

Dated: December 1, 1999.

John Berry,

Assistant Secretary of the Interior,

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DEPARTMENT OF THE INTERIOR

National Park Service

Simplified Standard Concession Contracts

ACTION: Proposed National Park Service simplified standard concession contracts.

SUMMARY: The National Park Service (NPS) authorizes certain business entities to operate concessions in areas of the national park system. The agreements embodying these authorizations consist primarily of standard language that incorporate NPS terms and conditions established by law and prudent contract administration. In 1998, Public Law 105-391 was enacted which in many significant ways affects the content of concession contracts to be entered into after its effective date. On September 3, 1999, NPS published a proposed new standard concession contract (Category I contract) reflecting the requirements of the new law, as well as a variety of improvements NPS wishes to make to its standard concession contract, including a new organizational structure for the sake of clarity.

Under this notice, NPS proposes two simplified versions of its proposed standard concession contract (Category II and Category III contracts) that will be used for smaller concession operations.

NPS proposes the following distinctions between the three contract categories:

Category I contracts will be used in situations where the concessioner will be required or allowed to construct or install capital improvements on park area lands, thereby acquiring a compensable interest in real property on park area lands. Category I contracts will also require that the concessioner perform capital maintenance on assigned concession facilities, as necessary, and will require the establishment of a maintenance reserve for this purpose.

Category II contracts will be used in situations where a concessioner will operate on assigned land or in an assigned concession facility, but will not allow the concessioner to construct or install capital improvements or perform capital maintenance and, therefore, do not involve the concessioner's obtaining a compensable

interest in real property located on park area lands. As an example, a Category II contract might be used to authorize a gift shop operation in a portion of a park visitor center, or a snack bar operation in an assigned building.

Category III contracts will be used in situations where no lands or buildings are assigned to the concessioner; consequently, the concessioner will not be allowed to construct or install any capital improvements or perform capital maintenance and the concessioner will not obtain any compensable interest in real property located on park area lands. Many outfitter/guide operations will be authorized by Category III contracts.

NPS, although not required to do so by law, seeks public comments on the proposed simplified standard concession contracts (Category II and Category III contracts) to assist it in the development of final versions as a matter of public policy.

DATES: NPS will accept written comments on the proposed simplified concession contracts on or before January 20, 2000.

ADDRESSES: Comments should be addressed to: Concession Program Manager, National Park Service, 1849 "C" Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Wendelin Mann, Concession Program, National Park Service, 1849 "C" Street, NW, Washington, D.C. 20240 (202/565-1219).

SUPPLEMENTARY INFORMATION: Public Law 105-391, enacted on November 13, 1998, among other matters, amended the statutory policies and procedures under which NPS operated its concession program. The new law requires adoption of new regulations governing the award, content and management of concession contracts. On June 30, 1999, NPS published for public comment proposed regulations implementing the new law. On September 3, 1999, NPS published for public comment a proposed new standard concession contract. As indicated in the September 3, 1999, public notice, after adoption of the new regulations and the new standard contract, NPS intended to develop and adopt a simplified ("short-form") concession contract that will be used for smaller concession operations that do not involve the concessioner's obtaining a compensable interest in real property located on park area lands. However, based on its initial review of comments in response to the proposed regulations and standard concession contract, NPS has determined that it would be appropriate to develop two simplified contract categories and publish both simplified concession

contracts for public comment prior to the adoption of final regulations and the new standard concession contract. Any changes that may be made to the standard concession contract as a result of public comment will be incorporated, to the extent applicable, in the simplified concession contracts. NPS plans to adopt the new regulations, the new standard concession contract and the simplified concession contracts contemporaneously after due consideration of all public comments received on these documents.

Category II Contract

United States Department of the Interior

National Park Service

[Name of Area]

[Site]

[Type of Service]

Concession Contract No. _____

[Name of Concessioner]

[Address, including email address and phone number]

Doing Business As _____

Covering the Period _____ through _____

Category II—Concession Contract

Table of Contents

- Identification of the Parties
- Purpose and Authorities
- Sec. 1. Term of Contract
- Sec. 2. Definitions
- Sec. 3. Services and Operations
 - A. Required and Authorized Visitor Services
 - B. Operation and Quality of Operation
 - C. Operating Plan [OPTIONAL]
 - D. Merchandise and Services
 - E. Rates
 - F. Impartiality as to Rates and Services
- Sec. 4. Concessioner Personnel
- Sec. 5. Legal, Regulatory, Policy Compliance
 - A. Legal, Regulatory, Policy Compliance
 - B. Notice
 - C. How and Where to Send Notice
- Sec. 6. Environmental and Cultural Protection
 - A. Environmental Protection
 - B. Protection of Cultural and Archeological Resources
- Sec. 7. Interpretation of Area Resources
 - A. Concessioner Obligations
 - B. Director Review of Content
 - C. Provision of Interpretation Not Exclusive
- Sec. 8. Concession Facilities Used in Operation by Concessioner
 - A. Assignment of Concession Facilities
 - B. Concession Facilities Withdrawals
 - C. Effect of Withdrawal
 - D. Right of Entry
 - E. Personal Property
 - F. Condition of Concession Facilities

