Briefing Statement

Bureau:	**National Park Service**
Issue:	**Buzzard Point Marina**
Park Site:	**National Capital Region, National Capital Parks-East**
Date:	**April 19, 2011**

Key Points

- Concession Contract CC-NACE003-06, executed on January 1, 2007, expires on December 31, 2011.
- Required services under this contract are:
  - Wet slip rental with electrical and water utilities
  - Dry Storage
  - Vending
  - Boat Pump-out
- Authorized services under this contract at are:
  - Launch Ramp
  - Pay telephone
- There is 0% franchise fees returned to the government.
- In accordance with the Capital Facilities Improvement Program in the contract, the Concessioner has installed a security system. The concessioner is required to deposit into an account 4% of gross receipts to establish and manage a Repair and Maintenance Reserve.

Background

- The Concessioner has used most of the Repair and Maintenance Reserve to repair and replace pilings.
- The dock system has exceeded its useful life and warrants immediate replacement. The safety of the dock system is questionable. The system exhibits symptoms of general structural failure, including uneven walking surfaces; breaching of steel sections due to rust, causing saturation of the floatation; mismatched components, etc.

Current Issues

- Current and projected marina revenues will not tolerate the capital investment required to replace the dock system, while allowing the operator a "reasonable opportunity to enjoy a profit."
- NPS no longer believes the service to be "necessary and appropriate" due primarily to the excess marina slip inventory nearby and throughout the Washington, DC metropolitan area.
- It is recommended that CC-NACE003-06 be extended through December 31, 2012, then terminated as the service is no longer "necessary and appropriate", nor financially feasible without significant NPS capital investment.
- An extension would permit the NPS time to plan for an adaptive re-use of the facility by a park partner, and an orderly transition to its future use.
- A memorandum will be issued to the concessionaire stating that their contract will be extended through December, 2012 and services will terminate to users of the marina. We can expect some concern to be expressed from the management team at Buzzards Point.

Prepared by: Alex Romero, Superintendent, National Capital Parks-East, 202-690-5197
Date: March 23, 2011

Steve LeBel/NCR/NPS
11/28/2012 05:13 PM

To "Romero, Alex" <alex_romero@nps.gov>
cc Lisa Mendelson <lisa_mendelson-ielmini@nps.gov>, Philip Selleck <philip_selleck@nps.gov>, Steve Whitesell <steve_whitesell@nps.gov>
bcc
Subject Re: Buzzard Point Marina

See additional comments below for clarification and additional information.

Steve LeBel
Deputy Associate Regional Director, Operations and Education
Program Manager, Office of Business Services
National Capital Region, National Park Service
Phone: (202) 619-7072
Fax: (202) 619-7157

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"Romero, Alex" <alex_romero@nps.gov>

"Romero, Alex" <alex_romero@nps.gov>
11/27/2012 11:35 AM

To Steve LeBel <steve_lebel@nps.gov>
cc Philip Selleck <philip_selleck@nps.gov>, Steve Whitesell <steve_whitesell@nps.gov>, Lisa Mendelson <lisa_mendelson-ielmini@nps.gov>
Subject Buzzard Point Marina

Steve,

On October 31, 2012 we met to clarify roles and next steps regarding Buzzard Point Marina. We started the meeting with the big question;

- is the marina necessary and appropriate?
- and was the contract financially feasible?

We agreed that there were enough marinas in the DC harbor area to accommodate the need of the current slip owners at Buzzard Point (in fact you had an inventory of boat slips currently available in our concessions operated marina). Financially the money generated from the marina was not enough to sustain the operation. The docks were unsafe, passed their life expectancy and needed to be replaced of which the marina does not have the funding. In fact, based on a 2003 condition assessment the docks were evaluated as fair to poor
Comment: The revenue generated from marina operations is insufficient to sustain the capital investment necessary to replace the docks and provide a reasonable return to the operator.

We agreed to the following:

1. *(Due to the necessary and appropriate determination, financial feasibility, and safety concerns)* You would write an extension letter through March (or April 30th?) to the concession operator by November

9th. Has the extension letter gone out? *This was suppose to be completed and a copy sent to the park for our files.*
Comment: The extension letter has not been sent. This would be the termination of service letter, as well, and is somewhat more complicated. We plan to send this out by 12. 7.12 terminating service as of 3.31.13, the end of the winter/beginning of the spring boating season.

2. You would post a notification in the Federal Register - timeline was uncertain. But you assured me that posting in the Federal Register for concessions was not cumbersome.
Comment: Correct. The request to post the Federal Register notice for extension was sent to WASO for publishing on 8.17.12.

3. Necessary and appropriate determination would be completed by November 30th and signed by me. You would draft the language. You also stated that nothing could be permitted at this site until this was completed. *This determination would be signed by the RD and a copy would be sent to the park for our files. The language has been drafted. The Concessioner would only get a letter to inform them of the closure.*
Comment: Correct. I'm unclear ref. "nothing could be permitted at this site until this was completed." Do you recall the context so I can clarify? The determination should be signed by the Superintendent.

3. The park would follow-up with material needed to pursue the breach of contract and their use of the unauthorized maintenance funds and the funds would be returned to the park account.
Comment: Correct, however the Maintenance Reserve funds are held in the concessioner's account. I understand the park plans to ask the concessioner to expend the balance on projects benefitting the future use of the site. I understand Wanda will identify this project.

4. You would work with our maintenance crew or guide them with the removal of the unserviceable docks.
Comment: Correct, I can suggest the least expensive solution to remove the docks using in-house labor. The estimated cost for contracting this work to a marine demolition contractor is $250k.

5. The park would keep 1 slip- Wanda would determine which slip to keep.
Comment: Correct. I have discussed this with Wanda. Our understanding is that the park wishes to retain a courtesy dock.

6. The boathouse that is currently owned by the concession operator would be abandoned, the park would follow through on abandoned property similar to what was done for the Anacostia Marina..
Comment: All fixed assets are owned by the park. Any personal property left on park property after the termination date is considered abandoned property.

I believe this captures our meeting and what we agreed to. If there is something I missed, please let me know. At your earliest convenience please update me on the status.

Thank you,

Alex

Wanda
Washington/NCR/NPS
06/29/2012 08:00 AM

To Steve LeBel/NCR/NPS@NPS
cc Gopaul Noojibail/NACE/NPS@NPS, Frank Young/NACE/NPS@NPS
bcc
Subject Needed Measurements for Buzzard Point Marina

Steve:

Steel Floating Docks	432 linear feet (Section 4, 5, 6)
Composite Floating Docks	338 linear feet (Section 2 & 9)
Wood Floating Docks	166 linear feet (Section 8)
Steel Gangway	20 linear feet (Section 3)
Steel Ramp	40 linear feet (Section 3
Aluminum Gangway	30 linear feet (Section 1)
Wood Pier	13 linear feet (Section 7)

The land assignment map that you sent me is a little different from the one the park has attached to the contract. There are not a lot of differences, however, one major change is that the right away from the district has been turned back to NPS. See attached.

Land Assignment for Buzzard Point Marina.pdf

Thanks and have an outstanding day.
I check emails at 8 a.m., 11 a.m., and 2:30 p.m. If you have an urgent message for me, you will need to call.
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Wanda L. Washington
Concession Management Specialist
National Capital Parks-East
1900 Anacostia Drive, SE.
Washington, D.C. 20020
(202) 690-5158 (office)
(202) 438-6591 (cell)
(202) 690-0862 (fax)
wanda_washington@nps.gov
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

EXPERIENCE YOUR AMERICA
The National Park Service cares for special places saved by the American people so that all may experience our heritage.

Steve LeBel/NCR/NPS
07/25/2012 04:38 PM

To Steve@sullfloat.com
cc
bcc Wanda Washington/NCR/NPS@NPS; Gopaul Noojibail/NACE/NPS@NPS
Subject Request for Quotation

Steve:

Thanks for speaking with me concerning a quote for replacement of the docks at Buzzard Point Marina in SW, Washington, DC.
You've done great work for our concessioner at the Washington Sailing Marina in Alexandria and Columbia Island Marina in Arlington, Virginia/Washington, DC.
We're interested in a similar style dock at Buzzard Point.

I've attached an aerial photo identifying the current configuration. It contains the key to the location of the docks.
Please note existing material and length, as follows:

Steel Floating Docks	432 linear feet	(Section 4, 5, 6)
Composite Floating Docks	338 linear feet	(Section 2, 9)
Wood Floating Docks	166 linear feet	(Section 8)
Steel Gangway	20 linear feet	(Section 3)
Steel Ramp	40 linear feet	(Section 3)
Aluminum Gangway	30 linear feet	(Section 1)
Wood Pier	13 linear feet	(Section 7)

Buzzard Point Marina Aerial Dock Identification.jpg

As you may note, the docks are a patch and quiltwork of materials.
I look forward to your quote. If you have any questions, please do not hesitate to contact me.

Steve LeBel
Deputy Associate Regional Director, Operations and Education
Program Manager, Office of Business Services
National Capital Region, National Park Service
Phone: (202) 619-7072
Fax: (202) 619-7157

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SULLIVAN FLOTATION SYSTEMS

August 9, 2012

Buzzard Point Marina
V & Half Street. SW
Washington, DC

PROPOSAL

System Type: Heavy duty Sullfloat marina system

(+40' than existing)

Dock sizes:

			Sq. Ft.	
(1)	8' x 220'	Main walkway	1,760	
(2)	8' x 222'	Main walkways	3,552	
(1)	8' x 122'	Main walkway	976	
(1)	8' x 152'	Main walkway	1,216	
(1)	8' x 16'	Main walkway	128	
(1)	8' x 33'	Tee head	264	
(1)	8' x 55'	Tee head	440	
			8,336	$208,400.00

(see above)

Options:

-10' x 220' Wave attenuator in lieu of 8' x 220' main Add $105,600.00

-IPE hardwood deck, 1" x 6" nominal $41,680.00
-with wave attenuator option $43,880.00

-Composite deck, 5/4" x 6" nominal $54,184.00
-with wave attenuator option $57,044.00

Note: All above pricing does not include any applicable state or local tax.
Tax exempt certificate required

does not include finger piers @ $25/

P.O. BOX 639, WARWICK, NY 10990 | (PH)845-986-7377 | (FX)845-986-8531 | www.SULLFLOAT.COM

SULLIVAN FLOTATION SYSTEMS

PRICE INCLUDES:
-Freight to site, purchaser provides off-loading
-All docks delivered complete and ready for installation
-Vinyl dock bumper
-12" Galvanized mooring cleats and attachment hardware
-Removable steel hoop type pile guides
-The largest utility raceways in the industry
-Utility access panels full width 10' – 12' on center
-High impact resistant polyethylene floats with foam core
-Grade # 1, 2" x 6" deck
-.60 CCA pressure treatment in wood
-Stainless steel deck screws, #10 x 3"
-Mechanically laminated triple thick beams
-Steel cross braces full width galvanized at all fingers and pile locations
-Anti-torsion truss system throughout

SALES AGREEMENT

Between Sullivan Flotation Systems, Inc. (Seller)
and
Buzzard Point Marina (Buyer)

1) Installation (if part of contract) includes in-water assembly and connection of floating dock system units. Dock system to be complete and ready for piles. Surveying, final location of docks, piles and utilities provided by Buyer.

2) Bulkhead or seawall modifications, if necessary to attach gangways, are the responsibility of buyer.

3) Seller will carry Workmen's Compensation insurance; comprehensive liability and property damage with limits of 2,000,000.00 aggregate and 1,000,000.00 per occurrence.

4) In the event of substantial delay of fabrication, caused by or at the request of the Buyer in excess of 60 days, price may be subject to change.

5) In the event of delay by Buyer's for any reason, Buyer agrees to make payment on all material caused to be stored at Seller's plant for longer than 30 days. Buyer further agrees to reimburse Seller for any storage related expenses due to delay of shipment caused by Buyer.

SULLIVAN FLOTATION SYSTEMS

6) Buyer to provide Seller sufficient access to project site to adequately perform the work required.

7) Buyer will secure all necessary permits for the work to be performed under this contract.

8) Seller shall be excused for delay in the performance in whole or in part of this contract resulting from fire, destruction of Seller's plant or equipment, earthquake, flood or wind-storms, strikes, lockouts, losses or damage in transportation, or shortage of its inability to get fuel, act of God, or acts of war.

9) Buyer agrees to pay interest of 1-1/2% per month on any amount not paid when due, and collection costs, including attorney's fees.

10) Buyer agrees to grant Seller a security interest (and UCC-1 filing) in the property being fabricated and delivered pursuant to this Agreement to secure payment of all sums as they become due under this Agreement. Seller agrees to release or subordinate its interests in the said property to Buyer when final payment is made.

Payment Schedule

30% deposit due upon signing of contract
70% to be paid upon delivery

Respectfully Submitted by:
Sullivan Flotation Systems, Inc.

