Superintendent.

(11) Requesting Approval of Leasehold Surrender Interest

Upon substantial completion of a project, as determined by the Park Superintendent, the Concessioner must provide the Superintendent a written schedule of requested LSI eligible costs incurred, which becomes the Concessioner's request for LSI approval. The project file, containing actual invoices and the administrative record of project implementation, must support these expenditures and shall be submitted to the Park Superintendent for review with the request. If requested by the Park Superintendent, the Concessioner shall also provide written certification from a certified public accountant regarding the LSI costs. The certification must comply with the requirements of Exhibit A of this Contract.

(12) Project Completion Report

Upon completion of any project, the Concessioner shall submit a Project Completion Report to the NPS. The completion report shall include the Total Project Cost; before-and-after photo documentation; warranties; operation and maintenance manuals, if required; all inspection and certification reports; and "as-constructed" drawings (see item section C(13) below). Projects where LSI is requested may require the submittal of any other similar documents deemed by the NPS necessary to establish complete project documentation. The level of documentation requested may also include adequate photo-documentation provided during construction to record significant unforeseen site and construction conditions resulting in changes to approved PDs and the approved Total Construction Price.

(13) "As-Constructed Drawings"

The "as constructed" drawings included with the Project Completion Report for all projects shall be full-size archival quality prepared in accordance with NPS management policies and must be submitted before project acceptance by the National Park Service. At least two half-size sets of drawings shall also be provided. The drawings establishing LSI shall provide a full and complete record of all "as-constructed" facilities including reproduction of approved submittals and manufacturer's literature documenting quality of materials, equipment and fixtures in addition to a record set of project specifications approved for construction.

(14) Request Project Acceptance and Close-out by the Superintendent

The Concessioner shall request project acceptance by the Park Superintendent either at the time of submittal of the Project Completion Report or at any time thereafter. Project acceptance will be contingent upon fulfillment of all requested project completion work tasks and submittal of all project documentation in accordance with these guidelines and as requested by the NPS. Until receiving formal written project acceptance and close-out from the Park Superintendent, the Concessioner retains full responsibility for all project construction activity and liability for both completed and uncompleted work. For LSI projects, the project close-out letter issued by the Superintendent will specify the granted amount of LSI value resulting from the project.

EXHIBIT G

**LEASEHOLD SURRENDER INTEREST AS OF THE EFFECTIVE DATE OF
THIS CONTRACT**

Pursuant to Section 9(c)(2), the Concessioner's leasehold surrender interest in real property improvements as of the effective date of this CONTRACT, if any, is as follows:

"NONE"

Exhibit G Approved Effective May 1, 2005

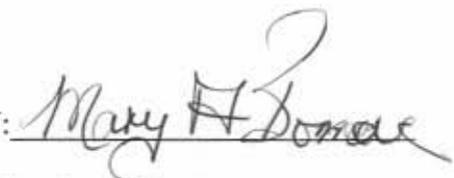
Fire Island Concessions, LLC

UNITED STATES OF AMERICA

BY:



BY:



Regional Director,
Northeast Region
National Park Service

TITLE:

PRESIDENT

**EXHIBIT H
MAINTENANCE PLAN**

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I. INTRODUCTION.

This Maintenance Plan between Fire Island Concessions, LLC, (hereinafter referred to as the "Concessioner") and Fire Island National Seashore, National Park Service, (hereinafter referred to as the "Service") shall serve as a supplement to Concession Contract CC-FIIS007-05 (hereinafter referred to as the "CONTRACT"). It sets forth the maintenance responsibilities of the Concessioner and the Service with regard to those lands and facilities within Fire Island National Seashore which are assigned to the Concessioner for the purposes authorized by the CONTRACT.

In the event of any apparent conflict between the terms of the CONTRACT and this Maintenance Plan, the terms of the CONTRACT, including its designations and amendments, shall prevail.

This plan shall remain in effect until superseded or amended. It will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of Fire Island National Seashore. Revisions may not be inconsistent with the terms and conditions of the CONTRACT. Revisions must be reasonable and in furtherance of the purposes of the CONTRACT.

The Service's responsibilities are subject to the availability of appropriated funds.

This plan covers the operation of the government-owned marinas and related facilities at Watch Hill, Sailors Haven and Barrett Beach/Talisman areas of Fire Island National Seashore.

II. GENERAL MAINTENANCE STANDARDS FOR CONCESSION FACILITIES

The Service Concession Review Program provides general direction, expectations, and standards on all aspects of concession operations. The standards for interior and exterior maintenance as amended, supplemented, or revised, are hereby incorporated by reference.

The intent of this Maintenance Plan is to ensure that an acceptable standard of facility maintenance is adequately defined and fully achieved. Both the Concessioner and the Service have specific responsibilities as outlined in the CONTRACT and this document.