- G. Utilities
- Sec. 9. Maintenance
 - A. Maintenance Obligation
 - B. Maintenance Plan [Optional]
- Sec. 10. Fees
 - A. Franchise Fee
 - B. Payments Due
 - C. Interest
- Sec. 11. Indemnification and Insurance
 - A. Indemnification
 - B. Insurance in General
 - C. Commercial Public Liability
 - D. Property Insurance
- Sec. 12. Bonds and Liens
 - A. Bonds
 - B. Liens
- Sec. 13. Accounting Records and Reports
 - A. Accounting System
 - B. Annual Financial Report
 - C. Other Financial Reports
- Sec. 14. Other Reporting Requirements
 - A. Insurance Certification
 - B. Environmental Reporting
 - C. Miscellaneous Reports and Data
- Sec. 15. Suspension and Termination
 - A. Suspension
 - B. Termination
 - C. Notice of Bankruptcy or Insolvency
 - D. Requirements in the Event of Termination
 - E. Removal of Personal Property
- Sec. 16. Assignment, Sale or Encumbrance of Interests
- Sec. 17. General Provisions
- Sec. 18. Special Provisions [Optional]
- Exhibits
 - Exhibit "A": Nondiscrimination
 - Exhibit "B": Assigned Land, Real Property Improvements
 - Exhibit "C": Assigned Government Personal Property
 - Exhibit "E": Insurance Requirements
 - Exhibit "F": Maintenance Plan [OPTIONAL]
 - Exhibit "G": Operating Plan [OPTIONAL]
 - Exhibit "X": 36 CFR Part 51

[Corporation]

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 _____ Region, hereinafter referred to as the "Director," and, a corporation organized and existing under the laws of the State of _____ doing business as hereinafter referred to as the "Concessioner":

[Partnership]

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 _____ Region, hereinafter referred to as the "Director", and of _____, _____, and _____ of, partners, doing business as, pursuant to a partnership agreement dated _____, with the principal place of business at _____, hereinafter referred to as the "Concessioner":

[Sole Proprietorship]

This Contract 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 _____ Region, hereinafter referred to as the "Director," and, an individual of, doing business as _____, hereinafter referred to as the "Concessioner":

Witnesseth

That whereas, [Name of Park, Recreation Area, etc.] 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 wild life 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;

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 (P.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. _____ ("CONTRACT") shall be effective as of _____, and shall be for the term of _____ (____) years from _____, 20____.

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, 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/or protection of public health and safety.

(b) "Area" means the property within the boundaries of [Name of Park Unit].

(c) "Capital Improvement" shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this CONTRACT.

(d) "Concession Facilities" shall mean all Area lands assigned to the Concessioner under this CONTRACT, all real property improvements assigned to the Concessioner under this Contract, including without limitation all government personal property assigned to the Concessioner under this CONTRACT. The United States retains title and ownership to all Concession Facilities.

(e) "Director" means the Director of the National Park Service and his duly authorized representatives unless otherwise indicated.

(f) "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.

(g) "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:

(i) Intracompany earnings on account of charges to other departments of the operation (such as laundry);

(ii) Charges for employees' meals, lodgings, and transportation;

(iii) Cash discounts on purchases;

(iv) Cash discounts on sales;

(v) Returned sales and allowances;

(vi) Interest on money loaned or in bank accounts;

(vii) Income from investments;

(viii) Income from subsidiary companies outside of the Area;

(ix) Sale of property other than that purchased in the regular course of business for the purpose of resale;

(x) Sales and excise taxes that are added as separate charges to approved sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies;

(xi) Receipts from the sale of handcrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handcrafts.

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.

(h) "Gross receipts of subconcessioners" means the total amount received or realized by, or accruing to, subconcessioners from all sources, as a result of the exercise of the rights conferred by subconcession contracts hereunder without allowances, exclusions or deductions of any kind or nature whatsoever.

(i) "Leasehold Surrender Interest" shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this CONTRACT.

(j) "Real Property Improvements" means real property other than land, including, but not limited to, capital improvements.

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

(l) "Visitor services" means the accommodations, facilities and services that the Concessioner is required and 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:

[Provide detailed description of required services. Broad generalizations such as "any and all facilities and services customary in such operations" or "such additional facilities and services as may be required" are not to be used. A provision stating "The Concessioner may provide services incidental to the operations authorized hereunder at the request and written approval of the Director" is acceptable.]

(2) *Authorized Visitor Services.* The Concessioner is authorized but not required to provide the following visitor services during the term of this CONTRACT:

[Provide detailed description of authorized services.]

(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. 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 [OPTIONAL—This section may be deleted and operating requirements incorporated under Section 18, Special Provisions.]*

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 "G." The Director in his discretion, after consultation with the Concessioner, may make modifications to the initial Operating Plan provided that these modifications shall not be 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 material, regardless of media format (*i.e.* printed, electronic, broadcast media), provided to the public by the Concessioner, including promotional material, 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) [OPTIONAL—To be used only if the concessioner is authorized to sell merchandise.] The Concessioner, where applicable, will develop and implement a plan satisfactory to the Director that will assure that all 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 rate approval procedures and guidelines promulgated by the Director from time to time.

(f) Impartiality as to Rates and Services

(1) In providing visitor services, the Concessioner must require its employees to observe a strict impartiality as to 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 "A."

(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 Concessioner's complimentary or reduced rate policies and practices.

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

(b) The Concessioner shall comply with all Applicable Laws relating to employment and employment conditions, including, without limitation, those identified in Exhibit "A."