Accepted By:
Buzzard Point Marina

_____

Steven S. Sullivan
President

_____

Date

_____

Date

Sales representative: Larry Dubs

United Marine Service and Construction L.L.C.
48591 Smith Drive, Ridge Maryland 20680

Office: 301-872-5961 **Hans Cell: 301-980-6037**
E-mail: umstantallon@yahoo.com **Rhonda Cell: 301-651-7016**

Steve LeBel Deputy Associate Director
National Capital Region
1100 Ohio Drive SW
Washington, DC 20242
O#202-619-7072
Email: Steve_LeBel@nps.gov

September 17, 2012

Re: Buzzard Point Marina, V & Half Street SW, Washington, DC 20024 / Rehabilitation w/Replacement of existing floating Docks and Amenities

Dear Mr. LeBel:

United Marine Service and Construction L.L.C. (UMS&C) is pleased to submit this quotation to assist with reconstruction estimates as follows:

Scope of Work / Demolition

1.1 Landside / Waterside Mobilization / Demobilization equipment, materials and labor to complete scope of work
1.2 Existing floating docks consist of steel, wood and concrete panels w/creosote, pressure treated and steel pipe pilings. There is no salvage value for existing materials. The main concern is the deposal of the creosote pilings in accordance to the EPA guidelines
1.3 Pressure treated pilings are estimated at forty (40), 30-45 lf., visual inspection estimates 80% serviceable
1.4 Dock layout and new pile placement should be redesigned to optimize correct slip size and maximum marina capacity

Estimated Demolition with (off site) deposal of floating docks, piling and amenities: Two Hundred Fifty Thousand Dollars $250,000.00

Installation

2.1 Off load of floating docks (on site) w/staging adjacent to project site
2.2 In water assembly of same
2.3 Supply and install anchor and mooring pilings as per plan (supplied by others), allow one (1) anchor piling / per finger pier and two (2) each mooring pilings between center well of adjacent boats for maximum protection against foul weather
2.4 All pilings are pressure treated Southern Pine / Installed / Allow 25%/75% 30 lf. and 40-45 lf.
   a. 10" butt x 40-45 lf. (1.0 C.C.A) @ $24.00/per lf.
   b. 8" tip x 10"-12" butt x 40-45 lf. (1.0 C.C.A) @ $26.00/per lf.
   c. Class B -12" butt x 40-45 lf. (2.5 C.C.A.) @ $30.00/per lf.
2.5 Install Polypropylene piling caps for core protection from weather @ $20.00 / per cap average diameter
2.6 Supply and install two (2) Aluminum gangways, 4' wide 16 lf. w/dual hand rail, traverse plates and roller assembly. Reconfiqure walkway to accept new gangways

Estimated installation of floating docks, pilings: Three Hundred Fifty Thousand Dollars $350,000.00

Estimate an additional One Hundred Fifty Thousand Dollars $150,000.00
In steel (12"-16") anchor pilings and Wave attenuator installation

Electric and Water Service

3.1 Upgrade to marina Electric Service is mandatory. Dual phase 240 volt w/ 30 -30 amps or 30-50 amps / per slip is standard to with today's boat requirements
3.2 Service requires a looped feed w/single meter head (meter @ pedestal, controlled by marina) or center location for meter head bank w/slip renter and Pepco dealing direct
3.3 Water Service is standard sch.40 PVC w/ no winter service available without heat tape and foil insulation

Estimated Installation requires Electrical / Plumbing Contractor quote

Dock Amenities

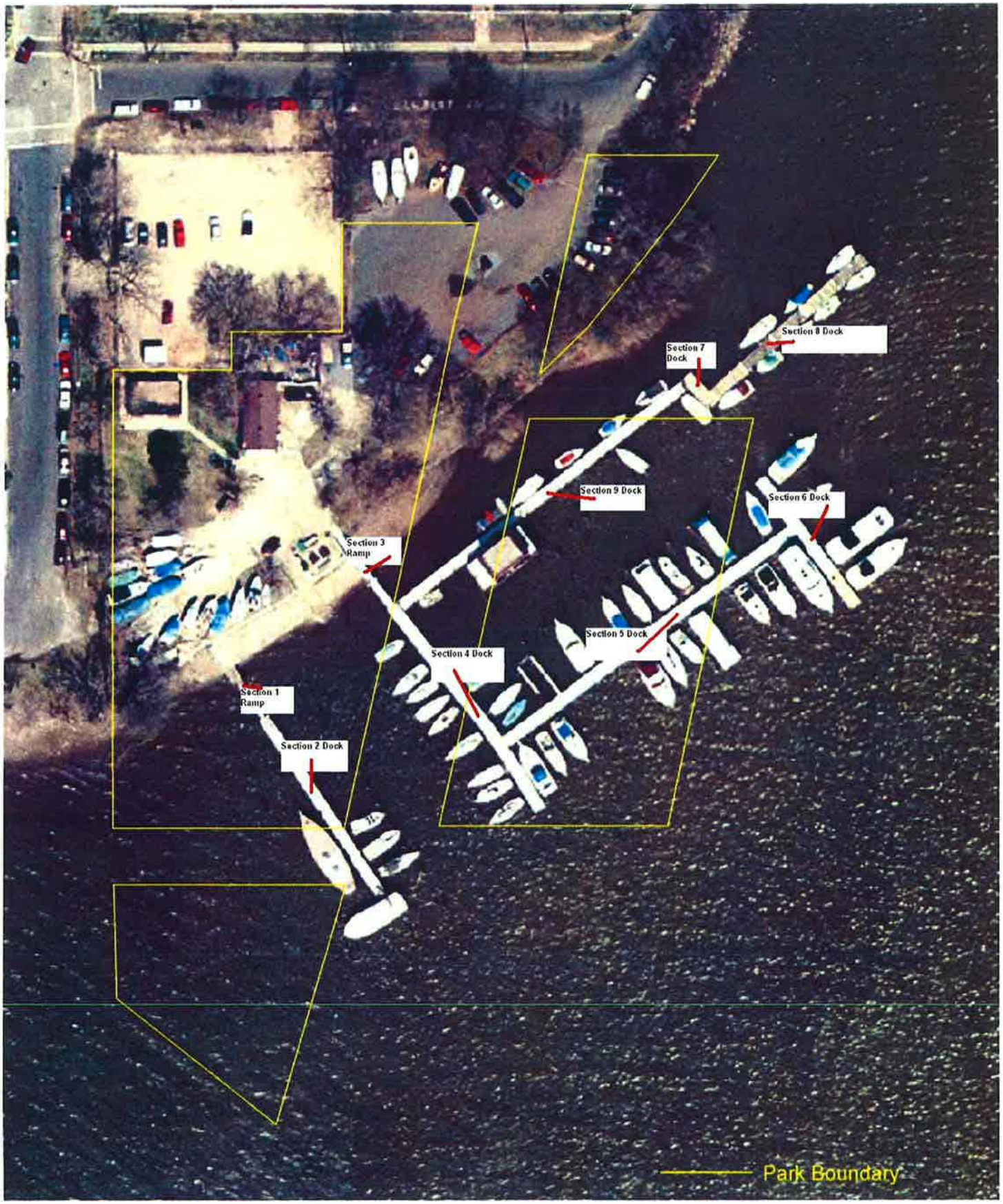
4.1 Dock boxes (fiberglass) charged monthly

4.2 Throw rings w/line (safety item)
4.3 Fire Extinguishers (safety item)
4.4 Access Ladders to water (safety item)
4.5 Marina Oil Spill Kit (safety item)

If you have questions or require additional information contact our office at 301-872-5961 or Hans Hunziker, project coordinator at 301-980-6037

Sincerely,

Rhonda J, Hunziker
President


Section 8 Dock
Section 7 Dock
Section 9 Dock
Section 6 Dock
Section 3 Ramp
Section 5 Dock
Section 4 Dock
Section 1 Ramp
Section 2 Dock
Park Boundary

UNITED STATES DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

NATIONAL CAPITAL PARKS - EAST

Marina Services
to include
Wet Slip rentals and Dry Storage

CONCESSION CONTRACT NO. CC-NACE003-06

Buzzard Point Corporation

P.O. Box 70079, Washington, D.C. 20024
buzzard point@verizon.net
(202) 488-8400

Doing Business As

Buzzard Point Marina

Covering the Period

January 1, 2007 through December 31, 2011

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[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, hereinafter referred to as the "Director", through the Regional Director of the National Capital Region, and Buzzard Point Boatyard Corporation d/b/a Buzzard Point Marina, a corporation organized and existing under the laws of the State of the District of Columbia, hereinafter referred to as the "Concessioner":

WITNESSETH:

THAT WHEREAS, National Capital Parks - East (hereinafter referred to as the "Area") is administered by the Director as a unit of the national park system to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the public enjoyment of the same in such manner as will leave such Area unimpaired for the enjoyment of future generations; and

WHEREAS, to accomplish these purposes, the Director has determined that certain visitor services are necessary and appropriate for the public use and enjoyment of the Area and should be provided for the public visiting the Area; and

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

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

NOW, Therefore, pursuant to the authority contained in the Acts of August 25, 1916 (16 U.S.C. 1, 2-4), and November 13, 1998, (Pub. L. No. 105-391), and other laws that supplement and amend the Acts, the Director and the Concessioner agree as follows:

SEC. 1. TERM OF CONTRACT

This Concession Contract No. CC-NACE003-06 ("CONTRACT"') shall be effective as of January 1, 2007, and shall be for the term of five (5) years until its expiration on December 31, 2011, if the Concessioner satisfactorily completes the Concession Facilities Improvement Program described in Section 9(d) of this CONTRACT. If the Concessioner fails to complete this program to the satisfaction of the Director within the time specified, then this CONTRACT shall be for the term of three (3) years until its expiration on December 31, 2009. The Director may extend this shortened term (but not beyond the original date of expiration of this CONTRACT) in circumstances where the Director determines that the delay resulted from events beyond the control of the Concessioner.

SEC. 2. DEFINITIONS

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

(a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws (e.g., 36 CFR Part 51), whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

(b) "Area" means the property within the boundaries of National Capital Parks–East.

(c) "Best Management Practices" or "BMPs" are policies and practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this CONTRACT. BMPs are expected to change from time to time as technology evolves with a goal of sustainability of the Concessioner's operations. Sustainability of operations refers to operations that have a restorative or net positive impact on the environment.

(d) "Capital Improvement" shall have the meaning set forth in Exhibit A to this CONTRACT.

(e) "Concession Facilities" shall mean all Area lands assigned to the Concessioner under this CONTRACT and all real property improvements assigned to or constructed by the Concessioner under this CONTRACT. The United States retains title and ownership to all Concession Facilities.

(f) "Days" shall mean calendar days.

(g) "Director" means the Director of the National Park Service, acting on behalf of the Secretary of the Interior and the United States, and his duly authorized representatives.

(h) "Exhibit" or "Exhibits" shall mean the various exhibits, which are attached to this CONTRACT, each of which is hereby made a part of this CONTRACT.

(i) "Gross receipts" means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this CONTRACT, including gross receipts of subconcessioners as herein defined, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:

(1) intracompany earnings on account of charges to other departments of the operation (such as laundry);
(2) charges for employees' meals, lodgings, and transportation;
(3) cash discounts on purchases;
(4) cash discounts on sales;
(5) returned sales and allowances;
(6) interest on money loaned or in bank accounts;
(7) income from investments;
(8) income from subsidiary companies outside of the Area;
(9) sale of property other than that purchased in the regular course of business for the purpose of resale;
(10) sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies; and
(11) receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, shall be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones shall be included in gross receipts.

(j) "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 a subconcession contract. A subconcessioner will report all of its gross receipts to the Concessioner without allowances, exclusions, or deductions of any kind or nature.

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

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

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

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

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

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

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

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

SEC. 3. SERVICES AND OPERATIONS

(a) Required and Authorized Visitor Services
During the term of this CONTRACT, the Director requires and authorizes the Concessioner to provide the following visitor services for the public within the Area:

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

Required Services for the New Concession Contract

Wet Slip Rental	Annual rental of wet slips, with electrical and water hook-ups at slips over 35 feet long
Dry storage	Limited dry storage of trailered boats (Maximum 10)
Vending	Limited provision of refreshments through a vending machine
Marine sanitation device	Boat-pump out facility
Public Access	Public access to the operation, excluding the docks and wet slips

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

Authorized Services for the New Concession Contract

Boat Launch	Launch ramp for boats on trailers to gain access to the marina
Pay Telephone	Pay Telephone Service

(b) Operation and Quality of Operation

The Concessioner shall provide, operate and maintain the required and authorized visitor services and any related support facilities and services in accordance with this CONTRACT to such an extent and in a manner considered satisfactory by the Director. Except for any such items that may be provided to the Concessioner by the Director, the Concessioner shall provide the plant, personnel, equipment, goods, and commodities necessary for providing,

operating and maintaining the required and authorized visitor services in accordance with this CONTRACT. The Concessioner's authority to provide visitor services under the terms of this CONTRACT is non-exclusive.

(c) Operating Plan

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

(d) Merchandise and Services

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

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

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

(e) Rates

All rates and charges to the public by the Concessioner for visitor services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this CONTRACT. The Concessioner's rates and charges to the public must be approved by the Director in accordance with Applicable Laws and guidelines promulgated by the Director from time to time.

(f) Impartiality as to Rates and Services

(1) Subject to Section (f)(2) and (f)(3), 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 C.

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

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

SEC. 4. CONCESSIONER PERSONNEL

(a) Employees

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

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

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

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

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

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

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

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

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

(b) Employee Housing and Recreation

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

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

SEC. 5. LEGAL, REGULATORY, AND POLICY COMPLIANCE

(a) Legal, Regulatory and Policy Compliance

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

(b) Notice

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

(c) How and Where to Send Notice

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

National Capital Region
1100 Ohio Drive, SW
Washington, DC 20242
Attention: Mr. Steve LeBel

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

Buzzard Point Marina
P.O. Box 70079
Washington, D.C. 20024
Attention: Mr. Ed Cohn

SEC. 6. ENVIRONMENTAL AND CULTURAL PROTECTION

(a) Environmental Management Objectives

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

(1) The Concessioner, including its employees, agents and contractors, shall comply with all Applicable Laws pertaining to the protection of human health and the environment.

(2) The Concessioner shall incorporate BMPs in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this CONTRACT.

(b) Environmental Management Program

(1) The Concessioner shall develop, document, implement, and comply fully with, to the satisfaction of the Director, a comprehensive written Environmental Management Program (EMP) to achieve the Environmental Management Objectives. The initial EMP shall be developed and submitted to the Director for approval within

sixty (60) days of either the execution of this CONTRACT or its effective date, whichever is later. The Concessioner shall submit to the Director for approval a proposed updated EMP annually.

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

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

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

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

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

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

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

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

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

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

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

(c) Environmental Performance Measurement

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

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

(1) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner shall submit to the

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

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

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

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

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

(e) Corrective Action

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

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

(f) Indemnification and Cost Recovery for Concessioner Environmental Activities

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

(2) If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and contractors, as set forth in this section, or

correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in his sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner shall be liable for and shall pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section shall preclude the Concessioner from seeking to recover costs from a responsible third party.

(g) Weed and Pest Management

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

(h) Protection of Cultural and Archeological Resources.

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

SEC. 7. INTERPRETATION OF AREA RESOURCES

(a) Concessioner Obligations

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

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

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

(b) Director review of content

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

SEC. 8. CONCESSION FACILITIES USED IN OPERATION BY THE CONCESSIONER

(a) Assignment of Concession Facilities

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

(i) certain parcels of Area land as described in Exhibit D upon which, among other matters, the Concessioner may be authorized to construct real property; and

(ii) certain real property improvements described in Exhibit D in existence as of the effective date of this CONTRACT, as may be modified from time to time to include additional real property improvements completed in accordance with the terms and conditions of this CONTRACT.

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

(b) Concession Facilities Withdrawals

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

(1) the withdrawal is necessary for the purpose of conserving, preserving or protecting Area resources or visitor enjoyment or safety;

(2) the operations utilizing the assigned Concession Facilities have been terminated or suspended by the Director; or

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

(c) Effect of Withdrawal

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

(d) Right of Entry

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

(e) Personal Property

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

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

(f) Condition of Concession Facilities

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

(g) Utilities Provided by the Director

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

(h) Utilities Not Provided by the Director

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

(1) Any water rights deemed necessary by the Concessioner for use of water on Area or other Federal lands must be acquired at the Concessioner's expense in accordance with applicable State procedures and law. Upon expiration or termination of this CONTRACT for any reason, the Concessioner must assign these water rights to the United States without compensation, and these water rights will become the property of the United States;

(2) If requested by the Director, the Concessioner must provide to the Director any utility service provided by the Concessioner under this section to such extent as will not unreasonably restrict anticipated use by the Concessioner. Unless otherwise agreed by the Concessioner and the Director in writing, the rate per unit charged the Director for such service shall be approximately the average cost per unit of providing such service; and

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

SEC. 9. CONSTRUCTION OR INSTALLATION OF REAL PROPERTY IMPROVEMENTS

(a) Construction of Real Property Improvements

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

(b) Removal of Real Property Improvements

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

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

(3) In the event that an assigned real property improvement is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concessioner, at its expense, shall

promptly, upon the request of the Director, restore the site as nearly as practicable to its original condition.