III. TERMS USED IN THIS AGREEMENT

"Assigned Areas": Assigned areas are lands within Fire Island National Seashore, as defined by the Land Assignment Maps in Exhibit "D" to the CONTRACT. These lands contain improvements and support facilities used by the Concessioner. The Concessioner has specific responsibilities, defined below, regarding the condition of these lands, together with the facilities, improvements and landscapes on them. The Land Assignment and Maps may also contain comments addressing maintenance responsibilities specific to an area.

"Exterior": Exterior refers to structures, foundations, exterior walls and surfaces, roofs, porches, stairways, and other architectural attachments. This includes all equipment, walkways, trails, parking lots, and other improvements, as well as the lands, landscapes, and utilities within the assigned area of responsibility.

"Interior": Interior refers to the area of structures inside the external walls and under the roof,

including doors and window frames. This also includes all equipment, appurtenances, improvements, and utility systems that penetrate the walls, roof, or foundation.

“Maintenance”: Maintenance refers to the preservation and upkeep of real or personal property in as nearly as is practicable to the originally constructed condition, and if applicable, its subsequently improved condition. Maintenance includes operational cyclic repair and rehabilitation of designated areas, facilities, infrastructure, equipment, and their component parts--up to and including replacement if necessary--to provide a safe, sanitary and aesthetically pleasing environment for park visitors and employees.

“Operating Season”: The Operating Season is defined as: May 15 through October 15. If May 15 is a Monday or Tuesday operations are to be open the previous Saturday. If October 15 is a Thursday or Friday, operations are to be open through the following Sunday. The Concessioner may extend the season or operate year-round at the Concessioner’s option. The Service will provide services described in the Contract and Maintenance Plan only through the season described as above.

“Operations”: Operations refers to all aspects of activity by the Concessioner authorized under the CONTRACT. Operations include all services provided to the public and all non-public actions that are necessary to support those authorized services.

“Repair”: Repair is defined as the act of correcting an unsatisfactory physical condition. Replacement is an aspect of repair and may be a necessary and/or an economically sound approach to repairs. Repair is an aspect of maintenance, and the objective of repair is the same as the objective of the general act of maintenance as defined above.

IV. MAINTENANCE INSPECTIONS

The Service and Concessioner shall conduct an annual joint inspection/review within 30 days of closing of buildings, utilities, grounds and equipment within the Concessioner's assigned areas. These inspections will determine if facilities are satisfactorily maintained and in compliance with applicable rules, laws and regulations.

Based upon the annual review, deficiencies noted on periodic evaluations (see Exhibit B), and needs identified by Concessioner staff, the Concessioner shall prepare a list of maintenance needs and an annual maintenance program proposal to submit for Service approval by December 1 of each year. This program will list specific projects and the manner by which the Concessioner intends to execute its maintenance responsibilities during the following year.

V. CONCESSIONER’S RESPONSIBILITIES

The Concessioner shall maintain and repair all Concession Facilities assigned in Exhibit D, except as noted below under "Service Responsibilities."

The Concessioner's maintenance responsibilities will include but not be limited to: structural elements, boardwalks, docks, bulkheads, roofing, flooring, interior and exterior surfaces, windows and doors, utilities within the structure, utility distribution systems from inside the

building to the point of metering or demarcation point, heating, cooling, and lighting systems, and all installed fixtures, controls and miscellaneous equipment.

General preventative maintenance, cyclic rehabilitation, and emergency repair or replacement will be carried out by the Concessioner on a timely basis to ensure that all structures, facilities, and areas assigned to the Concessioner achieve the basic goals described by the Service guidelines. Any area that is required to be closed for the above referenced work shall be secured from public access by the Concessioner in accord with applicable safety standards.

The Concessioner shall integrate its maintenance activities, cost-reduction, energy efficiency, environmental protection, Integrated Pest Management, and sustainable design practices in accord with Department of Interior Guidelines.

The following specific requirements supplement the general responsibilities of the Concessioner listed above:

A. EXTERIOR MAINTENANCE

The quality of all materials and workmanship under this section shall meet or exceed existing conditions and materials. Work performed shall be accomplished in a timely manner to the satisfaction of the Service.

All inspections referenced are the responsibility of the Concessioner, and shall be performed only by licensed or certified personnel. Copies of all inspections shall be provided to the Service annually due within the fiscal year from October 1 to September 30.

ROOFS: Roofs shall be inspected on an annual basis and a written copy of inspections provided to the Service. Inspection shall determine if roofing material(s) are intact and are free of deterioration that would affect the structural qualities and that the roofs are not jeopardized by adjacent vegetation.

DOORS AND WINDOWS: Shall be inspected on an annual basis and a written copy of the inspection shall be provided to the Service. Doors and windows shall be maintained to prevent water or moisture from entering the building and causing deterioration of materials or structural damage to the building. Door and window replacement shall conform to existing size, style, and appearance or as otherwise may be approved in writing by the Superintendent.