(c) 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.

(d) 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 for employment to assure that they conform to the hiring policies established by the Concessioner.

(e) The Concessioner shall hire, to the greatest extent possible, people who are both interested in serving the public in a national park environment and interested in being positive contributors to the park's purpose.

(f) 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.

(g) 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 fully correct the situation.

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

(i) 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.

(j) 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 violates the prohibition on the

unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Sec. 5. Legal, Regulatory, 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 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
Park name
Address
Attention:

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

Concessioner
Address
Attention:

Sec. 6. Environmental and Cultural Protection

(a) Environmental Protection

(1) In addition to complying with all Applicable Laws pertaining to the protection of natural resources within the area, the Concessioner will conduct its operation, construction, maintenance, acquisition, and provision of visitor services in a manner that prevents or reduces environmental degradation and that promotes the use of environmentally beneficial products. The Concessioner will develop, pursuant to guidelines provided by the

Director, and carry out, to the satisfaction of the Director, a documented environmental monitoring program or programs to ensure that park resources affected by concessioner activities under this CONTRACT are not unduly impaired. The Concessioner shall be financially responsible for environmental audits that may be required by the Director for each three-year period of this CONTRACT.

(2) The Concessioner shall obtain the Director's approval prior to using any chemicals, pesticides, any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(3) The Concessioner shall monitor, test, maintain, repair, upgrade, replace, remove, or mitigate, in accordance with Applicable Laws and in accordance with the requirements of the Director:

(i) Any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product on or to the Area, including soil, surface water or groundwater;

(ii) Any materials, equipment, and facilities associated with such discharge, release or threatened release; or

(iii) any materials, equipment and facilities used in the handling, storage, disposal, transport or other use of any such hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(4) The Concessioner shall timely contact, notify and/or otherwise confer with appropriate federal, state and/or local agencies with respect to any reporting obligation arising out of Concessioner's operations under this CONTRACT and the Concessioner shall simultaneously provide notice of such contact to the Director and allow the Director the opportunity to participate in any such proceedings.

(5) The Concessioner shall give the Director immediate notice of any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(6) The Concessioner shall give the Director immediate written notice of any threatened or actual notice of violation of any federal, state or local law, rule, regulation, requirement or policy relating to or governing the use, handling, storage, disposal, transport, presence, acceptable concentration, or remediation of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product received by Concessioner.

(7) The Concessioner, at its sole cost and expense, shall promptly rectify any discharge or release as set forth in this section or any threatened or actual violation as set forth in this section, including, but not limited to, payment of any fines or penalties imposed thereon.

(8) The Concessioner shall indemnify the United States in accordance with section 12 of the Contract for losses, damages or judgements (including, without limitation, fines and penalties) and expenses (including, without limitation, attorneys fees and experts fees) arising out of the activities of the Concessioner pursuant to this section. Such indemnification shall survive termination of this CONTRACT.

(9) If the Concessioner does not promptly rectify the discharge or release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product, the Director may, in its sole discretion and after notice to Concessioner, take any such action the Director deems necessary to minimize, remediate, or otherwise clean up such release or discharge, and recover any costs associated with such action from the Concessioner upon demand.

(10) 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, transported onto or into the Area by the Concessioner to ensure that the Area remains in good condition.

(11) The Concessioner shall be responsible for managing weeds, harmful insects, rats, mice and other pests on all lands and improvements assigned to the Concessioner under this CONTRACT. All such weed and pest management activities shall be in accordance with guidelines established by the Director.

(b) 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, subcontractors or agents, except in accordance with Applicable Laws, and only with the prior approval of the Director. Discoveries of any archeological resources by 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.

(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.

(b) Director Review of Content

The Concessioner must submit the proposed content of any interpretive programs, exhibits, materials or displays to the Director for review and approval prior to offering such programs, exhibits or displays to Area visitors.

(c) Provision of Interpretation Not Exclusive

Notwithstanding any provision of this CONTRACT to the contrary, the Director retains the right to provide Area interpretation, including without limitation, the conduct of interpretive programs and the sale of interpretive materials, directly or through cooperative or other agreements with third parties, as the Director determines to be necessary or appropriate.

Sec. 8. Concession Facilities Used in Operations by Concessioner

(a) Assignment of Concession Facilities

(1) The Director hereby assigns Concession Facilities as described in Exhibit B to the Concessioner for the purposes of this CONTRACT. The Concessioner shall not be authorized to construct any Capital Improvements

upon Area lands. The Concessioner shall not obtain a Leasehold Surrender Interest or other compensable interest in Capital Improvements constructed or installed in violation of this CONTRACT.

(2) The Director shall from time to time amend Exhibit B to reflect changes in Concession Facilities assigned to Concessioner.

(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 for the purpose of enhancing 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 assigned to the Concessioner is no longer necessary for the concession operation.

(c) Effect of Withdrawal

Any permanent withdrawal of assigned Concession Facilities which the Director considers as essential for the Concessioner to provide the visitor services required by this CONTRACT will be treated by the Director as a termination of this Contract pursuant to Section 16. No 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 removable equipment, furniture and goods, necessary for its operations under this CONTRACT.