(c) Leasehold Surrender Interest

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

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

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

(d) Concession Facilities Improvement Program

(1) The Concessioner shall undertake and complete an improvement program (hereinafter "Concession Facilities Improvement Program") costing no less than $1,100 as adjusted for each project to reflect par value in the year of actual construction in accordance with the appropriate indexes of the Department of Labor's CPI-U Index, as published by the Department of Labor.

(2) The Concession Facilities Improvement Program shall include:

Project	Total Estimated Cost (2005 dollars)	Disbursements (inflated)[1] 2006
Installation of security system	$1,100	$1,100

1. Estimated costs have been inflated to the year in which construction commences at an inflation factor of 2.5 percent and rounded to the nearest hundred dollars.

(3) The Concessioner shall commence implementation of the Concession Facilities Improvement Program within sixty (60) days of either the execution of this CONTRACT or its effective date, whichever is later, in a manner that demonstrates to the satisfaction of the Director that the Concessioner is in good faith carrying the Concession Facilities Improvement Program

forward reasonably under the circumstances. No construction may begin until the Concessioner receives written approval from the Director of plans and specifications in accordance with Exhibit F. During the period of construction, the Concessioner shall provide the Director with such evidence or documentation, as may be satisfactory to the Director, to demonstrate that the Concession Facilities Improvement Program duly is being carried forward.

(4) The Concessioner shall complete and have the real property improvements available for public use within sixty (60) days of either the execution of this CONTRACT or its effective date, whichever is later. The Director may extend this date in circumstances

where the Director determines that the delay resulted from events beyond the control of the Concessioner.

SEC. 10. MAINTENANCE

(a) Maintenance Obligation

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

(b) Maintenance Plan

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

(c) Repair and Maintenance Reserve

(1) The Concessioner shall establish and manage a Repair and Maintenance Reserve. The funds in this Reserve shall be used to carry out, on a project basis in accordance with Exhibits F and H, repair and maintenance of Concession Facilities that are non-recurring within a seven (7) year time frame. Such projects may include repair or replacement of foundations, building frames, window frames, sheathing, subfloors, drainage, rehabilitation of building systems such as electrical, plumbing, built-in heating and air conditioning, roof replacement and similar projects. Projects will be carried out by the Concessioner as the Director shall direct in writing in advance of any expenditure being made and in accordance with project proposals approved by the Director. No projects may be commenced until the Concessioner receives written approval from the Director.

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

(3) The Concessioner shall establish within its accounting system a Repair and Maintenance Reserve. The Concessioner shall debit to this Reserve, within fifteen (15) days after the last day of each month that the Concessioner operates a sum equal to: __4__ % of the Concessioner's gross receipts for the previous month. If the Concessioner fails to make timely debits to the Repair and Maintenance Reserve, the Director may terminate this CONTRACT for default or may require the Concessioner to post a bond in an amount equal to the estimated annual Repair and Maintenance Reserve allocation, based on the preceding year's gross receipts.

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

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

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

SEC. 11. FEES

(a) Franchise Fee

(1) For the term of this CONTRACT, the Concessioner shall pay to the Director for the privileges granted under this CONTRACT a franchise fee equal to: __0__ % of the Concessioner's gross receipts for the preceding year or portion of a year.

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

(b) Payments Due

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

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

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

(c) Interest

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

(d) Adjustment of Franchise Fee

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

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

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

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

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

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

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

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

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

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

SEC. 12. INDEMNIFICATION AND INSURANCE

(a) Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or contractors under this CONTRACT. This indemnification shall survive the termination or expiration of this CONTRACT.

(b) Insurance in General

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

circumstances. The Director shall approve the types and amounts of insurance coverage purchased by the Concessioner.

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

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

(c) Commercial Public Liability

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

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

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

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

(d) Property Insurance

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this CONTRACT.

(2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities for all or part of their replacement cost as specified in Exhibit I in amounts no less than the Director may require during the term of the CONTRACT. The minimum values currently in effect are set forth in Exhibit I.

(3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.

(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this CONTRACT, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 13 shall apply to such insurance proceeds. The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

(5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this CONTRACT

to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.

(6) The commercial property package shall include the coverages and amounts described in Exhibit I.

SEC. 13. BONDS AND LIENS

(a) Bonds

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

(b) Lien

As additional security for the faithful performance by the Concessioner of its obligations under this CONTRACT, and the payment to the Government of all damages or claims that may result from the Concessioner's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all personal property of the Concessioner used in performance of the CONTRACT hereunder within the Area and any Leasehold Surrender Interest of the Concessioner.

SEC. 14. ACCOUNTING RECORDS AND REPORTS

(a) Accounting System

(1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this CONTRACT, including but not limited to the Concessioner's repair and maintenance obligations. The Concessioner's system of accounts classification shall be directly related to the Concessioner Annual Financial Report form issued by the Director.

(2) If the Concessioner's annual gross receipts are $250,000 or more, the Concessioner must use the accrual accounting method.

(3) In computing net profits for any purposes of this CONTRACT, the Concessioner shall keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this CONTRACT by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner shall submit annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

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

(3) If annual gross receipts are between $500,000 and $1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than $500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Financial Reports

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

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

SEC. 15. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this CONTRACT:

(a) Insurance Certification

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

(b) Environmental Reporting

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

(c) Miscellaneous Reports and Data

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

SEC. 16. SUSPENSION, TERMINATION, OR EXPIRATION

(a) Suspension

The Director may temporarily suspend operations under this CONTRACT in whole or in part in order to protect Area visitors or to protect, conserve and preserve Area resources. No compensation of any nature shall be due the Concessioner by the Director in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

(b) Termination

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

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

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

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

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

(c) Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this CONTRACT or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, the Director considers that this CONTRACT is not a lease but an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365.

(d) Requirements in the Event of Termination or Expiration

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

(2) Upon termination of this CONTRACT for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner shall, at the Concessioner's expense, promptly vacate the Area, remove all of

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

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

SEC. 17. COMPENSATION

(a) Just Compensation

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

(b) Compensation for CONTRACT Expiration or Termination

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

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

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

(d) Compensation for Personal Property

No compensation is due the Concessioner from the Director or a successor concessioner for the Concessioner's personal property used in operations under this CONTRACT. However, the Director or a successor concessioner

may purchase such personal property from the Concessioner subject to mutually agreed upon terms. Personal property not removed from the Area by the Concessioner in accordance with the terms of this CONTRACT shall be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner, in accordance with Applicable Laws. Any cost or expense incurred by the Director as a result of such disposition may be offset from any amounts owed to the Concessioner by the Director to the extent consistent with Applicable Laws.

SEC. 18. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

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

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

SEC. 19. GENERAL PROVISIONS

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

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

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

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

(e) Any and all taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

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

(g) This CONTRACT is subject to the provisions of 43 CFR, Part 42, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

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

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

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

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

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

In Witness Whereof, the duly authorized representatives of the parties have executed this CONTRACT as of the 13 day of JUL, 2007

Concessioner

BY

President
Buzzard Point Boatyard Corporation t/a
Buzzard Point Marina

United States of America

BY

Regional Director
National Capital Region, National Park Service

[CORPORATIONS]

ATTEST:

BY: Judy Bowman

TITLE: Staff Assistant

EXHIBIT A

LEASEHOLD SURRENDER INTEREST

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

Section 1. Definitions

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

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

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

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

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

"Eligible direct costs" means the sum of all incurred capitalized costs (in amounts no higher than those prevailing in the locality of the project), that are necessary both for the construction of a capital improvement and are typically elements of a construction contract. Eligible direct costs may include, without limitation, the costs of (if capitalized in accordance with GAAP and in amounts no higher than those prevailing in the locality of the project): building permits;

materials, products and equipment used in construction; labor used in construction; security during construction; contractor's shack and temporary fencing; material storage facilities; power line installation and utility costs during construction; performance bonds; and contractor's (and subcontractor's) profit and overhead (including job supervision, worker's compensation insurance and fire, liability, and unemployment insurance).

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

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

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

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

1) The initial construction cost of the related capital improvement;
2) Adjusted by (increased or decreased) the same percentage increase or decrease as the percentage increase or decrease in the Consumer Price Index from the date the Director approves the substantial completion of the construction of the related capital improvement to the date of payment of the leasehold surrender interest value;

3) Less depreciation of the related capital improvement on the basis of its condition as of the date of termination or expiration of this CONTRACT, or, if applicable, the date on which the Concessioner ceases to utilize a related capital improvement (e.g., where the related capital improvement is taken out of service by the Director pursuant to the terms of this CONTRACT).

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

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

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

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

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

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

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

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

Section 2. Obtaining a Leasehold Surrender Interest

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

Section 3. Authorizing the Construction of a Capital Improvement

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

Section 4. Requirements for Beginning To Construct a Capital Improvement

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

Section 5. Requirements After Substantial Completion of a Capital Improvement

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

Section 6. Determining Construction Cost for Purposes of Leasehold Surrender Interest Value

After receiving the detailed construction report (and certification, if requested), from the Concessioner, the Director will review the report, certification and other information as appropriate to determine that the reported construction cost is consistent with the construction cost approved by the Director in advance of the construction and that all costs included in the construction cost are eligible direct or indirect costs as defined in this Exhibit A. The construction cost determined by the Director will be the final determination of construction cost

for purposes of the leasehold surrender interest value in the related capital improvement unless the Concessioner requests arbitration of the construction cost under Section 7 of this Exhibit A. The Director may at any time review a construction cost determination (subject to arbitration under Section 7 of this Exhibit A) if the Director has reason to believe that it was based on false, misleading or incomplete information.

Section 7. Arbitrating the Construction Cost of a Capital Improvement

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

Section 8. Actions the Concessioner May or Must Take Regarding Leasehold Surrender Interest

The Concessioner:

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

Section 9. Extinguishment of a Leasehold Surrender Interest

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

Section 10. Leasehold Surrender Interest Under a New Concession Contract

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

Section 11. Payment for Leasehold Surrender Interest if the Concessioner is not Awarded a New Concession Contract

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

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

Section 12. Process for Determining Leasehold Surrender Interest Value

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

Section 13. Payment of Leasehold Surrender Interest by a New Concessioner

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

Section 14. Obtaining Additional Leasehold Surrender Interest by Undertaking a Major Rehabilitation or Adding to a Structure in Which the Concessioner has a Leasehold Surrender Interest

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

Section 15. Obtaining Additional Leasehold Surrender Interest by Replacing a Fixture in Which the Concessioner has a Leasehold Surrender Interest

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

Section 16. Obtaining a Leasehold Surrender Interest in Existing Real Property Improvements in which no Leasehold Surrender Interest Exists

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

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

Section 17. No Leasehold Surrender Interest Results from Repair and Maintenance of Real Property Improvements

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

Operating Plan

Between the National Park Service and Buzzard Point Marina for Services provided within National Capital Parks-East

Pursuant to Concessions Contract CC-NACE003-06

EXHIBIT B
OPERATING PLAN

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INTRODUCTION

This Operating Plan between Buzzard Point Boatyard Corporation d/b/a Buzzard Point Marina (hereinafter referred to as the "Concessioner") and National Capital Parks – East (hereinafter sometimes referred to as either the "Service" or the "Park") will serve as a supplement to Concession Contract CC-NACE003-06 (hereinafter referred to as the "CONTRACT"). It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities, referred to collectively as concession facilities, within the boundaries of the Park that are assigned to the Concessioner for the purposes authorized by the CONTRACT.

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

This Operating Plan will be reviewed annually by the Superintendent of National Capital Parks – East in consultation with the Concessioner and revised as determined necessary by the Superintendent.

Any revisions will be consistent with the main body of the CONTRACT. Any revisions must be reasonable and in furtherance of the purposes of the CONTRACT.

1) Responsibilities

A) Concessioner

(1) To achieve an effective and efficient working relationship between the Concessioner and the Service, the Concessioner will designate an on-site general manager who:

(a) Has the authority and the managerial experience for operating the authorized Concessions Facilities and services within the Park;

(b) Will employ a staff with the expertise and training to operate all services authorized under the CONTRACT;

(c) Has full authority to act as a liaison in all concession administrative and operational matters within the Park; and,

(d) Has the responsibility for implementing the policies and directives of the Service.

(2) The Service has the right to review the qualifications of the general manager, prior to hiring.

(3) The Concessioner will employ a staff with the expertise to operate all services required and authorized under the CONTRACT at all times.

General Manager:	Mr. Edwin Cohn
.	(202) 488-8400
.	buzzard point@verizon.net

B) National Capital Parks – East

The Superintendent of National Capital Parks – East is the Park Manager with responsibility for all Park operations, including concession operations. The Superintendent carries out the policies and directives of the National Park Service, including concession contract management. Directly, or through designated

representatives, the Superintendent reviews, directs, and coordinates concessioner activities relating to the Park. This includes:

(1) Evaluation of concessioner services and facilities.

(2) Review and approval of rates charged for all commercial services.

(3) Review and approval of construction and all improvement to facilities.

(4) Provision of a current Service staff list, as needed, to the Concessioner with all appropriate points of contact.

Superintendent National Capital Parks-East National Park Service	Gayle Hazelwood 1900 Anacostia Drive, SE. Washington, D.C. 20020 Phone: (202) 690-5185
Deputy Superintendent National Capital Parks-East National Park Service	Alexcy R. Romero 1900 Anacostia Drive, SE. Washington, D.C. 20020 Phone: (202) 690-5185
Concession Management Specialist National Capital Parks-East National Park Service	Wanda L. Washington 1900 Anacostia Drive, SE. Washington, D.C. 20020 Phone: (202) 690-5158

2) General Operating Standards and Requirements

A) Schedule of Operation

The Concessioner will provide the required services for Park patrons on an annual basis, in accordance with the hours of operation authorized by the Superintendent. The hours of operation shall be prominently displayed at the marina in such a manner as to be easily visible to the public. No changes in operating hours may be made without prior approval from the Superintendent.