SIDING: Shall be inspected on an annual basis. A written copy of the inspection shall be provided to the Service. Siding shall be maintained to prevent water and moisture from entering the building or causing deterioration of the siding material, paint, structural damage or building appearance. Siding and other exterior surfaces shall conform to existing size, style and appearance, if painted, on a cyclic basis of not less than every five-(5) years. The annual inspections shall identify specific painting needs to be accomplished during the current year.

INSECT/PEST CONTROL: All assigned structures and areas permitted for use under the

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Contract shall be inspected on a regular cycle of not less than annually. Inspections shall be made by a licensed pest control contractor and submitted to the Superintendent. All pest control shall be completed in full compliance with the Service Integrated Pest Management Program (IPM Program) and coordinated with the park's IPM staff.

PROPANE SYSTEM: The Concessioner shall inspect the propane system and components on an annual basis and provide a written copy of the inspection to the Service.

ELECTRICAL SYSTEMS: The Concessioner shall inspect electrical systems and components on an annual basis and provide a written copy of the inspection to the Service. The Concessioner shall repair, maintain, or replace all wiring, conduit, fuses, breakers, fixtures, controls, as found in inspection process, within the buildings and assigned areas. Any repairs, remodeling, or upgrading shall be consistent with the National Electrical Code and be pre-approved by the Service.

WALKWAYS/MARINAS/DOCKS: The Concessioner shall maintain and repair all walkways and boardwalks, piers and docks within the assigned areas to maintain applicable safety and construction standards.

EXTERIOR LIGHTING: Installations and repairs shall be inspected by a licensed electrician/contractor and shall be designed to minimize energy consumption. Pre-approval by the Service is required.

B. INTERIOR MAINTENANCE.

The quality of all materials and workmanship under this section shall meet or exceed existing conditions and materials. All inspections referenced are the responsibility of the Concessioner, and shall be performed only by licensed or certified personnel. Copies of all inspections shall be provided to the Service annually. Work performed shall be accomplished in a timely manner to the satisfaction of the Service.

PAINTING: Paintable surfaces shall be painted on a regular cycle of not less than five-(5) years. Painted surfaces shall be maintained in an acceptable manner free of peeling, blistering, and excessive wear. Colors must match existing color scheme, or shall require Superintendent's approval

HEATING, VENTILATING, AND AIR CONDITIONING UNITS: Shall be inspected on an annual basis and be kept clean, maintained and operated in strict accordance with manufacturer's specifications and the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. standards.

ELECTRICAL SYSTEMS: Shall be maintained from the meter into the structure and inspected on an annual basis for compliance with the National Electrical Code and requirements of the utility provider. Electrical Systems shall be equipped with properly functioning safety equipment, overload protective devices and switches, installations shall be in accordance with the National Electrical Code and installed by a licensed electrician /contractor.

FIRE PROTECTION SYSTEMS: Fire Alarms and Sprinkler systems shall be inspected on an annual basis and maintained in full operating condition at all times in accordance with National Fire Protection Association requirements. Installations shall be done by a licensed technician/contractor.

All interior safety devices, fire detection and suppression devices, equipment and appurtenances, as well as fire extinguishers, shall be maintained in a serviceable condition, consistent with Federal codes and NFPA requirements. Periodic tests shall be conducted for all safety devices, fire detection, and suppression devices, equipment, and appurtenances.

Fire exits shall be inspected on an annual basis and be maintained to provide safe and expedient exit from the building at all times in accordance with NFPA requirements. Fire exit doors shall be properly equipped and be identified by illuminated fire exit signs.

Floors and floor coverings shall be inspected on an annual basis and shall be maintained to prevent signs of displacement, deflection, water damage, and abnormal deterioration, so they are free of objectionable deterioration, evidence of vandalism and excessive wear. Hardwood floors, tile, and linoleum coverings shall be maintained using proper sealants and waxes.

C. UTILITIES

WATER SYSTEMS: Shall be maintained from the demarcation points listed below into the buildings and facilities.

- 1) The Concessioner shall repair and maintain the entire potable water system as follows:
 - a) At Watch Hill, from the marina shut-off valve located west of the Service maintenance shop.
 - b) At Sailors Haven from and including the east 2 inch water meter. The Concessioner's maintenance responsibilities also include valves, piping, spigots, vacuum breakers and the water system from within the buildings, other facilities and the marinas with the exception of the Visitor Center and the water line north of the Visitor Center to the "T" is the supply line that runs east to west.
- 2) The Concessioner shall winterize and dewaterize all buildings and facilities assigned (Exhibit D), including all water and sewage lines.
- 3) The Concessioner shall test the concession's potable water for total and fecal coliform on a monthly basis when the concession facilities are open.