(2) *Personal Property Provided by the Government.* The Director may provide certain items of government personal property and equipment for the Concessioner's use in the performance of this CONTRACT. The Director hereby assigns government personal property and equipment listed in Exhibit C to the Concessioner as of the effective date of this CONTRACT. This Exhibit C 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 and equipment assigned to it

and shall be responsible for maintaining the property and equipment 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

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

(g) Utilities

(1) The Director may provide utilities to the Concessioner for use in connection with the operations required and/or authorized under this CONTRACT when available at rates to be fixed by the Director under applicable guidelines.

(2) If the Director does not provide these utilities, 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.

Sec. 9. 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 [OPTIONAL— This section may be deleted and maintenance requirements incorporated under Section 18, Special Provisions.]

For these purposes, the Director, acting through the Superintendent, shall undertake appropriate inspections, and, after consultation with the Concessioner, 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 F. The Director in his discretion may modify the Maintenance Plan from time to time after consultation with the Concessioner. Such modifications shall not be inconsistent with the terms and conditions of the main body of this CONTRACT.

Sec. 10. 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 _____ Percent (_____ %) of

the Concessioner's Gross Receipts for the preceding year or portion of a year.

(2) The Concessioner agrees that this franchise fee is consistent with the probable value of the privileges granted by this CONTRACT as defined in this section.

(3) The Concessioner shall have no right to an adjustment of the fees except as provided below. The Concessioner shall have no right to waiver of the franchise fee.

(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.

(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.

Sec. 11. 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 relating to or arising out of the activities of the Concessioner, his employees, subcontractors or agents 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. 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 thirty (30) days advance written notice of any material change in the Concessioner's insurance program hereunder.

(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 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 E. Furthermore, the commercial general liability package shall provide the coverages and limits described in Exhibit E.

(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, in his discretion, modify Exhibit E to revise the minimum required limits or to require additional types of insurance.

(d) Property Insurance

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and other buildings, structures, equipment, furnishings, betterments, improvements and merchandise 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 in amounts that the Director may require during the term of the Contract. The values currently in effect are set forth in Exhibit E. This Exhibit will be revised at least every three (3) years, or earlier if there is a substantial change in value of Concession Facilities.

(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, equipment, furnishings and other personal property hereunder, 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.

(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 E.

Sec. 12. Bonds and Liens

(a) Bonds

The Director may require the Concessioner to furnish appropriate forms of bonds acceptable to the Director conditioned upon faithful performance of its obligations under this CONTRACT, in such form and in such amount as the Director may deem adequate.

(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.

Sec. 13. 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. 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 account in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner shall submit annually as soon as possible but not later than ninety (90) 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 the Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between \$250,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with the Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than \$250,000, 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 gross receipts, by an independent Certified Public Accountant.

Sec. 14. Other Reporting Requirements

The following describes certain other reports required under this CONTRACT:

(a) Insurance Certification

As specified in Section 12, at the time insurance is first purchased, and annually thereafter, the Concessioner shall 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 thirty (30) days advance written notice of any material change in its insurance program.

(b) Environmental Reporting

The Concessioner shall submit a quarterly report on any matters related to the Concessioner's environmental compliance requirements under 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. 15. Suspension and Termination

(a) Suspension

The Director may temporarily suspend operations under this CONTRACT in whole or in part when necessary for administrative purposes or to enhance or protect Area resources, visitor enjoyment or safety. No compensation of any nature shall be due the Concessioner 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 in whole or part at any time when necessary for the purpose of enhancing or protecting Area resources or visitor enjoyment or safety.

(2) The Director may terminate this CONTRACT in whole or part for default if the Director determines that the Concessioner has 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 visitor services required or authorized by the Director, the requirement to pay the established franchise fee, 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 in his sole discretion, 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 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 this 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 notice fifteen (15) days prior to filing 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, this CONTRACT is not a lease, but is an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 1135.

(d) Requirements in the Event of Termination

(1) In the event of termination of this CONTRACT by the Director for any reason, no compensation of any nature shall be due the Concessioner 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, and except as otherwise provided in this section, the Concessioner shall, at Concessioner's expense, promptly vacate the Area, remove all of Concessioner's personal property, repair any injury occasioned by installation of removal of such property, and ensure that Concession Facilities are in as good condition as they were at the beginning

of the term of this CONTRACT, reasonable wear and tear excepted.

(e) Removal of Personal Property

Except as otherwise provided in this CONTRACT, upon expiration or termination of this CONTRACT for any reason, the Concessioner shall remove its personal property from the Area unless it is sold to the Director or a successor concessioner. No compensation is due the Concessioner from the Director or a successor concessioner for such personal property. 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 as of the date of expiration or termination of this CONTRACT, unless the Director in writing extends such date of removal, shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws.

Sec. 16. Assignment, Sale or Encumbrance of Interests

(a) This CONTRACT is subject to the requirements of 36 CFR Part 51 as it may be amended from time to time with respect to proposed conveyances and encumbrances as those terms are defined in 36 CFR Part 51, including, but not limited to, proposed management and subconcession agreements. Failure by the Concessioner to comply with 36 CFR Part 51 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 or operating rights under this CONTRACT, if obtained in violation of 36 CFR part 51.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to 36 CFR part 51 of the requirements of that regulation.

Sec. 17. 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 36 C.F.R. Part 51 as it may now exist or be amended from time to time.

(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 required or authorized by Applicable Laws.