Spring/Summer:	April 1 – October 31
	Open: 10 a.m. - 6 p.m. Tues – Sunday
	Closed: Monday
Fall/Winter:	November 1 – March 31
	Open: 10 a.m. - 6 p.m. Wednesday– Sunday
	Closed: Mondays and Tuesdays

B) Rate Determination and Approval Process

(1) *Rate Determination.* It is the objective of the Park to ensure that the Concessioner's rates and charges to the public are commensurate with the level of services and facilities provided, and are reasonable, justified, and comparable with similar facilities and services provided by the private sector. Reasonableness of rates will be

judged based upon current concession management guidelines. Rate approval methods are subject to change. The currently approved rate method is comparability for all services and facilities.

(2) *Rate Request Submittal for Processing.* All requests will be submitted in writing, at least 60 days prior to anticipated implementation dates, brochure publication dates and customer notification. Rate requests require support by established criteria and comparable data. The information to be included in the request is outlined in current concession management guidelines. New rates will be evaluated once per year unless there are extenuating circumstances that require rates to be reevaluated. Otherwise, the Service will consider alternative rate settings methodology to reflect substantial changes in service quality, expenditures, or required investment.

(3) *Rate Approval*

(a) **Approval Timing.** The Service will approve, disapprove or adjust rates and will inform the Concessioner within 30 days of the rate request submittal.

(b) **Approved Rate Posting.** All rates for goods and services must be prominently displayed for the convenience of patrons, including within the marina office.

(c) **Patron Notification.** Slip patrons must be given thirty 30 days notice after the Service approval of a rate change prior to the changes taking effect.

(4) *Rate Compliance.* The Park will periodically conduct on-site comparability studies with follow-up telephone calls to update rate information in accordance with current concessions rate reviews. Rate compliance will be checked during periodic operation evaluations and throughout the year. Approved rates will remain in effect until superseded by written changes approved by the Superintendent.

C) Evaluations

The Concessioner will ensure the safety, and provide satisfactory services for patrons within the assigned areas of responsibility. The operation of facilities, and services authorized by the CONTRACT will conform to the evaluation standards set forth in the current Service concession management guidelines. The evaluation of facilities and services is a component of the Concessioner's annual overall rating.

The Service and/or its representatives and the Concessioner will separately inspect and monitor concession facilities and services with respect to Service policy, applicable standards, authorized rates, safety, public health, environmental compliance, impacts on cultural and natural resources, identified maintenance and operating deficiencies, and patron comments.

The Concessioner will meet with Service officials to prioritize and schedule the correction of deficiencies and the implementation of improvement programs resulting from these inspections. The Concessioner will be responsible for correction of deficiencies and abatement plans within dates assigned by the Service.

(1) *Periodic Operations Inspections.* The Service will conduct both announced and unannounced periodic inspections of concession facilities and activities to ensure conformance to applicable standards. The Concessioner will be contacted at the time of facility evaluations so that a representative of the Concessioner may accompany

the Park evaluator. The Service reserves the right to enter the Concessioner's facilities at any reasonable time for any evaluation or when otherwise deemed necessary.

(2) *Health and Safety Inspections*

(a) **Concessioner Safety Inspections.** The Concessioner will perform periodic interior and exterior safety inspections of all concession facilities in accordance with its documented Risk Management Program. The Concessioner will ensure employee compliance with health, fire, and safety code regulations as well as the Service's policies and guidelines.

(b) **Service Safety Inspections.** The Service may periodically conduct a comprehensive safety and occupational health evaluation of all operations and facilities in addition to the review of the Concessioner's Risk Management Program. Safety will also be a component of regular periodic evaluations.

(3) *Fire Inspections*

(a) **Service Responsibilities**. The Service will conduct fire safety inspections at its discretion over the course of the CONTRACT term. The Concessioner will be contacted at the time of facility evaluations so that a representative of the Concessioner may accompany the Park evaluator.

(b) **Concessioner Responsibilities**. The Concessioner will have a qualified professional perform interior and exterior fire inspections of the concession building within 30 days of initial occupancy and on an annual basis thereafter. Written records, verifying the completion of such inspections, will be maintained by the Concessioner and available to the Service upon request. The Concessioner will conduct routine fire drills of concession facilities as required by its Risk Management Program. These inspections will be performed in accordance with Director's Order #50B and Director's Order #58 (and their successor orders).

(4) *Visitor Comments*. The Concessioner will make Service-approved comment cards available to patrons in order to measure service and quality standards, pricing and overall Park experience. It will be the responsibility of the Concessioner to make sure an adequate inventory of comment cards is available at appropriate locations within its facilities.

(a) The Concessioner will investigate and respond to all patron complaints regarding its services. Patron comments that allege misconduct by concession employees, pertain to the safety of patrons, Concession or Service employees, or concern the safety of Park resources will be provided to the Service upon receipt.

(b) The Concessioner will forward to the Superintendent a tabulated summary of all comments and/or complaints received on comment cards or any other form of documentation at the beginning of each quarter. Individual comments must be provided upon request.

(c) The Service will forward to the Concessioner any comments and/or complaints received regarding the Concessioner's facilities or services. The Concessioner will investigate and make an initial response to any complaints within 48 hours.

The Concessioner will provide a copy of responses to the Superintendent, and a copy of any Service responses will be forwarded to the Concessioner.

(5) *Environmental Audit.* The Service's Environmental Audit Program evaluates the Concessioner's facilities and operations with respect to environmental compliance and Best Management Practices criteria contained within the current Service environmental audit program operating guidelines (as amended, supplemented, or superseded). The Service may conduct periodic environmental audits and evaluations.

D) Environmental Management Planning

(1) *Environmental Management Program.* The Concessioner will prepare, update annually and submit for approval, an Environmental Management Program (EMP) in accordance with the CONTRACT. Refer to the Table of Reporting Requirements at the end of this Operating Plan for the submittal date. Further specifications and requirements are found in other sections of the Operating Plan and the Maintenance Plan. The EMP should address, at minimum, the following areas: energy conservation, water conservation, and water quality protection.

(2) *Clean Marina Management.* The Concessioner shall also implement practices promoted in the Service/National Captial Region Green Marina Guidebook (as amended, supplemented, or superseded) and the National Park Service's "Guiding Principles of Sustainable Design (September 1993)" (as amended, supplemented, or superseded). These documents are available at *http://concessions.nps.gov/document/NPSNationalCapitalRegion.pdf* and *http://www.nps.gov/dsc/dsgncnstr/gpsd/.* The Concessioner shall be listed as a certified clean marina within a year of the issuance of the CONTRACT and actively participate in the program.

E) General Policies

(1) *Facilities Use.* Concession facilities may not be used for activities or services that do not directly and exclusively support contractual services authorized by the CONTRACT without written permission from the Service.

(2) *Smoking Policy.* Concession facilities must comply with current Service and Superintendent guidelines (as amended, supplemented, or superseded). Smoking is prohibited in all concession facilities designated by "No Smoking" signs.

(3) *Compliance with Americans with Disabilities Act (ADA).* New construction and facility renovations will meet the Uniform Facility Accessibility Standards (UFAS) accessibility requirements. Information related to UFAS can be found at *http://www.access-board.gov/ufas-html/ufas.htm.*

(4) *Lost and Found.* The Concessioner will establish, in conjunction with the Service, an effective program for handling lost and found or unattended property in facilities and upon assigned areas of the Concessioner. This program will include vehicles or other property that may have been abandoned by Concession employees.

(5) *Credit Cards.* At a minimum, MasterCard and Visa will be honored. The Concessioner will accept debit cards at its discretion or at the direction of the Superintendent.

(6) *Vending*

(a) **Vending Sources.** Vending machines will be conveniently located, and of a design and color which complements the aesthetics of the building and surroundings. The Service will approve all locations and machine exterior or aesthetics.

(b) **Standards.** All machines will be clean, properly stocked, and in good working condition. Brand information will only be visible when at the machine. Signage on vending machines will be generic in nature. Beverage container deposit/recycling information should be posted on applicable vending machines. Vending machines will be equipped with energy conservation equipment (e.g., passive infrared sensors) where economically and technically feasible and appropriate.

(c) **Out-of-service.** Any vending machines that are temporarily out-of-service will have computer-generated signs posted.

(d) **Cigarettes.** Cigarette vending machines will not be allowed.

(e) **Alcohol.** Alcoholic beverages will not be allowed to be sold.

(7) *Vehicles, Vessels and Rafts*

(a) All vehicular equipment, vessels and rafts used by the Concessioner, including all rental boats, will be properly registered, licensed, insured, and maintained in accordance with Federal and District of Columbia law and regulations. Park-issued boat permits will not be required.

(b) Concessioner vehicles, vessels and rafts will be discreetly identified with the company name. All lettering should be no larger than three and one-half inches in height.

F) Human Resources Management

(1) *Employee Identification and Appearance.* The Concessioner will ensure that all employees in direct contact with the general public wear uniforms or standardized clothing with a personal nametag. Employees will be neat and clean in appearance and will project a hospitable, positive, friendly and helpful attitude.

(2) *Staffing.* An employee in charge of the marina shall be on duty during the official hours of operation as approved by the Superintendent.

(3) *Employee Hiring Procedures*

(a) **General Manager.** The Concessioner will employ a local general manager who is responsible for the successful implementation of the terms required by the CONTRACT. The general manager should have a strong background in the marina industry.

(b) **Other Employees.** The Concessioner will hire a sufficient number of employees, or at a minimum one other employee, to ensure satisfactory patron services throughout the year. All applicable requirements of the U.S. Department of Labor will be met.

(c) **Drug-free Environment**. The Concessioner will maintain, to the greatest extent possible, a drug-free workplace environment. The Concessioner will conduct educational program(s) for its employees to deter substance and alcohol abuse. Those employees who are in safety-sensitive positions, such as tour boat captains, or positions required by District of Columbia or other law or regulations, will be required to participate in a drug-testing program. Should illegal drug use occur, it must be promptly reported by the Concessioner to the U.S. Park Police.

(d) **Background Checks**. The Concessioner will establish hiring policies that will include appropriate background reviews of applicants for employment. The Concessioner will submit these policies for the review and approval of the Superintendent within 90 days following either the execution of the CONTRACT or its effective date, whichever is later. If the Concessioner amends these policies substantively, they must submit the amendment for the review and approval of the Superintendent. The Concessioner may coordinate with the Service to assist in securing background information prior to hiring new employees. The Concessioner will make appropriate hiring decisions in consideration of the information obtained.

(e) **Park Employees.** The spouse or dependents of the Superintendent, Deputy Superintendent, or Concessions Division staff may not be employed by the Concessioner. The Concessioner will not employ in any status a Park employee, his/her spouse, or minor children without the Superintendent's approval.

(4) *Training*

(a) **Safety.** The Concessioner will train its employees annually according to the training requirements in its Risk Management Plan.

(b) **Job Training and Orientation**. The Concessioner will provide appropriate job training to each employee prior to duty assignments and working with the public. The Concessioner will provide mandatory employee orientation for all new employees and inform employees of Park regulations and requirements that affect their employment and activities while working in the Park.

(c) **Environmental**. The Concessioner will provide environmental training to all employees according to requirements in its Environmental Management Program.

G) Risk Management Program

A Risk Management Plan will be developed and maintained by the Concessioner to implement an appropriate safety program. (The initial plan will be developed and submitted to the Park within 60 days after either the execution of the CONTRACT or its effective date, whichever is later.) This plan will be reviewed and approved by the Service annually, in accordance with all applicable laws, including without limitation, the Occupational Safety and Health Administration ("OSHA"), the National Fire Protection

Agency ("NFPA") and Service guidelines. The program will include, at a minimum, the following components:

(1) Administration

(2) Inspections

(3) Deficiency Classification and Hazards Abatement Schedules

(4) Accident Reporting and Investigation

(5) Public Safety Awareness

(6) Training

(7) Emergency Procedures and Contacts

- DC Fire and Rescuce-(202) 673-3200
- MPDC Harbor Police-(202) 727-4582
- US Park Police-(202) 619-7310
- National Response Center-(202) 267-2675
- Park Concessions staff

3) <u>Utility Responsibility</u>

The Concessioner is responsible for contracting with independent suppliers to provide the necessary utility services. The Concessioner is responsible for the direct payment to these suppliers.

4) <u>Protection and Security</u>

A) Concessioner Security Personnel

(1) *Security.* The Concessioner is responsible for securing the buildings, equipment and facilities under its control and use. The Concessioner should develop and implement a crime prevention/physical security program to include any and all structures used in the operation and all lands within the assigned area. The plan will identify how the facility is secured at the end of the day, who is responsible for locking doors and windows, securing of monies and/or goods, checking to be sure no potential fire hazard exists, person(s) assigned keys to have access to facilities before and after official hours, persons(s) to contact in case of emergency, etc. In addition the Concessioner may be required to provide 24-hour security.

(2) *Authority.* Concessioner-employed security personnel have only the authority of private citizens in their interaction with Park patrons and employees. They have no authority to take law enforcement action or to carry firearms.

(3) *Reporting of Criminal Violations:* The Concessioner will implement standard operating procedures that result in the immediate reporting, by phone call, of all suspected and known criminal violations to the U.S. Park Police 202-619-7310 or 911 as well as to the Service.

B) The National Park Service

(1) *Authority.* The Service has concurrent jurisdiction on all Park lands and facilities on Park lands including law enforcement, search and rescue, emergency medical services and structural fire.

(2) The U.S. Park Police are responsible for law enforcement, public safety and emergency response within the Park. Routine patrols may include the Concessioner's facilities and assigned areas but are not a substitute for Concessioner-provided security patrols.

(3) The U.S. Park Police will handle all violations of Federal, District of Columbia or Service regulations or policies including the serving or execution of civil process. District of Columbia officials may be called to assist in some matters by request from the Chief Ranger's Office or his/her authorized representative.

C) Fire Protection

(1) *Concessioner*

(a) Fire prevention, protection, and suppression will be primary considerations at all Concession Facilities. Structural fires will be suppressed to prevent the loss of human life and limit damage to real property and to cultural or natural resources.

(b) The Concessioner will ensure that all Concession Facilities meet Federal codes, and that fire detection and appropriate suppression equipment is installed, operated, and maintained in accordance with applicable NFPA standards.

(c) *Reporting of Fire:* The Concessioner will implement standard operating procedures that result in the immediate reporting, by phone call, to 911 as well as to the Service

D) Emergency Medical Care

(1) *Training*

(a) The Concessioner is encouraged to allow employees to attend emergency medical training, including cardiopulmonary resuscitation ("CPR"), automated external defibrillator ("AED") and First Aid courses. This is required for some job assignments.

(b) All concession employees will be trained in proper emergency reporting procedures and will be instructed to provide essential information, e.g. a call back number at their location.

(2) *Points of Contact to Report Medical Emergencies.* The primary point of contact is 911.