SEWAGE SYSTEMS: Shall be maintained within all assigned areas.¹

Additionally the Concessioner shall maintain:

¹ See Exhibit D of the Contract

1) The Boat Pump-Out station equipment, connecting lines to the holding tanks and the storage tanks and will winterize/dewinterize. The storage tanks shall be pumped out during the operating season and prior to closing. Continuous availability of service shall be ensured. Pump-out equipment shall be removed from marinas and stored indoors in the off season. The Concessioner shall be responsible for disposal to a licensed contractor; and receipts shall be provided to the Service.

2) The Concessioner shall install, clean and maintain grease traps regularly in order to prevent grease, oil, etc. from getting into the sewage lines, which could result in line and manhole blockages of sewage pumps and leaching fields. There are two grease traps at Watch Hill, one outside under the restaurant and the second in the kitchen. The grease shall be placed in spill proof containers and recycled. Receipts for grease removal/recycling shall be provided to the Service monthly. Grease disposal/recycling should be done by an approved and licensed contractor. Grease traps will also be inspected frequently by the Service and USPHS

ELECTRICAL SYSTEMS:

1) The Concessioner shall maintain all electrical lines and equipment (conduits, fuses, panels, switches, light bulbs, etc) within all assigned buildings, structures and areas (Exhibit D). The Concessioner shall repair or replace any damage to the electrical system beyond the meters within the assigned areas.

2) The Concessioner shall maintain electrified slips, (one electric power stanchion per two slips). Damaged or deteriorated units shall be promptly repaired or replaced.

3) The Concessioner shall maintain, repair or replace all perimeter lighting within the land assignment.

4) All construction requiring electrical work or rewiring of existing facilities must be approved before work commences. After approval, the work is to be completed by a licensed electrician at the Concessioner's expense, and written certification is required to certify to the Service that the installation meets all applicable NEC codes. Examples of electrical work include additions of electric panels or subpanels, a new circuit or meter box, and renovations of existing electrical systems.

5) The Concessioner will properly winterize all electrical systems within the marina area at the end of the season.

PROPANE SYSTEM

The concessioner shall maintain all propane delivery systems according to strict local or state code requirements.

D. FOOD SERVICE EQUIPMENT

All equipment and surrounding area used in food service operations, especially dishwashers, refrigerators, freezers, serving counters, soda dispensers, meat slicers,

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floors; etc, shall be maintained in compliance with United States Public Health Service Standards and State and Local requirements for food service activities.

E. SIGNS

The Service's Guidelines for signing state: "Public signs for which the Concessioner is responsible must be appropriately located, accurate, attractive, and well maintained. Signs of a permanent nature shall be prepared in a professional manner, consistent with Service standards, appropriate for the purpose they serve, and be approved by the Superintendent prior to installation."

The Concessioner shall be responsible for the installation, maintenance, and replacement of all interior and exterior signs relating to its operations and services within the assigned areas. Examples of this responsibility are signs identifying the location of functions (when attached to Concessioner-operated buildings or on grounds assigned to the Concessioner), signs identifying operating services and hours, and signs identifying the Concessioner's rules or policies.

The Concessioner is responsible for ensuring that its signs are compatible with Service sign standards. All new sign installations shall be approved in advance by the Superintendent. No handwritten or typed signs shall be permitted within the Concessioner's assigned area(s).

F. CONCESSION HOUSING

The Concessioner is responsible for doing routine repair and maintenance as well as cleaning Concession assigned quarters, as well as seasonal winterizing/dewinterizing. This includes, but is not limited to: interior cleaning; leaving the oven, refrigerator, bathroom in a clean and presentable manner; exterior cleaning; litter free; and removal of any outside furniture at the end of the season. Repairs and maintenance to the structure are the responsibility of the Concessioner and are to be approved in advance by the Service.

G. LITTER AND GARBAGE

The Concessioner is responsible for cleanup of all litter and debris (including waste charcoal) within the assigned facilities, buildings and areas and removal of all trash, solid waste and recyclable material from its assigned areas to the mainland in accordance with E.O. 13101. The Concessioner may engage an independent contractor for this activity. Litter control and collection will be of sufficient frequency as to keep the area litter-free with a minimum pickup of twice daily (8 am and 7 pm) during the spring and fall and a minimum pickup of three times daily (8 am, 1 pm, 8 pm) during the summer season in order to ensure a litter-free environment. The Concessioner shall appoint an employee to walk the areas (Exhibit D) of responsibility a minimum of three times daily (10 am, 1 pm, & 6 pm) to ensure the area is kept litter free and make sure that trash receptacles are not over full.