(c) Subconcession or other third party agreements, including management agreements, for the provision of principal services required and/or authorized under this CONTRACT are not permitted. However, subconcession or other third party agreements may be allowed for incidental or specialized services which are incidental to the principal services required and/or authorized under this CONTRACT. Any proposal to provide incidental or specialized services through subconcession or other third party agreements must be submitted to the Director in writing, along with a copy of the proposed subconcession or third party agreement, and shall be effective only if approved in writing by the Director. If the Director approves a subconcession or other third party agreement, the Concessioner and the Director will amend the CONTRACT to reflect such approval. Agreements with others to provide vending or other coin-operated machines shall not be considered subconcession agreements.

(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) The Concessioner is not granted by this CONTRACT any rights to renewal

of this CONTRACT or to award of a new contract of any nature.

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

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

Sec. 18. Special Provisions

[OPTIONAL—To be used when operating and maintenance requirements are incorporated in the body of the contract, rather than as separate operating and maintenance plans.]

In Witness Whereof, the duly authorized representatives of the parties have executed this Contract as of the _____ day of _____, _____.

Concessioner:

By _____ (Title, Company Name)

United States of America:

By _____ (Director, National Park Service)

[Corporations]

Attest:

By _____ Title _____

[Sole Proprietorship]

Witnesses:

Name _____ Address _____ Title _____ Name _____ Address _____ Title _____

[Partnership]

Witnesses as to Each:

Name _____ Address _____ (Name) _____ Address _____

[Concessioner]

Name _____ (Name) _____

Category III—Contract

United States Department of the Interior National Park Service

[Name of Area]

[Site]

[Type of Service]

Concession Contract No. _____

[Name of Concessioner]

[Address, including email address and phone number]

Doing Business As _____ Covering the Period _____ through _____

Category III—Concession Contract

Table of Contents

Identification of the Parties

Purpose and Authorities

- Sec. 1. Term of Contract
Sec. 2. Definitions
Sec. 3. Services and Operations
A. Required and Authorized Visitor Services
B. Operation and Quality of Operation
C. Operating and Maintenance Plan [OPTIONAL]
D. Merchandise and Services
E. Rates
F. Impartiality as to Rates and Services
Sec. 4. Concessioner Personnel
Sec. 5. Legal, Regulatory, Policy Compliance
A. Legal, Regulatory, Policy Compliance
D. Notice
E. How and Where to Send Notice
Sec. 6. Environmental and Cultural Protection
A. Environmental Protection
B. Protection of Cultural and Archeological Resources
Sec. 7. Fees
A. Franchise Fee
B. Payments Due
C. Interest
Sec. 8. Indemnification and Insurance
A. Indemnification
B. Insurance in General
C. Commercial Public Liability
Sec. 9. Bonds and Liens
A. Bonds
B. Liens
Sec. 10. Accounting Records and Reports
A. Accounting System
B. Annual Financial Report
C. Other Financial Reports
Sec. 11. Other Reporting Requirements
A. Insurance Certification
D. Environmental Reporting
E. Miscellaneous Reports and Data.
Sec. 12. Suspension and Termination
A. Suspension
E. Termination
F. Notice of Bankruptcy or Insolvency
G. Requirements in the Event of Termination
E. Removal of Personal Property
Sec. 13. Assignment, Sale or Encumbrance of Interests
Sec. 14. General Provisions
Sec. 15. Special Provisions [Optional]
Exhibits
Exhibit "A": Nondiscrimination
Exhibit "C": Assigned Government Personal Property
Exhibit "E": Insurance Requirements
Exhibit "G": Operating and Maintenance Plan [OPTIONAL]
Exhibit "X": 36 CFR Part 51

[Corporation]

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 _____ Region, hereinafter referred to as the "Director," and, a corporation organized and existing under the laws of the State of _____ doing business as hereinafter referred to as the "Concessioner":

[Partnership]

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 _____ Region, hereinafter referred to as the "Director", and of _____, _____, and _____ of, partners, doing business as, pursuant to a partnership agreement dated _____, with the principal place of business at _____, hereinafter referred to as the "Concessioner":

[Sole Proprietorship]

This CONTRACT 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 _____ Region, hereinafter referred to as the "Director," and, an individual of, doing business as _____, hereinafter referred to as the "Concessioner":

Witnesseth

That whereas, [Name of Park, Recreation Area, etc.] 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 wild life 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;

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 (P.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. _____ ("CONTRACT") shall be effective as of _____, and shall be for the term of (_____) years from _____, 20____.

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, 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/or protection of public health and safety.

(b) "Area" means the property within the boundaries of [Name of Park Unit].

(c) "Capital Improvement" shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this Contract.

(e) "Director" means the Director of the National Park Service and his duly authorized representatives unless otherwise indicated.

(f) "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.

(g) "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:

(i) Intracompany earnings on account of charges to other departments of the operation (such as laundry);

(ii) Charges for employees' meals, lodgings, and transportation;

(iii) Cash discounts on purchases;

(iv) Cash discounts on sales;

(v) Returned sales and allowances;

(vi) Interest on money loaned or in bank accounts;

(vii) Income from investments;

(viii) Income from subsidiary companies outside of the Area;

(ix) Sale of property other than that purchased in the regular course of business for the purpose of resale;

(x) Sales and excise taxes that are added as separate charges to approved sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies

(xi) 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.