5) <u>Public Relations</u>

A) Required Notices

The following notice will be provided by the Service and will be prominently posted at the Concessioner office:

> This service is operated by (Concessioner's name), a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner. Prices are approved by the National Park Service. Please address comments to:
>
> Superintendent
> National Capital Parks – East
> 1900 Anacostia Drive, S.E.
> Washington, D.C. 20020

B) Public Statements

All media inquiries concerning operations within the Park will be forwarded to the Park's Public Affairs Office.

C) Advertisements and Promotional Material

(1) *Promotional Material*

(a) **Approval.** The Superintendent must approve all promotional material prior to publication, distribution, broadcast, etc. The Concessioner will contact the Park at least 30 days in advance to establish specific time frames for each project review. The Superintendent may require unapproved promotional material to be removed from circulation.

(b) Promotional material distributed within the Park is restricted to services and facilities within the Park.

(c) The Concessioner may display promotional material at approved locations within Park visitor centers as well as within the concession facilities, with Park approval.

(d) **Changes**. Brochure changes and layout must be submitted to the Superintendent for review at least 30 days prior to projected need/printing dates. The Superintendent will make every effort to respond to minor changes to brochure and other texts within 15 days. Longer periods may be required for major projects or where Park assistance is required to help develop the product.

(2) *Statements*

(a) **Authorization.** Advertisements must include a statement that the National Park Service and the Department of the Interior authorize the Concessioner to serve the public in National Capital Parks – East.

(b) **Equal Opportunity.** Advertisements for employment must state that the company is an equal opportunity employer.

6) <u>Insurance</u>

The Concessioner will provide a Certificate of Insurance showing that it has the insurance required in the CONTRACT. This certification shall be provided each year and at such time as the policy is renewed.

7) **Specific Operating Standards And Requirements**

All services are to be provided in a consistent, quality manner. Standards provided by current concession management guidelines (as amended, supplemented, or superseded) are considered Service minimums. The Concessioner is expected to make every effort to exceed these standards. The Concessioner will be responsible for monitoring its operations to ensure that quality standards are met.

FACILITIES	MAXIMUM REQUIRED INVENTORY
Marina	
Wet Slips	93
Dry Slips	25
Marine Sanitation Device	1
Vending Machines	1

A) General

(1) *Hours of Operation.* Refer to Section 2 (A).

(2) *Access.* Slip renters will have 24-hour access. All slip holders are to be given monthly parking passes to be put on the dashboard of their car where it can be seen.

(3) *Marina Manager.* Concessioner is encouraged to have a manager on staff that has or has applied for and is actively pursuing the Certified Marina Manager (CMM) designation from the International Marine Institute.

(4) *Marina Policies*

(a) The Concessioner will provide the marina operating rules and policies to the Superintendent for review and approval no later than 120 days after the execution of the CONTRACT, and when subsequent changes are made.

(b) The Concessioner will post marina operating rules in the marina office and provide copies to all slip renters.

(c) It is the policy of the Service that wet and dry storage slips will be used for recreational purposes only. The slip rental agreements, and waiting list, will be available to the Service upon request.

(d) Subletting of slips and/or dry storage spaces is not permitted. Only one boat will be registered to each slip. Slips and/or dry storage space may not be sold or transferred by the renter. Slips will not be acquired or held by boat dealers for the purpose of the sale of boats. Boats and trailers may not display "For Sale" signs.

(e) The Concessioner shall require slipholders to have current registrations and carry current insurance at all times on their boats.

(f) Vacant slip and dry storage spaces are to be filled from waiting lists on a first-come, first served basis. The Concessioner will manage and maintain an accurate and current waiting list.

(g) The Concessioner will maintain and provide to the Service upon request, a Rental Slip Inventory including an inventory of all rental slips and dry storage spaces, customer name, boat name, and registration number.

(h) Normal and routine boat maintenance work is allowed, however, any and all work must comply with Service "Clean Marina" standards (as amended, supplemented, or superseded). Normal and routine maintenance work includes changing batteries, fuel cans, and oil, and the washing of boats with biodegradable soap. Extensive repairs, beyond normal maintenance procedures, are required to be performed off Park land.

(i) The Concessioner will ensure that no maintenance wastes generated by customers remain on site. The Concessioner will properly dispose of all concessioner generated wastes and maintain records as necessary.

(j) Salvage companies hired to retrieve submerged concessioner boats must be bonded. Slip renters must follow park regulations, if applicable, when hiring salvage companies. In addition whenever possible a copy of the report should be submitted to the Park.

(k) Submerged vessels must be raised within a reasonable period, as determined by the Service in consultation with the Concessioner.

(5) *Boat storage rental agreements.* Boat storage rental agreements will be submitted to the Superintendent 30 days prior to implementation for review and approval in writing and upon subsequent revisions. Boat storage rental agreements records will be made available to the Park for review.

(a) Each occupied slip will have a current agreement in place with the appropriate renter's signature. Ownership of the vessel will be documented on each agreement.

(b) All restrictions must be included in the boat storage rental agreement.

(c) The Concessioner will inform slip holders in writing and as part of the boat storage rental agreement of prohibited maintenance activities, procedures for allowable minor boat maintenance and other environmental management requirements, including stating that the use of environmentally preferred products is encouraged.

(d) The Concessioner shall inform all slipholders in writing and as part of the boat storage rental agreement that living aboard boats at the marina is not permitted. A "live-aboard" is defined as someone who stays aboard a boat in the marina for four (4) or more nights in any seven (7) day period more than three (3) times in any twelve (12) month calendar period.

B) Boat Storage Wet

(1) *Maximum Boat Sizes to be served:*

(a) 2 slips will be available to accommodate up to a 60-foot boat.

(b) 16 slips will be available to accommodate up to a 40-foot boat.

(c) 11 slips will be available to accommodate up to a 35-foot boat.

(d) 40 slips will be available to accommodate up to a 26-foot boat.

(e) 24 slips will be available to accommodate up to a 20-foot boat.

(2) Storage slips of more than 35' in length may be equipped with shore power of at least 20 amperes, may have an individual water tap, or may share services. Storage slips of less than 35' in length may have a mixture of shore power and courtesy power. The Concessioner will insure that power connections from the shore power to the vessel are approved for that use by NFPA guidelines. Water taps will be reasonably available for slips less than 35' in length.

(3) Boat owners are responsible for securing their boats to the slip, maintaining their boats, and checking them regularly. The Concessioner shall require slipholders to be properly registered, licensed, insured and to maintain their boats in good, seaworthy condition. A National Association of Marine Surveyors (NAMS) survey, or equivalent survey, may be required. Boats shall not be allowed to become unsightly or reduced to a dilapidated condition. Inadequate or faulty securing equipment may be replaced by the Concessioner at the boat owner's expense when necessary to adequately secure the boat.

(4) The Concessioner is responsible for the condition of each slip, including all cable lines, cleats, connecting eyes and other appurtenances. The Concessioner will enforce minimum standards for the lines and equipment used to secure the boat to the slip. Inadequate or faulty securing equipment may be replaced by the Concessioner at the boat owner's expense when necessary to adequately secure the boat.

(5) Boat attachments, such as pulpits, will not extend more than six inches over a walkway or dock to reduce safety hazards.

(6) The Concessioner will develop protocols to avoid slips and falls on the docks by boaters, guests and employees.

C) Dry Storage

(1) *General*

(a) **Definition**. Dry storage means, for the purposes of this Operating Plan, boats stored on trailers.

(b) **Location.** Dry storage is designated in the parking area to the right of the entrance.

(c) **Maximum.** Dry storage will be limited to 25 spaces at any given time.

(d) **Obligation**. Dry storage will be provided seven days per week on an annual basis.

(e) **Storage Agreement Length**. Dry storage spaces will be leased on a weekly, monthly, or annual basis, as available.

(f) **Identification**. All boat trailers must be properly licensed. The Concessioner will maintain and provide to the Service upon request, a dry storage inventory including storage space number, customer names, boat name (if applicable) and registration number. The Concessioner will ensure that patrons renting slips have the vessel and owner name on the boat trailer.

(2) *Prohibited Activities*

(a) Dry storage may not be used to store empty boat trailers.

D) Pump-Out Facilities

The Concessioner will provide water-based sanitary pump-out facilities at the marina in sufficient capacity to accommodate the boating public without unreasonable waiting times. The pump-out facility shall be well marked. All holding tanks and wastewater delivery lines shall meet applicable Federal and District of Columbia codes for this type of service. Patrons will pump-out their own boats. This service is offered at no charge.

E) Restrooms

Restrooms will be cleaned according to a posted schedule, at least once daily.

8) Acknowledgement of Risk

The Concessioner may require patrons renting slips to sign an acknowledgment of risk form. All such forms must be approved in advance by the Park.

9) Reporting Requirements

A) Park Reports

(1) *Annual Performance Evaluation.* The Concessioner will receive an annual performance evaluation by March 1 for the preceding calendar year. The Superintendent and/or his/her representative(s) are available to meet with the Concessioner to discuss the annual evaluation, which includes contractual, operational, public health, and safety components.

B) Concessioner Operational Reports

The Service will be allowed to inspect supporting documentation for all operational reports upon request.

(1) *General*

(a) **Employee Listing**. The general manager will provide the Park a list identifying all employees, with their job titles, and office and emergency phone numbers by March 15 of each year.

(b) **Incident Reports**. The Concessioner will report all emergency incidents immediately to the U.S. Park Police or 911 for fire and ambulance. The Concessioner shall notify the Park Superintendent within 24 hours of:

- Any motor vehicle accident resulting in property damage, personal injury or death as soon as practicable, but within 24 hours of the accident.
- Any incident resulting in personal injury (requiring more than minor first aid treatment), transport or property damage exceeding $300 as soon as possible.
- Other incidents that may affect Park resources (i.e., fires, hazardous material spills) or are violation of state and federal law.

(2) *Monthly Visitor Use Reports.* The Concessioner will provide a monthly patron use report that may be mailed, faxed or emailed to the Park so that it is received by the 15th day of each month. The Park will supply the format of the report. The report will include:

- Number of slips and dry storage places available
- Number of slips and storage places occupied
- Percentage of occupancy.

(3) *Monthly Asset Monitoring Report*

The Concessioner will maintain a management information system to document patron use patterns and impacts. A monthly asset monitoring report will be provided to the Service. The following information will be included in this report. The report will be due to the Park by the 15th day of the following month.

(a) **Financial and Operational Statistics**. The Concessioner will provide operational statistics and financial information for each revenue-producing service. The statistics and information provided will be in a format agreeable to the Concessioner and the Service.

(b) **Maintenance Reserve**. A status report on projects funded by the Maintenance Reserve.

(c) **Patron Comments**. The Concessioner will provide tabulated summaries of all patron comments to the Park, including a year-to-date tabulation.

(4) *Annual Construction and Repair and Maintenance Plan.* The Concessioner will, by November 15 and in accordance with Exhibit F, provide a plan of timing and costs of implementing projects for the following calendar year.

(5) *Annual Concessioner Operational Reports.* An annual summary report will be due 60 days after the end of the year, unless otherwise agreed upon by the Superintendent. This data should be presented in a concise spreadsheet format.

(a) Marina

- Slip Rental: Number of slips available and rented, by slip size and boat length, and associated revenues
- Dry Storage: Available and occupied spaces and associated revenues

C) Concessioner Financial Reporting

In addition to the annual financial report (AFR) required in the CONTRACT, the following financial reports will also be required:

(1) *Monthly Maintenance Reserve Reporting.* By the 15th of the month as part of the monthly reporting, the Concessioner will report on the maintenance reserve deposit made the preceding month. Reporting documentations will include a copy of the wire transfer identifying the account and the amount transferred.

D) Summary of Initial and Recurring Due Dates

The following page summarizes the preceding reporting requirements and details other reports, plans, payments, and inspections that will be the responsibility of the Concessioner.

SUMMARY INITIAL AND RECURRING DUE DATES			
Title	**Schedule**	**Due Date**	**Reference**
Initial Requirements			
Balance Sheet	Initial	Within 90 days of execution of the CONTRACT, or its effective date, whichever is later	CONTRACT, Sec. 14 (c) (1)
Environmental Management Plan	Initial	Within 60 days of execution of the CONTRACT, or its effective date, whichever is later	CONTRACT, Sec. 6 (b) (1)
Risk Management Plan	Initial/ Annually	Within 60 days of the execution of the CONTRACT, or its effective date, whichever is later; annual updates due by November 30 for each successive year	Operating Plan, Sec. 2 G
Fire Inspection	Initial/ Annually	Within 30 days of initial occupancy; updates annually thereafter	Operating Plan, Sec. 2 C
Hiring Policies	Initial	Within 90 days of the execution of the CONTRACT, or its effective date, whichever is later	Operating Plan, Sec. 2 F (3) (d)
Marina Operating Policies	Initial	Within 120 days of the execution of the CONTRACT	Operating Plan, Sec. 7 A (4) (a)
Boat Storage Rental Agreements	Initial	30 days prior to implementation	Operating Plan, Sec. 7 A (5)
Annual			
Employee Listing	Annually	March 15	Operating Plan, Sec. 9 B (1)(a)
Rate Change	Annually	At least 60 days prior to anticipated implementation dates	Operating Plan, Sec. 2 B (2)
Financial Report	Annually	Not later than 120 days after the last day of the Concessioner's fiscal year	CONTRACT, Sec. 14 (b) (1)
Repair and Maintenance Reserve Activity Report	Annually	Not later than 120 days after the end of the Concessioner's accounting year	CONTRACT, Sec. 14 (c) (2)
Concessioner Operational Reports (excluding Employee Listing)	Annually	Within 60 days after the end of the year	Operating Plan, Sec. 9 B (5)
Construction and Repair and Maintenance Plan	Annually	Annual updates due by November 15th for each successive year	Operating Plan, Sec. 9 B (4)

SUMMARY INITIAL AND RECURRING DUE DATES			
Title	**Schedule**	**Due Date**	**Reference**
Monthly			
Visitor Use Statistics	Monthly	By the 15th day of the following month of each month of operation	Operating Plan, Sec. 9 B (2)
Asset Monitoring Report	Monthly	By the 15th day of the following month of each month of operation	Operating Plan, Sec. 9 B (3)
Franchise Fee	N/A	N/A	CONTRACT, Sec. 11 (b)
Maintenance Reserve Report	Monthly	By the 15th day of the following month of each month of operation	Operating Plan, Sec. 9 B (3)(b)
Miscellaneous Reports and Data	As required	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	CONTRACT, Sec 15 (c)

Effective 7/13 **, 200**7

By: Inger M Jewell

Director, National Capital Region

EXHIBIT C
NONDISCRIMINATION

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

A. EMPLOYMENT

During the performance of this CONTRACT the Concessioner agrees as follows:

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

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

3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed $50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

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

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

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

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

B. CONSTRUCTION, REPAIR, AND SIMILAR CONTRACTS

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

C. FACILITIES

(1) Definitions: As used herein:

a) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner.

b) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:

a) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;

b) discriminating by segregation or other means against any person.