Park approved solid waste and recycling containers (e.g. Dumpsters such as "roll-off" and

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individual solid waste and recycling containers such as cans and receptacles) will be conveniently located within the Concessioner's land assignment and in sufficient quantity to handle the needs of the assigned area. A recycling container shall be adjacent to each garbage can area in order to encourage recycling. All containers shall be water proof, vermin-proof, and covered with working lids. Solid waste and recycling containers will be clearly marked with multilingual labels and/or graphics to distinguish them from each other. Trash and/or recycling containers are not to be overflowing. Containers shall be maintained, serviceable and the areas around the containers shall be free of spills, waste and litter. The containers shall be removed at the end of season and stored in the garbage transfer station.

The trash will be removed from the island at least once a week. The garbage barge shall not be allowed to remain overnight at Watch Hill or Sailors Haven without obtaining the approval of the Superintendent.

The Concessioner shall implement a recycling program. Products to be recycled include, but are not limited to paper, newsprint, cardboard, bimetals, plastics, aluminum, glass, used engine and cooking oil, antifreeze, and batteries.

All materials generated by the Concession operations including but not limited to solid waste, slash, untreated wood, must be removed from the Park at the Concessioner's expense by a licensed or certified contractor.

H. GROUNDS, LANDSCAPING, AND PEST MANAGEMENT

The Concessioner shall be responsible for landscaping, ground care (watering, mowing, weeding, pruning, etc.) and improvement of the assigned areas, as defined on the maps at Exhibit D. Written plans for such landscaping must have the prior approval of the Service, and all plant species used in landscaping must have prior Service approval. The Concessioner shall be responsible for keeping the assigned areas free and clear at all times of safety hazards (broken glass, sharp objects, hot coals and embers, etc.). All boardwalks shall be maintained to be free of sand and vegetation.

The Concessioner shall conduct his business and daily activities in such a manner as to minimize impacts on the natural scene. This will involve protecting native vegetation and controlling erosion.

The Concessioner shall submit a written Integrated Pest Management Plan, which shall define the nature and expected frequency of treatment, approved chemical lists, etc., to be approved by the Service. The control of pests by chemicals and other means is subject to Service approval. All pesticides will be stored and handled in accordance with pesticide label instructions, OSHA regulations and U.S. EPA requirements and guidelines contained in 40 CFR165. Pesticides will be stored in cabinets or other areas separate from other hazardous substances in accordance with Service guidelines.

I. DOCKS AND MARINAS

Marina

The Concessioner shall maintain and repair: docks, pilings (set and free of nails, or other obstruction), bulkheads, boardwalks, signs, slips, and other marina facilities within areas designated in Exhibit D. The Concessioner shall be responsible for marina facilities damaged or destroyed as a result of acts of nature, normal wear and tear, and acts of the Concessioner, its employees, clients, patrons, or agents. The marina facilities shall be maintained to applicable standards, including railings, cleats, tie-offs, walking surfaces, and other appurtenances attached thereto. The Concessioner shall be responsible for maintenance, repair and operation of marina lighting. The Concessioner shall be responsible for the removal of debris, damaged property, and floatation material from the marina areas. Slips shall be fitted with appropriately sized and securely fastened cleats. Slips are numbered on the boardwalk. Safety strips are painted on the docks' inside and outside edge. Spigots and leaking faucet washers and/or vacuum breakers shall be replaced as needed. Pilings should be secured at the end of the season and the Concessioner is responsible for replacement of any lost during the winter. There shall be no obstructions in the water, or protruding from the dock. Safety equipment shall include: fire extinguishers, life rings, safety ladders, alarms and first aid supplies and shall be maintained to be current, in season, on station, in place, and visible to the employees and the public within assigned areas (see Exhibit D).

There will be no ATV's allowed on the boardwalk except when needed to do marina maintenance.

Docks

The Concessioner shall maintain, repair or replace, walking surfaces, railings, and all structural members in a safe and useable condition. Floatation devices shall be maintained to applicable United States Coast Guard (USCG) standards. Fire extinguishing equipment shall be maintained in full compliance with all NFPA code requirements. Dock slip edges will be painted with white, reflective paint annually prior to the start of the season.

Marina Sewage Pump out

The Concessioner shall maintain and operate sewage pump out facilities. Responsibilities include; seasonal installation, dock maintenance, decking cleats, etc., the sewage pump-out equipment and lines. All costs of repair and maintenance of the system are the responsibility of the Concessioner, including emptying of the tanks(s). Costs of operating the pump-out may be figured into slip fees. Refer to Utilities (sewage).

Restrooms

All restrooms/showers are to be cleaned and disinfected a minimum of three times per day (8 am, 1 pm and 7 pm). The Concessioner shall designate an employee to inspect the restrooms to ensure cleanliness every three hours. A cleaning log will be posted and

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maintained by the Concessioner in each restroom. Schedules will be reviewed weekly by the Superintendent's representative. This will include all restrooms in areas of responsibility (Exhibit D).