(h) "Gross receipts of subconcessioners" means the total amount received or realized by, or accruing to, subconcessioners from all sources, as a result of the exercise of the rights conferred by subconcession contracts hereunder without allowances, exclusions or deductions of any kind or nature whatsoever.

(i) "Leasehold Surrender Interest" shall have the meaning set forth in 36 CFR Part 51 as of the effective date of this CONTRACT.

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

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

Sec. 3. Services and Operations

(c) 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: [Provide detailed description of required and authorized services.]

The Concessioner shall not be authorized to construct any Capital Improvements upon Area lands. The Concessioner shall not obtain a Leasehold Surrender Interest or other compensable interest in Capital Improvements constructed or installed in violation of this CONTRACT.

(d) Operation, Maintenance and Quality of Operation

(1) The Concessioner shall provide, operate and maintain the required and authorized visitor services in

accordance with this CONTRACT to such an extent and in a manner considered satisfactory by the Director. The Concessioner's authority to provide visitor services under the terms of this CONTRACT is non-exclusive.

(2) The Concessioner shall provide and maintain all personal property necessary for its operations under this Contract.

(3) The Director may provide certain items of government personal property and equipment for the Concessioner's use in the performance of this CONTRACT. The Director hereby assigns government personal property and equipment listed in Exhibit C to the Concessioner as of the effective date of this CONTRACT. This Exhibit C 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 and equipment assigned to it and shall be responsible for maintaining the property and equipment 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.

(c) Operating and Maintenance Plan [OPTIONAL—This section may be deleted and operating requirements incorporated under Section 18, Special Provisions.]

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 and Maintenance Plan (including, without limitation, a risk management program, that must be adhered to by the Concessioner). The initial Operating and Maintenance Plan is attached to this CONTRACT as Exhibit "G." The Director in his discretion, after consultation with the Concessioner, may make modifications to the initial Operating and Maintenance Plan provided that these modifications shall not be 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. 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.

(2) All material, regardless of media format (*i.e.* printed, electronic, broadcast media), provided to the public by the Concessioner, including promotional or interpretive material, 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) [OPTIONAL—To be used only if the concessioner is authorized to sell merchandise.] The Concessioner, where applicable, will develop and implement a plan satisfactory to the Director that will assure that all 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 rate approval procedures and guidelines promulgated by the Director from time to time.

(f) Impartiality as to Rates and Services

(1) In providing visitor services, the Concessioner must require its employees to observe a strict impartiality as to 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 "A."

(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 Concessioner's complimentary or reduced rate policies and practices.

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

(b) The Concessioner shall comply with all Applicable Laws relating to employment and employment conditions, including, without limitation, those identified in Exhibit "A."

(c) 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.

(d) 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 for employment to assure that they conform to the hiring policies established by the Concessioner.

(e) The Concessioner shall hire, to the greatest extent possible, people who are both interested in serving the public in a national park environment and interested in being positive contributors to the park's purpose.

(f) 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.

(g) 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 fully correct the situation.

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

(i) 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.

(j) 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 violates the prohibition on the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Sec. 5. Legal, Regulatory, Policy Compliance

(c) 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.

(d) Notice

The Concessioner shall give the Director immediate written notice of any violation of Applicable Laws 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
Park name

Address
Attention:

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

Concessioner
Address
Attention:

Sec. 6. Environmental and Cultural Protection

(a) Environmental Protection

(1) In addition to complying with all Applicable Laws pertaining to the protection of natural resources within the area, the Concessioner will conduct its operation, maintenance, acquisition, and provision of visitor services in a manner that prevents or reduces environmental degradation and that promotes the use of environmentally beneficial products. The Concessioner will develop, pursuant to guidelines provided by the Director, and carry out, to the satisfaction of the Director, a documented environmental monitoring program or programs to ensure that park resources affected by concessioner activities under this CONTRACT are not unduly impaired. The Concessioner shall be financially responsible for environmental audits that may be required by the Director for each three-year period of this CONTRACT.

(2) The Concessioner shall obtain the Director's approval prior to using any chemicals, pesticides, any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(3) The Concessioner shall monitor, test, maintain, repair, upgrade, replace, remove, or mitigate, in accordance with Applicable Laws and in accordance with the requirements of the Director:

(i) Any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product on or to the Area, including soil, surface water or groundwater;

(ii) Any materials, equipment, and facilities associated with such discharge, release or threatened release; or

(iii) Any materials, equipment and facilities used in the handling, storage, disposal, transport or other use of any such hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum,

petroleum product or petroleum by-product.

(4) The Concessioner shall timely contact, notify and/or otherwise confer with appropriate federal, state and/or local agencies with respect to any reporting obligation arising out of Concessioner's operations under this Contract and the Concessioner shall simultaneously provide notice of such contact to the Director and allow the Director the opportunity to participate in any such proceedings.

(5) The Concessioner shall give the Director immediate notice of any discharge, release or threatened release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(6) The Concessioner shall give the Director immediate written notice of any threatened or actual notice of violation of any federal, state or local law, rule, regulation, requirement or policy relating to or governing the use, handling, storage, disposal, transport, presence, acceptable concentration, or remediation of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product received by Concessioner.

(7) The Concessioner, at its sole cost and expense, shall promptly rectify any discharge or release as set forth in this section or any threatened or actual violation as set forth in this section, including, but not limited to, payment of any fines or penalties imposed thereon.