Section II: Accessibility

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

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

A. DISCRIMINATION PROHIBITED

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

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

B. EXISTING FACILITIES

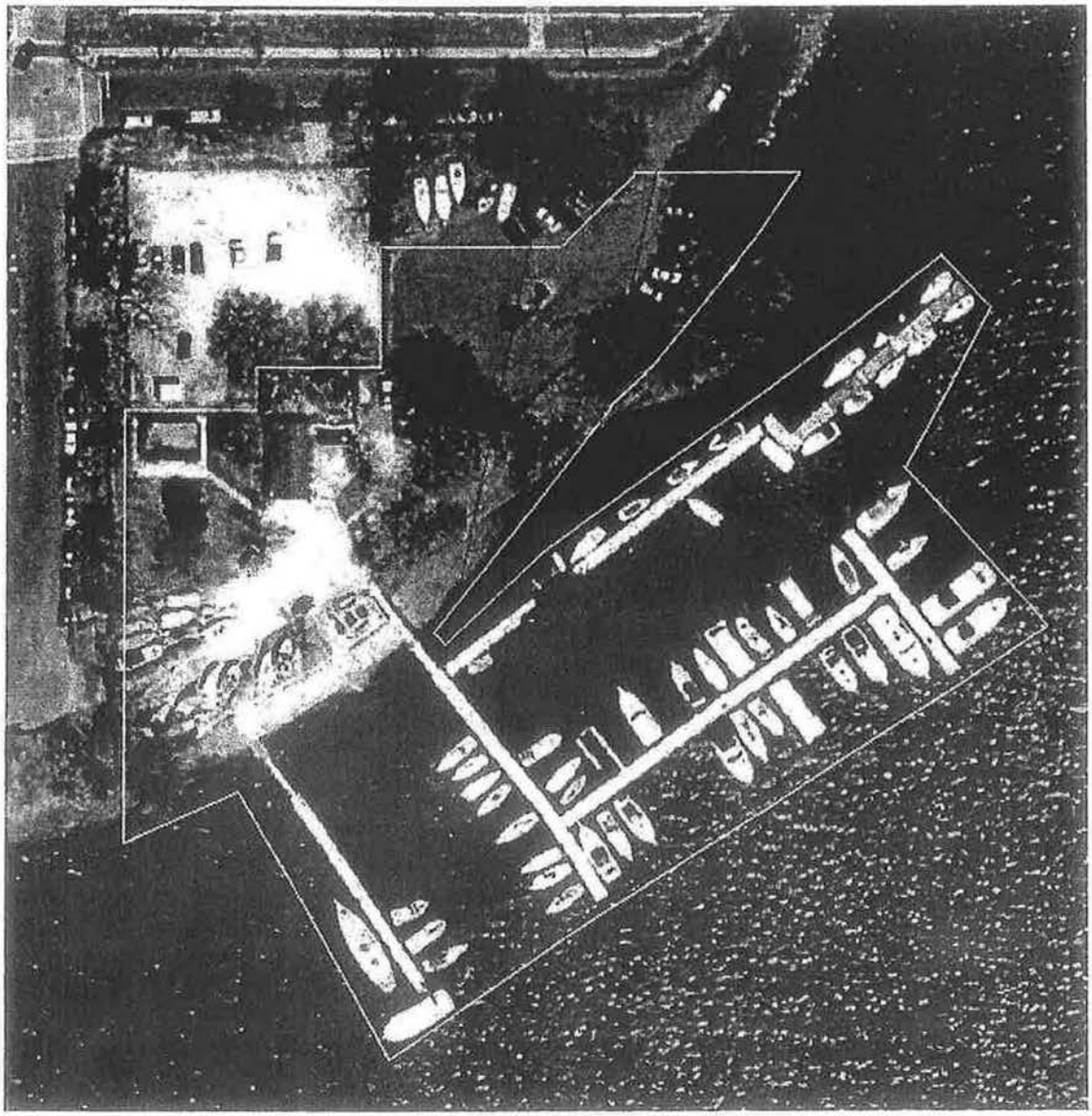
A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible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

EXHIBIT D

ASSIGNED LAND AND REAL PROPERTY IMPROVEMENTS (CONCESSION FACILITIES)

LAND ASSIGNED

Land is assigned in accordance with the boundaries shown on the following map:



The District of Columbia has a Right of Way within the Buzzard Point Marina land assignment, generally following the driveway into the facility. Concessioner construction within this area is not permitted. The National Park Service has jurisdiction over the property adjoining both sides of the Right of Way, and is working to acquire jurisdiction over the Right of Way property. The concession land assignment will be modified to indicate this change once the National Park Service receives such jurisdiction.

The concessioner's land assignment and District of Columbia Right of Way are generally indicated on the aerial photograph. The Right of Way is indicated by the red parallel lines within the land assignment. The photograph shows all structures on the land that are assigned to the concessioner.

REAL PROPERTY IMPROVEMENTS ASSIGNED

The following real property improvements are assigned to the Concessioner for use in conducting its operations under this CONTRACT:

Description	Length	# Slips
Steel Floating Docks	432 linear feet	51
Composite Floating Docks	338 linear feet	31
Wood Floating Docks	166 linear feet	11

Description	Size/Length	Building No.
Steel Gangway	20 linear feet	-
Steel Ramp	40 linear feet	-
Aluminum Gangway	30 linear feet	-
Wood Pier	13 linear feet	-
Launch Ramp	42 linear feet, 9'3" wide	-
Comfort Station, with showers and marine sanitation device	N/A	Building No. 1161
Perimeter Fencing	316 linear feet	-
Gate	18 feet wide	-
Office/Storage Building	Steel, 800 square feet	Building No. 1162

Approved, effective , 200__

By: _____

Director, National Capital Region

DRAFT EXHIBIT E

ASSIGNED GOVERNMENT PERSONAL PROPERTY

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

NONE

Effective, this 13th **day of** July **, 20** 07**.**

By: Hugh McFawler

Director, National Capital Region

EXHIBIT F

CONCESSIONER CONSTRUCTION, MAJOR REHABILITATION, AND REPAIR AND MAINTENANCE PROJECT PROCEDURES

A. Introduction

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

In accordance with the CONTRACT, only certain new construction and major rehabilitation projects may qualify for leasehold surrender interest ("LSI"). Following these administrative procedures for all projects will enable the Service to approve LSI in accordance with these CONTRACT terms.

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

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

Projects may be required to be reviewed under the National Environmental Policy Act ("NEPA") of 1969, as amended. Projects within historic and culturally significant areas may require certain building management methods established under the National Historic Preservation Act of 1966 ("NHPA"), as amended. All construction shall comply with codes and building requirements adopted by the Service, including without limitation and where applicable, the most recent

International Building Code ("IBC"), National Fire Protection Association ("NFPA") codes, the Americans with Disabilities Act ("ADA") requirements, the NHPA, and Service management policies, as such codes, requirements, and laws may be amended, supplemented, or superseded.

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

B. Definition of Terms

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

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

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

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

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

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

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

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

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

"Licensed Contractor": An entity performing construction certified or licensed by a valid governmental authority to perform construction services.

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

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

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

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

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

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

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

C. Project Planning and Design

(1) Submit an Annual Construction and Repair and Maintenance Plan (CMP). Before approval to proceed with any project is granted by the Service, the Concessioner must submit a CMP for implementation the following year. Some projects may require several years of planning and design before construction. The purpose of the plan is to identify the need and tentative scope of projects a complete year in advance of actual work to allow adequate time to prepare for project commencement. The CMP should include any intended projects. Projects shown in the plan must include at least a project title; project concept description; a brief statement of justification; and anticipated NEPA and Section 106 planning and compliance established in collaboration with Service staff.

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

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

(4) Prepare a Proposed Project Statement (PS). Arrange and facilitate a project planning conference with Service staff and prepare a proposed PS to be submitted to the Park Superintendent for review. The conference should be performed on the proposed project site, if needed.

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

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

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

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

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

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

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

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

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

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

(a) Leasehold Surrender Interest Project File. The Project File will become an LSI project file when the Concessioner requests approval of LSI. It shall be established and maintained by the Concessioner and shall include all of the documents identified in section 7(C) of this Exhibit. This file shall be submitted at the time of Project Close-out to the Park Superintendent as the basis for the leasehold surrender interest request. As part of this file, the Concessioner must maintain auditable records of all expenditures attributable to each project and have them available for review if requested by Service personnel. Invoices shall contain sufficient information to identify the tasks completed or products delivered as agreed upon in contracts presenting a full scope of work. The file shall clearly provide a "paper trail" between expenditures eligible for LSI purposes and the payment of those expenses.

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

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

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

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

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

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

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

Section G. Photo Documentation. Complete documentation, including before-and-after photos, records of any special situations or conditions requiring changes, documentation of methods

used, etc., should be kept to support requests for LSI and to assist future maintenance and/or appraisal efforts. Photographic documentation is also usually required for modifications to "listed" historic structures. To be most useful, photos should be filed with the documents they support.

(7) Submit Resource Compliance Documents for Review and Approval. During development of the project statement, responsibility for compliance work will be established. The Concessioner must request the participation of Service staff early in project planning to assure uninterrupted project implementation. Development of compliance documentation must occur as soon as possible. Every effort shall be made to perform compliance document preparation tasks concurrently with project planning and design.

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

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

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

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

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

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

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

D. Project Management Procedures

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

(2) Submit a Total Project Price for Review.

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

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

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

(4) Hold a Pre-Project Conference with the Contractor. The Concessioner shall arrange and facilitate a pre-project conference as needed or as requested by the Service with the Contractor. The purpose of the conference is to provide the Service the opportunity to meet the Contractor and confirm that the Contractor has full understanding and knowledge of all work to be performed. In addition, the conference provides the opportunity to confirm established communication linkages between the Concessioner, the Contractor and the Service. Any questions the Contractor may have regarding any matter of the project or anything about Area access, rules and regulations may also be discussed.

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

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

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

(6) Submit Requests for Changes in Approved Project Documents. The Superintendent's approval will be required before any significant changes are made to the project scope during the completion of projects, as identified in the approved PDs. The Concessioner shall provide the Service with written notification immediately upon identifying the need for a change in project scope that affects any of the items listed below. The written notification shall include a request for change in the approved PDs complete with justification and explanation of effect of change on all other aspects of project design and work. Requests for any significant changes in the approved PDs shall be reported in project activity reports with attachment of any documentation requested. Changes in approved project scope during the work that will require review and approval of the Superintendent include the following:

(a) Changes affecting natural, cultural and/or historic resources;

(b) Changes in designated visual appearance;

(c) Changes in the interface with Service utility and/or road facility maintenance operations;

(d) Changes in project scope and/or the estimated leasehold surrender interest, as required for facility improvement projects.

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

(7) Submittal of Change Orders for Review and Approval (for Leasehold Surrender Interest only). When one of the five factors listed above exists, the Concessioner shall submit, for the review and approval of the Park Superintendent, documentation justifying the proposed changes. The Concessioner shall also submit a revised Total Project Price for each proposed change, as needed, indicating the proposed change in estimated LSI. All change orders or any other means of directing the Contractor that may have the effect of increasing the Total Project Price will require the Park Superintendent's review and approval, if the project has LSI implications.

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

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

(10) Substantial Completion Inspection and Occupancy. Joint inspection by the Service and the Concessioner will occur upon notification that the project is substantially complete. A "punch list" of work items will be formulated and performed to "close-out" the project. The

Superintendent, in writing, will accept the project when the "punch-list" items are completed. The Concessioner is not to occupy the facility until authorized in writing by the Park Superintendent.

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

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

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

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

EXHIBIT G

LEASEHOLD SURRENDER INTEREST AS OF THE EFFECTIVE DATE OF THIS CONTRACT

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

NONE

Approved Effective 7-13-07

Concessioner	United States of America
BY:	BY:
TITLE: PRES	Director, National Capital Region

Maintenance Plan

Between the National Park Service and Buzzard Point Marina for services provided within National Capital Parks-East

Pursuant to Concessions Contract CC-NACE003-06

EXHIBIT H
MAINTENANCE PLAN

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INTRODUCTION

This Maintenance Plan between Buzzard Point Boatyard Corporation t/a Buzzard Point Marina (hereinafter referred to as the "Concessioner") and National Capital Parks–East (hereinafter sometimes referred to as either the "Service" or the "Park") will serve as a supplement to Concession Contract CC-NACE003-06 (hereinafter referred to as the "CONTRACT"). It describes specific maintenance responsibilities of the Concessioner and the Service with regard to those lands and facilities, referred to collectively as concession facilities, within the boundaries of the Park that are assigned to the Concessioner for the purposes authorized by the CONTRACT.

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

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

1) General Standards for National Park Concession Facilities

The National Park Service Concessions Management Guideline offers general direction, expectations and standards on all aspects of concession operations.

The Concessioner is required by the terms of the CONTRACT to maintain the facilities used in a manner that is acceptable to the Service. It is the purpose of this Maintenance Plan to help define the necessary standards and to define the maintenance relationship between the Concessioner and the Service. Both the Concessioner and the Service have specific responsibilities as outlined in the CONTRACT and this plan.

2) Definitions

In addition to all the defined terms contained in the CONTRACT and all other Exhibits, the following definitions apply to this Maintenance Plan.

(1) **Asset** – Real or personal property or component thereof that the Service desires to track and manage as a distinct identifiable entity. An asset may be as small as any physical item or as large as a structure or grouping of structures, land features, or other tangible property that has a specific Service or function. The term "Asset" also means movable items such as vehicles and equipment. Typically, an asset is a uniquely identifiable element with a financial value against which Maintenance actions can be recorded. Assets may share a hierarchal relationship wherein a building is defined as an asset and elements within the building are also defined as assets in a "parent-child" management and reporting relationship that usually occurs in a Computerized Maintenance Management System ("CMMS").

(2) **Capital/Component Renewal** – The replacement or reproduction of assets at the end of their serviceable life. Renewal includes the deconstruction of the existing system or system components and replacement with a new system of equal capability and

performance. Capital/Component Renewal includes Statutory/Mandated Corrective Measures necessary to attain code and regulatory compliant asset infrastructure and systems. Capital/Component Renewal typically represents the action required to correct a Level III condition deficiency.

(3) **Condition Deficiency** – A condition that may affect or reduce the serviceability, life, or economic value (as determined by the reproduction cost) of an asset. The type of corrective action needed determines condition deficiencies. The four levels of condition deficiency are:

- Postponed Cyclic or Postponed Preventive Maintenance (Level I)
- Repair (Level II)
- Capital/Component Renewal (Level III)
- Major Rehabilitation or Structure Replacement (Level IV).