In addition to janitorial services, the Concessioner will be responsible for maintenance and repairs at the Watch Hill marina restrooms and the Watch Hill campground dune restroom. The Concessioner's responsibility will be limited to janitorial services at the Sailors Haven rest rooms. All janitorial supplies shall be provided by the Concessioner.

Picnic Areas

- The Concessioner will be responsible for picnic areas within assigned area (Exhibit D). The Concessioner is responsible for repair and replacement of picnic tables and grills (maintenance of grills and picnic tables shall include annual repainting and repair/replacement). All grills and picnic tables shall be in operating condition prior to the School Group Pre-Season.
- The Concessioner is to supply and maintain, in good condition, a minimum of 50 picnic tables and minimum of 30 grills/grill stands in the marina/picnic areas at Watch Hill, a minimum of 35 picnic tables and 14 grills at the Sailors Haven picnic areas. Grill replacement shall be with steel campfire style grills such as those sold by Highland Products or equivalent. Picnic table replacement shall be with heavy duty aluminum and steel tables such as those sold by Highland Products or equivalent.

J. CAMPGROUND

General ground maintenance includes the campground area.

- Ground maintenance includes grass cutting, trimming shrubs to two feet back from all walks and campsites and 6-10 feet from structures.
- Vegetation and grass growing in picnic areas shall be maintained to a height less than 3".
- Repair and replacement of grills and picnic tables; maintenance of grills and picnic tables shall include annual repainting and repair/replacement. Grill replacement shall be with heavy duty metal, park-type grills. Picnic table replacement shall be with heavy duty metal and park-style tables.
- Garbage and recyclable pick-up from area containers shall be performed whenever containers are more than half full, at a minimum of twice daily.
- Litter pick-up shall be of sufficient frequency, but not less than daily, to ensure no visible litter in assigned areas.
- The Concessioner is responsible for the repair and replacement of 26 picnic tables and 26 grills in the campground provided by the Service at the beginning of the Contract. Of these tables and grills, there shall be 5 picnic tables and 3 grills in the group site.

No physical changes including digging and leveling of the ground may be made to the campground without the written approval of the Superintendent. The installation of permanent camping structures is prohibited.

K. MAJOR ALTERATIONS

For projects/maintenance/repair work that will result in major changes, alterations, or modifications to existing structures, facilities, or assigned areas the Concessioner will submit a written proposal package to the Superintendent for approval. This clause applies to projects that change the functions, nature, or appearance of a structure, facility, grounds, or area and not to routine work that does not change, alter, or modify the same. All projects that involve ground disturbance must also be submitted for approval. Sufficient lead-time, preferably one year in advance, should be allowed for project review.

Each Project Proposal Package shall conform to the requirements of Contract Exhibit F.

No work is to commence until written approval from the Superintendent is received.

VI. SERVICE RESPONSIBILITIES

The Service assumes no responsibility for the execution of physical maintenance work on buildings, structures, facilities, or areas assigned to the Concessioner except as stated below. The Service will assist the Concessioner in its maintenance program by assuming and executing the following responsibilities:

A. SIGNS

The Service is responsible for all-regulatory, control, or information signs that serve the interest of the Government; examples include directional signs along Park trails, and interpretive signing.

B. UTILITIES

ELECTRICAL: The Service will allow commercial electrical service to be available to locations assigned to the Concessioner. The Service will coordinate repairs outside of the land assignments.

WATER: The Service or Suffolk County Water Authority shall be responsible for water service to the water meter. The Concessioner shall be responsible for the Fire Suppression standpipes in the assigned areas.

SEWAGE: The Service shall repair, maintain or replace any part of the sewage system and related equipment that is not within the Concessioner's land assignments (Exhibit D), unless said maintenance is due to the Concessioner's failure to maintain grease traps.

C. DOCKS AND MARINAS

In the event of a catastrophic damage, such as hurricane damage, the Service will work with the Concessioner to determine if repairs at government costs are warranted. The Concessioner is responsible for all repairs during all other times including repairs caused

by normal winter damage of storms and ice.

If storms affect frequency or levels of service in-season, the Concessioner shall consult with the Superintendent to ensure the quickest possible return to normal service levels.

The Service reserves the right to use the loading slip on the East side of the Sailors Haven marina upon giving the Concessioner 24 hour notice (existing piling configuration from slips #26 to #32 will be changed to accommodate loading slip use in season.) In these slips no vessels longer than the distance from bulkhead to pilings will be allowed.

D. BUILDINGS

The Service will maintain the exterior and interior of the contact stations, ranger stations, public restrooms (other than the Watch Hill Marina restrooms), and storage buildings not assigned to the concessioner, and first aid stations.