(8) The Concessioner shall indemnify the United States in accordance with section 12 of the CONTRACT from losses, damages or judgements (including, without limitation, fines and penalties) and expenses (including, without limitation, attorneys fees and experts fees) arising out of the activities of the Concessioner pursuant to this section. Such indemnification shall survive termination of this CONTRACT.

(9) If the Concessioner does not promptly rectify the discharge or release (whether solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product, the Director may, in its sole discretion and after notice to Concessioner, take any such action the Director deems necessary to

minimize, remediate, or otherwise clean up such release or discharge, and recover any costs associated with such action from the Concessioner upon demand.

(10) 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, transported onto or into the Area by the Concessioner to ensure that the Area remains in good condition.

(11) The Concessioner shall be responsible for managing weeds, harmful insects, rats, mice and other pests on all lands and improvements assigned to the Concessioner under this Contract. All such weed and pest management activities shall be in accordance with guidelines established by the Director.

(b) 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, subcontractors or agents, except in accordance with Applicable Laws, and only with the prior approval of the Director. Discoveries of any archeological resources by 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. 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 _____ percent (_____ %) of the Concessioner's Gross Receipts for the preceding year or portion of a year.

(2) The Concessioner agrees that this franchise fee is consistent with the probable value of the privileges granted by this CONTRACT as defined in this section.

(3) The Concessioner shall have no right to an adjustment of the fees except as provided below. The Concessioner shall have no right to waiver of the franchise fee.

(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.

(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.

Sec. 8. Indemnification and Insurance

(b) 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 relating to or arising out of the activities of the Concessioner, his employees, subcontractors or agents 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. 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 thirty (30) days advance written notice of any material change in the Concessioner's insurance program hereunder.

(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 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 E. Furthermore, the commercial general liability package shall provide the coverages and limits described in Exhibit E.

(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, in his discretion, modify Exhibit E to revise the minimum required limits or to require additional types of insurance.

Sec. 9. Bonds and Liens

(c) Bonds

The Director may require the Concessioner to furnish appropriate forms of bonds acceptable to the

Director conditioned upon faithful performance of its obligations under this CONTRACT, in such form and in such amount as the Director may deem adequate.

(d) 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.

Sec. 10. 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. 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 account in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized hereunder by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner shall submit annually as soon as possible but not later than ninety (90) 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 the Generally Accepted Auditing Standards (GAAS) and

procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between \$250,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with the Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than \$250,000, 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 gross receipts, by an independent Certified Public Accountant.

Sec. 11. Other Reporting Requirements

The following describes certain other reports required under this CONTRACT:

(a) Insurance Certification

As specified in Section 12, at the time insurance is first purchased, and annually thereafter, the Concessioner shall 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 thirty (30) days advance written notice of any material change in its insurance program.

(b) Environmental Reporting

The Concessioner shall submit a quarterly report on any matters related to the Concessioner's environmental compliance requirements under 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. 12. Suspension and Termination

(b) Suspension

The Director may temporarily suspend operations under this CONTRACT in whole or in part when necessary for administrative purposes or

to enhance or protect Area resources, visitor enjoyment or safety. No compensation of any nature shall be due the Concessioner 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 in whole or part at any time when necessary for the purpose of enhancing or protecting Area resources or visitor enjoyment or safety.

(2) The Director may terminate this CONTRACT in whole or part for default if the Director determines that the Concessioner has 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 visitor services required or authorized by the Director, the requirement to pay the established franchise fee, 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 in his sole discretion, 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 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 notice fifteen (15) days prior to filing 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, this CONTRACT is not a lease, but is an executory Contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 1135.

(d) Requirements in the Event of Termination

(1) In the event of termination of this CONTRACT by the Director for any reason, no compensation of any nature shall be due the Concessioner 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, and except as otherwise provided in this section, the Concessioner shall, at Concessioner's expense, promptly vacate the Area, remove all of Concessioner's personal property, repair any injury occasioned by installation of removal of such property, and ensure that Concession Facilities are in as good condition as they were at the beginning of the term of this CONTRACT, reasonable wear and tear excepted.

(e) Removal of Personal Property

Except as otherwise provided in this CONTRACT, upon expiration or termination of this CONTRACT for any reason, the Concessioner shall remove

its personal property from the Area unless it is sold to the Director or a successor concessioner. No compensation is due the Concessioner from the Director or a successor concessioner for such personal property. 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 as of the date of expiration or termination of this CONTRACT, unless the Director in writing extends such date of removal, shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws.

Sec. 13. Assignment, Sale or Encumbrance of Interests

(a) This CONTRACT is subject to the requirements of 36 CFR Part 51 as it may be amended from time to time with respect to proposed conveyances and encumbrances as those terms are defined in 36 CFR Part 51, including, but not limited to, proposed management and subconcession agreements. Failure by the Concessioner to comply with 36 CFR Part 51 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 or operating rights under this CONTRACT, if obtained in violation of 36 CFR Part 51.

(b) The Concessioner shall advise any person(s) or entity proposing to enter into a transaction which may be subject to 36 CFR Part 51 of the requirements of that regulation.

Sec. 14. 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 36 CFR Part 51 as it may now exist or be amended from time to time.

(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 required or authorized by Applicable Laws.