(4) **Cyclic Maintenance** – Planned work activities that reoccur on a periodic cycle of greater than one year to sustain the serviceable life of an asset. Typical projects include, but are not limited to painting, pump and motor replacement, cleaning, repair and replacement of luminaries, engine overhaul, and refinishing hardwood floors. Postponed Cyclic Maintenance is a Level I condition deficiency.

(5) **Deferred Maintenance** – A curable, physical condition deficiency that requires correction.

(6) **Exterior** – Refers to structures, the foundations, exterior walls and surfaces, roofs, porches, stairways, and other structural attachments. This includes all the equipment, sidewalks, walkways, parking lots, landscaping, utilities, and related components within the Concessioner's land assignments.

(7) **Facility Condition Index ("FCI")** – FCI is a comparative indicator of the relative condition of facilities and is expressed as a ratio of the cost of remedying condition deficiencies over the reproduction cost (Facilities Condition Index (FCI) = Condition Deficiencies ($) divided by Current Reproduction Cost ($)). FCI is an industry standard index that provides a method of measurement to determine the relative condition of a single structure or group of structures and allows for comparison of dissimilar construction types and buildings. It also provides a corresponding metric as a percentage indicating a deferred maintenance backlog.

(8) **Facility Operations** – Work to keep the facility performing the function for which it is currently classified.

(9) **Interior** – Refers to the area of structures inside the external walls and under the roof, including door and window frames. This also includes all equipment, appurtenances, and utility systems that penetrate the walls, roof or foundation.

(10) **Maintenance** – The work necessary to maintain the original anticipated useful life of a fixed asset (or subsequent improvement). It is the upkeep of property and equipment. Maintenance includes periodic and/or occasional inspection, adjustment, lubrication, cleaning (non-janitorial), painting, replacement of parts, repairs, and other

actions to prolong service and prevent unscheduled breakdown, but it does not prolong the life of the property or equipment or add to its value.

(11) **Personal Property** – Manufactured items of independent form and utility including equipment and objects solely for use by the Concessioner to conduct business. Personal property includes, without limitation, removable equipment, furniture and goods, necessary for Concessioner operations under the CONTRACT. Identified in the asset inventory as Concessioner property or Government assigned personal property.

(12) **Preventive Maintenance ("PM")** – Planned, scheduled servicing, inspection, and adjustment, that results in continued service, fewer breakdowns, and prevents premature failure of equipment and materials. Postponed Preventive Maintenance is a Level I condition deficiency.

(13) **Real Property System** – Systems and components within a structure that exhibit a design life that differs substantially from the structure (e.g., roof system, mechanical system, electrical system, fire protection system, potable water distribution system, water treatment system). For building systems, generally defined as Level II group elements by ASTM E 1557 Uniformat II.

(14) **Repair** – The action required to correct a Level II condition deficiency. Work to restore the appearance and function of assets to meet the condition standards of the asset. As a basic distinction, repairs are curative, and maintenance is preventive. Replacement is an alternative to repair.

(15) **Replacement** – Exchange or substitution of one asset for another with the capacity to perform the same function at a level of utility and service equivalent to the original asset.

(16) **Statutory or Mandated Corrective Measure** – Represents modification requirements to existing real property assets required to meet current regulatory and governmental requirements (as amended, supplemented, or superseded) such as regulations and codes that may not have existed at the time of construction. Mandated corrective measures include Americans with Disabilities Act ("ADA") requirements, environmental requirements, and life/safety upgrades.

3) <u>Concessioner Responsibilities</u>

A) General

(1) The Concessioner will be responsible for all maintenance and repairs to all Concession structures, facilities, and personal property. The Concessioner will correct any deficiencies and complete this work on a timely basis to achieve the basic goals described in the most current Concession Management Guidelines, relative to the marina, and all other services required under the CONTRACT.

(2) Standards of Performance for Maintenance

(a) All maintenance will be conducted in compliance with all applicable laws, the following referred sections of the 2003 version of the International Property Maintenance Code ("IPMC"), and the manufacturer's recommendations and/or

specifications will be observed. In the event of any conflict between applicable laws and the IPMC and/or manufacturer's specifications, Applicable laws will prevail. In the event of a conflict between the IPMC and manufacturer's specifications, the manufacturer's specifications will prevail.

(b) The following sections of the IPMC are adopted by the maintenance plan and incorporated herein by reference. The IPMC is published by the International Code Council (ICC). Copies of the IPMC are available from the ICC at www.iccsafe.org

- In the referenced sections, the terms "property owner," "owner," and "occupant" refer to the Concessioner.
- In the referenced sections, the term "code official" shall be changed to "Superintendent."
- Reference Chapter 1, Section 102; Applicability, the following paragraphs: 102.4 through 102.8.
- Reference Chapter 1, Section 105; Approval, the following paragraphs: 105.2 through 105.4. Under Section 105.3, the term "jurisdiction" shall be changed to "Service"
- Reference Chapter 3, Section 301; General.
- Reference Chapter 3, Section 302; Exterior Property Areas, the following paragraphs: 302.1, 302.3, 302.5-302.7, 302.9.
- Reference Chapter 3, Section 304; Exterior Structure, the following paragraphs: 304.1 – 304.2, 304.4 – 304.17 (in paragraph 304.14; the following shall be changed in the first sentence; replace "During the period from [DATE] to [DATE]" with "During the operating period.")
- Reference Chapter 3, Section 305; Interior Structure.
- Reference Chapter 3, Section 306: Handrails and Guardrails in its entirety
- Reference Chapter 3, Section 307; Rubbish and Garbage, the following paragraphs: 307.1, 307.2 (not including 307.2.1) and 307.3 (not including 307.3.1).
- Reference Chapter 3, Section 308; Extermination, the following paragraph: 308.1.
- Reference Chapters 4 through 6.
    - In circumstances that existing buildings do not meet the minimum requirements as identified by both the Service and the Concessioner, the Service and Concessioner will mutually agree to projects that would bring the building into compliance where deemed necessary by the Service.

- In reference to paragraphs 401.2, 501.2, 601.2 and 701.2, if the requirements are not met, the Service and Concessioner will determine if the building may be occupied.
- The exception under paragraph 403.3 shall be changed to "Where specifically approved in writing by the Superintendent."
- Paragraph 602.2, Residential Occupancies, insert the following at the beginning of the first sentence, "When in operation."
- Paragraph 602.3, Heat Supply, insert the following at the beginning of the first sentence, "When in operation."

- Reference Chapter 8.

(3) Environmental Practices. The Concessioner will conduct maintenance activities in a manner that has minimal environmental impacts.

(a) Preventative Maintenance: Preventative maintenance will be utilized to prevent environmental impacts before they occur.

(b) Energy and Water Efficiency. The Concessioner will consider energy and water efficiency in all maintenance practices and integrate energy and water conserving measures whenever feasible. When replacement is required, water or energy efficient products will be installed as practical, to replace less efficient products and to minimize energy and water consumption.

(c) Equipment and Materials. Where feasible and available, the Concessioner will use products or materials that are less toxic, contain post-consumer recycled content, are naturally or minimally processed products, and use other materials that have additional environmentally preferable attributes. The Concessioner will minimize use of hazardous chemicals in its operations.

(d) Contractors. The Concessioner will encourage companies and businesses it does business with to provide cleaner technologies and safer alternatives to toxic and hazardous materials and to develop innovative technology.

(e) Purchasing. The Concessioner will purchase environmentally friendly cleaners and other products whenever appropriate.

(f) Universal Design. The Concessioner will incorporate universal design practices to the maximum extent practical.

B) Plans, Reports and Inspections

There are a number of plans and reports required under the terms of this Exhibit H to the CONTRACT. For the purposes of this document, the term "plan" will refer to written materials that outline the Concessioner's expected actions and expenses for a future period. The term "report" refers to written materials that document Concessioner accomplishments and expenses during a defined historical period.

(1) Annual Maintenance Plan. The Concessioner will provide the Service with an updated Annual Maintenance Plan ("AMP") that covers all concession facilities and presents the Concessioner's planned maintenance activities for the next calendar year.

The plan will be delivered to the Superintendent on or before November 15. The Superintendent will provide a written response within 45 days from receipt. The AMP is a separate document from the Annual Construction and Repair and Maintenance Management Plan defined in Exhibit F to the CONTRACT. The AMP describes different activities than those included in Exhibit F. The AMP will include:

(a) Preventive Maintenance ("PM") Procedures and Schedules. PM procedures and schedules will be developed by the Concessioner and included in the plan to ensure that all Concession Facilities are properly maintained. At a minimum, PM procedures and schedules will include detailed PM activities for each building system (including, but not limited to, roofs, building envelopes and mechanical equipment). At a minimum, the PM procedures and schedules will adhere to manufacturers' recommendations. The PM procedures will describe the tasks that the Concessioner expects to perform during the next calendar year and those that were performed in the previous calendar year (for comparative purposes). The PM schedules will define the frequency.

(b) Cyclic Maintenance Schedules. Programmed cyclic maintenance items will be included in the report. Typical items in this category include carpet and paint.

(c) Scheduled and Unscheduled Maintenance Items. A plan will be developed to schedule other maintenance requirements during the year, such as deferred maintenance. The plan will include a Service call procedure and method to prioritize Service calls for unscheduled maintenance items. An inspection plan will be included that describes the process in which the Concessioner will ensure that the concession facilities are being maintained properly and that deferred maintenance items are being corrected in a timely manner.

(d) Projected expenditures to accomplish the items in the AMP. The required level of detail for reporting projected expenditures will be mutually agreed upon by the Service and the Concessioner.

(e) In addition to the above information, the plan will include data from the previous year for each building based upon the reporting hierarchy described previously. Information will be reported in such a manner as to clearly document the PM, Cyclic Maintenance, and Scheduled and Unscheduled Maintenance activities that were accomplished during the prior year and allow the Service to view these in conjunction with those activities that are planned for the coming year.

(2) Repair and Maintenance Reserve Plan. The Concessioner will provide the Service with a "Repair and Maintenance Reserve Plan" that covers all Concession Facilities. The Repair and Maintenance Reserve Plan will be updated as requested by the Service but no less frequently than once per year. The plan will be delivered to the Superintendent on or before November 15. The Superintendent will provide a written response within 45 days from receipt. The plan will include:

(a) A forecast, by year, of projects that will use Repair and Maintenance Reserve funds over the remaining life of the CONTRACT.

(b) Projects that are scheduled to be completed during the next year. These projects will have a completed project statement that includes a detailed scope, schedule

of when work will begin, and a total project cost estimate. Written approval from the Service is required before these projects may begin.

(c) The Service reserves the right to require the Concessioner to replace any component or building system at the end of its useful life or when the item presents a quality, safety, or environmental issue.

(3) Periodic Preventive Maintenance ("PM") Reports. From time to time, the Service will request PM reports that include a description of all completed PMs for the year to date. Descriptions will include the hours and costs for the time period reported. The Periodic PM Reports will also include a list of all PMs that were not completed in accordance with the schedule submitted in the AMP. Reports should be generated and the Concessioner and Service will agree to the appropriate level of detail for PM reports.

(4) Personal Property Replacement Plan. The Concessioner will provide the Service with its planned personal property replacement schedule for the next calendar year by November 15 of each year of the CONTRACT. The plan will include the estimated date of replacement, estimated replacement cost, expected life of replacement property, and expected salvage value of replaced personal property at time of replacement.

(5) Operational Evaluation. Subsequent to the aforementioned initial inspection and annually thereafter, the Service will conduct inspections and reviews of the assigned Concession Facilities. The purpose of these inspections and reviews is to verify that the facilities are being properly maintained and that the facilities comply with the requirements set forth in this Maintenance Plan. These inspections and reviews generally will occur on a schedule to be submitted to the Concessioner. Based upon the identified needs, the Service, in consultation with the Concessioner, will develop a timeline to cure the noted deficiencies.

SUMMARY OF REPORTING REQUIREMENTS INITIAL AND RECURRING DUE DATES			
Title	**Schedule**	**Due Date**	**Reference**
Annual Maintenance Plan	Annual	November 15	Exhibit H,3 B (1)
Repair and Maintenance Reserve Plan	Annual	November 15	Exhibit H,3 B (2)
Periodic Preventative Maintenance Report	Annual	As required by the Service	Exhibit H,3 B (3)
Personal Property Replacement Plan	Annual	November 15	Exhibit H,3 B (4)
Landscape Plan	Annual	On or before October 1 of each year	Exhibit H,3 (I)(1)(a)
Pesticide Request Form and Pesticide Use Log	Annual	On of before December 31 of each year	Exhibit H,3 (I)(1)(c)
Environmental Management Program	Initial	Within 60 days of the execution of the CONTRACT or its effective date, whichever is later	CONTRACT, Sec. 6 (b) (1)

C) Facility Maintenance

The following are guidelines in addition to the IPMC:

(1) Qualified Personnel. All maintenance and repair work will be done by qualified personnel as defined by applicable codes.

(a) All personnel conducting Repair, Maintenance, and Rehabilitation work on Assets will have the appropriate skills, experience, licenses (as applicable), and certifications (as applicable) to conduct such work.

(2) Specifications. Repairs or Replacements will be done in accordance with Service specifications, industry standards, and applicable manufacturer's guidelines and are subject to Service approval.

(3) Emergency Repairs. May be done without prior Service approval with appropriate documentation to follow within one business day.

(4) Access to Concession Facilities. The Superintendent and/or his or her designated representative will have access to all concession facilities in the Park at any time and without notice to conduct evaluations and other required inspections.

(5) New Construction and Capital Improvements

(a) Plans for new construction, additions to structures, Major Rehabilitations, and all other capital improvements must be prepared and stamped by licensed architects and engineers. Three sets of plans must be submitted for Service review and approval. The Service will attempt to review and comment on plans within 15 days. The Service will not review or approve plans that are not stamped.

(b) Upon completion, any new construction or capital improvement will be communicated to the Superintendent. Information for any new construction or capital improvement will include updates to the PM procedures and schedules, life cycle estimates, and tracking procedures.

(c) From time to time, the Park will undertake and fund construction and capital improvements within Concession Facilities. The Park will work with the Concessioner to minimize impacts from these projects upon Visitor Services and Concessioner operations. The Concessioner will cooperate with the Park to achieve Service objectives and complete Park projects in a timely and workmanlike manner.

(d) The Concessioner will hire a qualified licensed inspector to inspect all new construction or significant project work during construction and upon completion. An inspection report verifying code compliance must be submitted to the Service prior to using or occupying the improvements. Computer generated "as built" drawings in the current version of AutoCAD and a project completion report, which includes total project costs, will be supplied to the Service within 45 days of completion of work on the project.

(e) The Concessioner is responsible for obtaining the appropriate permits as required by the District of Columbia.