E. CONSTRUCTION

The Service will review plans and specifications submitted by the Concessioner in as timely a manner as possible.

The Service will not issue approval to begin any construction, or improvements, until all cultural and environmental compliance requirements have been met, as well as completed plan reviews. Scheduling of all Concessioners construction and/or improvements shall be approved by the Service shall be done only in the off season, and completed to preclude impacting operating season.

Dated at FIRE ISLAND NATIONAL SEASHORE this 8th day of May, 2009

NATIONAL PARK SERVICE



K. Christopher Soller
Superintendent
Fire Island National Seashore

EXHIBIT I

INSURANCE REQUIREMENTS

I. Insurance Requirements

The Concessioner shall obtain and maintain during the entire term of this CONTRACT, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the CONTRACT. The Concessioner shall annually review and revise insurance coverages pursuant to prudent business practice and submit certificates of insurance to the Superintendent for approval or revision that the Superintendent may require as a result of such review.

II. Liability Insurance

The following Liability Coverages are to be maintained at a minimum, all of which are to be written on an occurrence basis only. The Concessioner may attain liability limits by means of supplementing the respective coverage(s) with Excess or Excess "Umbrella" Liability.

A. Commercial General Liability

1. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability (and must include Contractual Liability and Products/Completed Operations Liability).

Bodily Injury and Property Damage Limit \$2,000,000

Products/Completed Operations Limit \$1,000,000

Personal Injury & Advertising Injury Limit \$1,000,000

General Aggregate \$3,000,000

2. The liability coverages may not contain the following exclusions/limitations:

- a. Athletic or Sports Participants
- b. Products/Completed Operations
- c. Personal Injury or Advertising Injury exclusion or limitation
- d. Contractual Liability limitation
- e. Explosion, Collapse and Underground Property Damage exclusion
- f. Total Pollution exclusion
- g. Watercraft limitations affecting the use of watercraft in the course of the concessioner's operations (unless separate Watercraft coverage is maintained)

3. For all lodging facilities and other indoor facilities where there may be a large concentration of people, the pollution exclusion may be amended so that it does not apply to the smoke, fumes, vapor or soot from equipment used to heat the building.

4. If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location, or, at least, separately to the appropriate NPS location(s).

B. Automobile Liability

Coverage will be provided for bodily injury or property damage arising out of the ownership, maintenance or use of "any auto," (Where there are no owned autos, coverage applicable to "hired" and "non-owned" autos, shall be maintained.)

Each Accident Limit \$1,000,000

C. Liquor Liability (if applicable)

Coverage will be provided for bodily injury or property damage including damages for care, loss of services, or loss of support arising out of the selling, serving or furnishing of any alcoholic beverage.

Each Common Cause Limit \$1,000,000

Aggregate Limit shall be \$2,000,000

D. Watercraft Liability (or Protection & Indemnity) (if applicable)

Coverage will be provided for bodily injury or property damage arising out of the use of any watercraft.

Each Occurrence Limit \$1,000,000

E. Aircraft Liability (if applicable)

Coverage will be provided for bodily injury or property damage arising out of the use of any aircraft.

Coverage shall specify:

Each Person Limit

Property Damage Limit

Each Accident Limit

F. Excess Liability or Excess "Umbrella" Liability

This coverage is not required, but may be used to supplement any of the above Liability coverage policies in order to arrive at the required minimum limit of liability. If maintained, coverage will be provided for bodily injury, property damage, personal or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage shall be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance shall be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Excess "Umbrella" Liability policy.

G. Environmental Impairment Liability

Coverage will be provided for bodily injury, personal injury or property damage arising out of pollutants or contaminants (on site and/or offsite).

Each Occurrence or each claim limit \$1,000,000

Aggregate limit \$2,000,000

H. Special Provisions for Use of Aggregate Policies

At such time as the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the concessioner may be required to reinstate such limit or purchase additional coverage limits.

I. Self-Insured Retentions

Self-insured retentions on any of the above described Liability insurance policies (other than Excess "Umbrella" Liability, if maintained) may not exceed \$5,000.

J. Workers Compensation & Employers' Liability

Coverage will comply with the statutory requirements of the state(s) in which the concessioner operates.

III. Property Insurance

A. Building(s) and/or Contents Coverage

1. Insurance shall cover buildings, structures, improvements & betterments and/or contents for all Concession Facilities, as more specifically described in Exhibit D of this CONTRACT.

2. Coverage shall apply on an "All Risks" or "Special Coverage" basis.

3. The policy shall provide for loss recovery on a Replacement Cost basis.

4. The amount of insurance should represent no less than 90% of the Replacement Cost value of the insured property.

5. Coverage is to be provided on a blanket basis.

6. The Vacancy restriction, if any, must be eliminated for property that will be vacant beyond any vacancy time period specified in the policy.