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

allowed for incidental or specialized services which are incidental to the principal services required and/or authorized under this CONTRACT. Any proposal to provide incidental or specialized services through subconcession or other third party agreements must be submitted to the Director in writing, along with a copy of the proposed subconcession or third party agreement, and shall be effective only if approved in writing by the Director. If the Director approves a subconcession or other third party agreement, the Concessioner and the Director will amend the CONTRACT to reflect such approval. Agreements with others to provide vending or other coin-operated machines shall not be considered subconcession agreements.

(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 C.F.R., 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) The Concessioner is not granted by this CONTRACT any rights to renewal of this CONTRACT or to award of a new CONTRACT of any nature.

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

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

Sec. 15. Special Provisions

[OPTIONAL—To be used when operating and maintenance requirements are incorporated in the body of the CONTRACT, rather than as a separate operating and maintenance plan.]

In witness whereof, the duly authorized representatives of the parties have executed this CONTRACT as of the _____ day of _____, _____.

Concessioner:

By (Title) (Company Name)

United States of America:

By Director, National Park Service

[Corporations]

Attest:

By _____
Title _____

[Sole Proprietorship]

Witnesses:

Name _____
Address _____
Title _____

Name _____
Address _____
Title _____

[Partnership]

Witnesses as to each:

Name _____
Address _____
Name _____
Address _____

[Concessioner]

(Name) _____
(Name) _____

Dated: December 1, 1999.

Maureen Finnerty,

Associate Director, Park Operations and Education, National Park Service.

[FR Doc. 99-31752 Filed 12-20-99; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR**National Park Service****Record of Decision, General Management Plan and Environmental Impact Statement, Gettysburg National Military Park, Adams County, PA**

SUMMARY: Pursuant to section 102 (2)(c) of the National Environmental Policy Act of 1969, as amended, and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, has prepared a Record of Decision on the Final General Management Plan/Final Environmental Impact Statement for Gettysburg National Military Park, Adams County, Pennsylvania.

DATES: The Regional Director, Northeast Region, approved the Record of Decision on November 23, 1999.

FOR FURTHER INFORMATION CONTACT: Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, PA 17325, telephone 717-334-1124.

SUPPLEMENTARY INFORMATION:**Introduction**

The Department of the Interior, National Park Service (NPS) has prepared this Record of Decision on the Final General Management Plan and Environmental Impact Statement for Gettysburg National Military Park (NMP), Pennsylvania. This Record of Decision is a statement of the background of the project, the decision made, the basis for the decision, other alternatives considered, the environmentally preferable alternative, measures to minimize environmental harm, and the public involvement in the decision making process.

Background of the Project*Park Significance, Legislative Purpose, Mission and Mission Goals*

Gettysburg NMP, located in Adams County, Pennsylvania, was established to preserve the nationally significant resources of the Battle of Gettysburg, the Soldiers' National Cemetery and the commemoration and preservation of the battlefield. The battle was the largest and most costly in human terms to occur on the North American continent. It lessened the Confederacy's ability to successfully wage war and contributed to the ultimate preservation of the United States. The creation of the Soldiers' National Cemetery, and Abraham Lincoln's Gettysburg Address, heightened Americans' sense of the meaning and importance of the war. The national park inspired by those who experienced the Civil War preserved major features of the 1863 battlefield and commemorated the valor and sacrifice of the participants. These elements make Gettysburg a place where Americans continue to remember and honor those whose struggle led to a united nation.

As part of its compliance with the Government Performance and Results Act of 1993, NPS developed for each unit of the national park system a legislative purpose statement, a mission statement and mission goals. NPS developed these elements in consultation with the Pennsylvania State Historic Preservation Officer, the Gettysburg National Military Park Advisory Commission, other interested

agencies and organizations, and the public.

The legislated purposes of Gettysburg NMP are:

- To preserve the topographical, natural and cultural features that were significant to the outcome of the Battle of Gettysburg.

- To mark the lines of battle, and to preserve the monuments and markers that commemorate the struggle.

- To provide opportunities for people to learn about the Battle of Gettysburg in the full social, political and cultural context of the Civil War and American History.

- To preserve the objects, artifacts and archives that document the battle, its aftermath and commemoration.

The mission that NPS has established for Gettysburg NMP is: To preserve and protect the resources associated with the Battle of Gettysburg and the Soldiers' National Cemetery, and to provide understanding of the events that occurred here, within the context of American history.

The four mission goals that NPS established for Gettysburg NMP are:

- The landscapes, buildings, monuments, structures, archeological sites, artifacts and archives that are significant to the outcome and commemoration of the Battle of Gettysburg are protected, rehabilitated and maintained in good condition.

- The public understands and appreciates the significant events associated with the Gettysburg Campaign and its impact upon the development of the nation.

- Visitors safely enjoy high quality educational experiences accessible to all segments of the population.

- Public and private entities understand the park's mission and act cooperatively to protect and interpret resources related to the Gettysburg Campaign and its commemoration.

The Need for a New General Management Plan

The purpose of a General Management Plan/Environmental Impact Statement (GMP/EIS) is to set forth a basic management philosophy for a park and to provide a framework for future decision making. NPS' Management Policies require that a park's GMP be reviewed periodically and revised or amended as necessary to reflect new issues or management objectives, or when it has exceeded the period for which it was developed, which is usually 15 years. (NPS Management Policies, Chapter 2:6) The park's last GMP was completed more than 17 years ago, in 1982; although the plan continues to be used as a general