B. Building Replacement Cost for Insurance Purposes

The replacement costs set forth below are established for the sole purpose of assuring property insurance coverage and shall not be construed as having application for any other purpose. The concessioner shall maintain parity of the insured value with the changing value of the property.

<u>Structure and Square Footage</u>	<u>Replacement Cost</u>
1. Restaurant complex at Watch Hill, 3140 ft ²	\$597,308
2. Store, Watch Hill, 600 ft ²	\$ 74,502
3. Dockmaster's Office, Watch Hill 100 ft ²	\$ 4,503
4. Living Quarters, Watch Hill, 1012 ft ²	\$122,701
5. Garbage storage, Watch Hill, 576 ft ²	\$ 27,903
6. Marina restrooms, Watch Hill, 400 ft ²	\$ 94,884
7. Marina storeroom, Watch Hill, 400 ft ²	\$ 19,008
8. Campground host building, Watch Hill, 48 ft ²	\$ 3,763
9. Living quarters, Sailors Haven, 1,210 ft ²	\$135,927
10. Garbage storage, Sailors Haven, 384 ft ²	\$ 22,684
11. Snack bar/store, Sailors Haven, 1400 ft ²	\$378,928
12. ¹ Prorated cost of snack bar, Talisman/Barrett Beach, 357 ft ²	\$ 50,000

C. Boiler & Machinery Coverage

1. Insurance shall apply to all pressure objects within Concession Facilities.

2. The policy shall provide for loss recovery on a Replacement Cost basis.

3. The amount of insurance should represent no less than 75% of the Replacement Cost value of the insured property.

4. Coverage is to be provided on a blanket basis.

5. If insurance is written with a different insurer than the Building(s) and Contents insurance, both the Property and Boiler insurance policies must be endorsed with a joint loss agreement.

¹ Ibid

C. Builders Risk Coverage

1. Insurance shall cover new buildings or structures under construction at the Concession Facilities, and include coverage for property that has or will become a part of the project while such property is at the project site, at temporary off-site storage and while in transit. Coverage should also apply to temporary structures such as scaffolding and construction forms.

2. Coverage shall apply on an "All Risks" or "Special Coverage" basis.

3. The policy shall provide for loss recovery on a Replacement Cost basis.

4. The amount of insurance should represent no less than 90% of the Replacement Cost value of the insured property.

5. Any occupancy restriction must be eliminated.

7. Any collapse exclusion must be eliminated.

8. Any exclusion for loss caused by faulty workmanship must be eliminated.

D. Business Interruption and/or Expense

1. Business Interruption insurance, if maintained by the Concessioner, should cover the loss of income and continuation of fixed expenses in the event of damage to or loss of Concession Facilities. Extra Expense insurance shall cover the extra expenses above normal operating expenses to continue operations in the event of damage or loss to covered property.

E. Deductibles

Property Insurance coverages described above may be subject to deductibles as follows:

1. Direct Damage deductibles shall not exceed the lesser of 10% of the amount of insurance or \$25,000 (except Flood & Earthquake coverage may be subject to deductibles not exceeding \$50,000).

2. Extra Expense deductibles (when coverage is not combined with Business Interruption) shall not exceed \$25,000.

F. Required Clauses

1. Loss Payable Clause:

A loss payable clause similar to the following must be added to Buildings and/or Contents, Boiler and Machinery, and Builders Risk policies:

"In accordance with Concession Contract No. CC-FIIS007-04, between the United States of America and [the Concessioner] payment of insurance proceeds resulting from damage or loss of structures insured under this policy is to be disbursed directly to the Concessioner without requiring endorsement by the United States of America."

IV. Construction Project Insurance

Concessioners entering into contracts with outside contractors for various construction projects, including major renovation projects, rehabilitation projects, additions or new buildings/facilities will be responsible to ensure that all contractors retained for such work maintain an insurance program that adequately covers the construction project.

The insurance maintained by the construction and construction-related contractors shall comply with the insurance requirements stated herein (for Commercial General Liability, Automobile Liability, Workers' Compensation and, if professional services are involved, Professional Liability). Where appropriate, the interests of the Concessioner and the United States shall be covered in the same fashion as required in the Commercial Operator Insurance Requirements.

The amounts/limits of the required coverages shall be determined in consultation with the Director taking into consideration the scope and size of the project.

V. Insurance Company Minimum Standards

All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:

1. All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
2. All insurers for all coverages must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
3. All insurers must be admitted (licensed) in the state in which the concessioner is domiciled.

VI. Certificates of Insurance

All certificates of Insurance required by this CONTRACT shall be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number. The name, address and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the concessioner, upon written request of the Director, shall provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

VII. Statutory Limits

In the event that a statutorily required limit exceeds a limit required by the National Park Service, the higher statutorily required limit shall be considered the minimum to be maintained.