(6) Painting. Unless required more frequently per the manufacturer's recommendation or the IPMC, paintable surfaces shall be painted on a regular cycle, exteriors not less than once every five years, and interiors not less than once every seven years. Paint products shall be of a "best quality" from a major manufacturer and a type and color that is readily available on the open market. Any changes to paint colors from the color range provided by the Superintendent must be approved by the Superintendent. Whenever possible, the Concessioner will utilize reprocessed, low volatile organic content ("VOC"), latex coatings when technically feasible and appropriate. When oil based paints are used, minimize solvent use by means of thinner settling and reuse whenever possible.

(7) Exterior Lighting. All lights must be shielded to cast light downward only to protect night skies (exterior lighting shall provide the minimum necessary lighting for visitor safety and security of facilities). New installations must be approved by the Service. Fluorescent or energy efficient light bulbs will be used where feasible.

(8) Asbestos. The Concessioner is responsible for maintaining health and safety standards in the presence of asbestos in all assigned buildings and areas. Any repair or replacement of asbestos containing surfaces will be performed with the written approval of the Superintendent.

D) Utilities

The Concessioner is responsible for contracting with independent suppliers to provide year-round electrical and water service. The Concessioner is responsible for direct payment to these suppliers.

(1) Electrical. The Concessioner will maintain all secondary electrical lines and equipment (conduit, fuses, panels, switches, transformers, lines, etc.) within the concession facilities including all fixtures (lamps, cord and equipment) affixed to secondary electrical lines. Any changes to the utility section require written approval from the Superintendent.

(a) The Concessioner will repair or replace all electrical system damage at its expense within concession facilities and damage occurring beyond the concession facilities that result from actions of the Concessioner's employees or its subcontractors.

(b) The Concessioner will ensure that all electrical circuits under its control meet or exceed the standards of the National Electric Code.

(2) Water

(a) The Concessioner will maintain and repair the water system within the concession facilities. All work on water systems will meet District of Columbia requirements. This maintenance and repair will include, but is not be limited to, fire lines (hoses), water pipes, water heaters, faucets, and spigots. The Concessioner will activate, deactivate, and winterize system components as necessary, as part of normal maintenance. The Concessioner is responsible for installing and maintaining water lines at slips where water hook-ups are required and/or added.

(b) The Concessioner is responsible for purchasing, installing and maintaining meters and back flow prevention devices for new construction and new building assignments, as well as for existing facilities.

(c) The Concessioner will repair or replace any water system damage within its assigned areas and/or damage occurring beyond the Concessioner's assigned areas which results from negligence by the Concessioner, the Concessioner's agents, and/or its employees while working or operating equipment.

(d) The Concessioner agrees to install water conserving fixtures or irrigation systems to all new construction, and when existing fixtures or irrigation systems need replacements. Water conservation in buildings includes using aerators on all sink faucets, low-flow shower heads (not exceeding maximum flow of 1.5 gallons per minute at 20 p.s.i. or 2.8 gallons per minute at 80 p.s.i.) and low-flow toilets (not to exceed 1.6 gallons/flush at 20 p.s.i. or 1.9 gallons/flush at 80 p.s.i.).

(e) The Concessioner is responsible for having approved back flow devices on all outside spigots.

(f) The Concessioner is responsible for testing for leaks within its assigned area and repairing leaks.

(3) *Sewage*

(a) The Concessioner will maintain all sewage disposal systems and sewer lines within the restroom and to five feet from the restroom.

E) Signs

(1) The Concessioner is responsible for ensuring that its signs are compatible with Service sign standards as determined by the Superintendent. All new sign installations shall be approved in advance by the Superintendent. No handwritten or typed signs will be permitted within concession facilities unless the Service approves exceptions.

(2) Public signs for which the Concessioner is responsible must be appropriately located, accurate, attractive, and well maintained. Signs of a permanent nature shall be prepared in a professional manner, appropriate for the purpose they serve, and consistent with Service guidelines, including but not limited to, Directors Order 52, Park Signage.

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

F) Solid Waste

(1) Guidelines. The Concessioner will develop, promote and implement a litter abatement program. Support will include, but is not limited to, participating in Park-wide litter clean-up events, implementing litter clean-up days within assigned areas,

and providing litter free messages on appropriate materials and in appropriate locations.

(2) Responsibilities

(a) The Concessioner will be responsible for the collection of all litter and garbage and for its collection by the District of Columbia for disposal. All assigned areas will be kept free of litter, garbage, and abandoned equipment/vehicles.

(b) All materials generated as solid waste, untreated wood and tree branches, must be removed from the Park at the Concessioner's expense and disposed of outside the Park.

(3) Receptacles

(a) The Concessioner will provide its own garbage cans and dumpsters. Service garbage cans and dumpsters may be assigned to the Concessioner, if available.

(b) Garbage cans and dumpsters must be painted approved colors.

(c) Receptacles will be waterproof, vermin-proof, and covered with working lids.

(d) All receptacles will be kept clean, well-maintained and serviceable.

G) Recycling and Conservation

(1) *Recycling Program.* The Concessioner will develop, promote and implement a recycling program that fully supports the efforts of the Service. An independent vendor, with the approval of the Service, may provide these services. Recycling areas will be made available to service concession facilities, public, and employee areas. Interim storage of all recyclable materials must be indoors to prevent access by vermin. Products to be recycled include but are not limited to paper, newsprint, cardboard, bimetals, fluorescent tubes, plastics, aluminum, glass, waste oil, waste fuel, antifreeze, and batteries. Such program will include, but not be limited to the following:

(a) Provide collection bins.

(b) Removal of all material from the Park and transport to an authorized recycling center.

(c) Provide access to and use of the recycling program to the Service.

(2) Use of Recycled Products. The Concessioner will implement a source reduction program designed to minimize its use of disposable products in its operations. Reusable and recyclable products are preferred over single-service items. Polystyrene and plastics will be used as little as possible and then only polystyrene not containing chlorofluorocarbons may be used. Where disposable products are needed, products will be used which have the least impact on the environment. Use of post-consumer recycled products is encouraged whenever possible. The Concessioner will purchase and incorporate environmentally preferred products or services for use and for sale.

(3) Environmentally Safe Products. Where practical, the Concessioner will use environmentally safe "green" products and practices that enhance sustainable

operations and development and promote use of recycled oils, tires (re-treads), construction materials, etc. The Concessioner will develop a list of "green" products acceptable alternatives to utilize for all operations concerned with auto fleet/rental fleet lubricants and coolants; chemical additives to toilets; and construction materials. The list will be made available for Service review.

(4) Water and Energy Conservation. The Concessioner will implement water and energy conservation measures. As new technologies are developed, the Concessioner will explore the possibility of integrating them into existing operations where there is potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment. The Concessioner is expected to attain the highest level of sustainability in all levels of operation.

(5) Alternative Fuel Vehicles. The Concessioner should consider using alternative fuel vehicles where applicable.

H) Hazardous Materials and Hazardous Waste Program

(1) General

(a) The Concessioner will implement hazardous material reduction to minimize and eventually eliminate use of hazardous chemicals in its operation.

(b) The Concessioner will maintain health and safety standards and take necessary mitigation and corrective measures to assure healthy working and living environments in all concession facilities.

(c) The Concessioner's designated employees will attend hazardous materials and waste management training as made available by the Park or through outside sources. Training will include Hazardous Communication Standard for employees who may be exposed to chemical hazards on the job site and Hazardous Waste Operations and Emergency Response Standard for employees who may be exposed to hazardous substances in certain specific job-related duties.

(2) Hazardous Substances

(a) The Concessioner will be familiar with its obligations under Section 6 of the CONTRACT.

(b) The Concessioner's Environmental Management Program ("EMP") will include its approach to stopping, containing and cleaning up hazardous substance spills and releases, whether incidental or non-incidental.

(c) The Concessioner will notify the Park without delay when a release of hazardous or non-hazardous chemical or biological product occurs. Proper corrective, cleanup, and safety actions must be implemented immediately.

I) Grounds, Landscaping, And Pest Management

(1) Guidelines

(a) The Concessioner will be responsible for landscaping, grounds care (watering, mowing, weeding, fertilizing, pruning, etc.) and improvement of assigned areas,

as defined on the maps at Exhibit D. Plans for such landscaping must have the prior approval of the Service, and all plant species used in landscaping must have prior Service approval. As such, the Concessioner is required to submit to the Superintendent on or before October 1 of each year a Landscape Plan that outlines all landscaping initiatives planned for the next spring.

(b) The Concessioner will be responsible for the placing and daily cleaning of cigarette receptacles in the assigned areas. The Concessioner will be responsible for keeping the assigned areas free and clear at all times of safety hazards (broken glass, sharp objects, etc.).

(c) The Concessioner, in consultation with the Service, will develop an Integrated Pest Management Program ("IPMP") to be implemented by the Concessioner that will define the nature and frequency of treatment, approved chemical lists, etc. Application of any herbicide, pesticide, or engaging in any pest control or non-native species activity in buildings, residences, or in grounds/landscape materials will be in accordance with the IPMP. As such, the Concessioner is required to submit to the Superintendent on or before December 31 of each year a Pesticide Request Form requesting approval of anticipated pesticide use for the following year and a Pesticide Use Log which tracks the pesticide use for the current year.

- Bird nests may not be removed or destroyed at any time without the prior approval of the Park.
- The control of weeds and pests by chemical and other means is subject to Service approval. The Concessioner will review specific issues with the Park's integrated pest management coordinator.
- The Concessioner is responsible for extermination within all its areas/buildings. Paragraphs 306.2, 306.3, 306.4 and 306.5 in the IPMC do not apply to this CONTRACT.

(d) The Concessioner will conduct its business and daily activities in such a manner as to minimize impacts on the natural environment. This will involve protecting native vegetation and controlling erosion.

(e) A licensed pest control contractor will inspect all concession facilities on a regular cycle on an annual basis after an initial inspection. The initial inspection is to be performed within one year of the awarding of this CONTRACT. The inspection report will be submitted to the Superintendent.

(f) The Concessioner will emphasize water conservation in landscaping operations.

(g) Adequate steps will be taken to prevent the introduction and importation of exotic plants and species into the Park.

(h) The Concessioner will paint all fire hydrants with a Service-approved color.

(2) Hazard Tree Removal. The Concessioner is not authorized to remove hazard trees from its assigned areas without the specific approval of the Superintendent or his designated representative, unless there is an imminent hazard. Approval will be granted in accordance with the established Park policy for hazard tree removal. The

Concessioner is responsible for removing trees after receiving Service approval. Salvageable material will be disposed of in accordance with Service regulation and policy.

J) Roads, Trails, Parking Areas, and Walkways

(1) Guidelines

(a) The Concessioner is responsible for grading, resurfacing, surface repair, patching; striping, and debris and hazard removal; from roads, parking areas, trails, and walkways within its Concessioner facilities.

(b) The Concessioner is responsible for complying with Uniform Federal Accessibility Standards ("UFAS") in assigned areas.

4) <u>Concessioner Responsibility (By Land Use)</u>

A) Marina

(1) Boat Storage

(a) The Concessioner will repair, maintain, or replace the water, sewer, and electrical distribution system in accordance with all applicable laws.

(b) The Concessioner will maintain, repair, and replace all assigned marina facilities.

- All decking will be evaluated for replacement every five years, unless otherwise stated in the manufacturer's recommendations.
- All new dock construction or dock rehabilitation will require encapsulated foam (tub flotation).
- Copper chromium arsenate ("CCA") and/or creosote-treated lumber will not be allowed.

(c) The Concessioner is responsible for assigned marina facilities which are damaged or destroyed as a result of acts of nature, normal wear and tear, acts of the Concessioner, his employees, clients, patrons, or agents.

(d) The Concessioner is responsible for the removal of debris, damaged property, and flotation material from the marina area, including the removal of debris from the river bottom within its assigned areas.

(e) Threaded water faucets at wet slips will have properly installed backflow prevention equipment and the Concessioner will maintain the equipment.

(f) The Concessioner is responsible for the ongoing operation and maintenance of the dock security system. Any changes to the level of security or replacement of the system will be reviewed and approved by the Park.

(g) The Concessioner is responsible for all repairs and maintenance of the dock system and wave attenuators due to the fluctuation of the water levels.

(h) The Concessioner is responsible for collecting and disposing of all litter, garbage, pet wastes, and non-native vegetation in the concession assigned area on a regular basis.

(2) *Emergency Response Boats and Workboats.* The Concessioner's emergency response boat and/or workboat will be maintained in proper working order. The emergency response boat and/or workboat will undergo routine maintenance and have all systems tested monthly. If at anytime these boats are out of service, a backup plan will be in place in case of emergency.

(3) Marina Sanitation Device

(a) The portable marina sanitation device and lines will comply with all applicable laws and be maintained in a serviceable condition to mitigate the possibility of sewage leakage and/or entering the Potomac River.

(b) The Concessioner will provide the portable marina sanitation device to service patrons year-round, seven days per week. This portable marina sanitation device will be capable of pumping portable toilets. This portable marina sanitation device will not be used to pump fuel or oil-contaminated bilge.

(c) The Concessioner will maintain and operate the portable marina sanitation device. The portable marina sanitation device will receive regular cyclic maintenance.

(d) The Concessioner will provide and maintain adequate signage detailing the location and proper usage of the portable marina sanitation device.

(e) The Concessioner will dye test all sewage lines on a quarterly basis and any detected leaks will be repaired immediately. The Park will be notified as soon as possible that a leak has occurred.

(4) *Marina Underwater Inspections.* The Concessioner will develop an Underwater Inspection Program to evaluate the dock structures. The purpose of the program is to ensure a safe and environmentally sound marina. The program will include, but is not be limited to, the following:

(a) The Concessioner will conduct at least one annual, programmed, underwater dive inspection within defined areas of the marina.

(b) The results of the dive inspection(s) will be documented in a report format to be developed by the Concessioner, subject to Park approval and submitted within 30 days of the dive to the Superintendent.

(c) The Park reserves the right to provide oversight of the Concessioner's Underwater Inspection Program.

B) Support Vessels

(1) General

(a) The Concessioner will be responsible for the safe and efficient maintenance of all vessels in strict conformity to manufacturers' specifications and all Applicable Laws.

(b) The Concessioner will be responsible for ensuring that all vessels receive required U.S. Coast Guard inspections.

(2) Maintenance Recording System

(a) The Concessioner will maintain the following information for each vessel:

- Make, Model, Year, Serial number and License number
- Preventive maintenance records
- Unscheduled mechanical inspection or attention records - such records will include the mechanic's diagnosis and any remedial actions taken
- Component change-out records

(b) All preventive maintenance inspection reports and equipment breakdown logs will be kept for the term of the Contract.

(c) All above data and reports will be available to the Park upon request.

(3) *Pollution Prevention Equipment:* New vessels purchased with outboard engines will be equipped with four-stroke or equivalent engines. As engines are replaced in vessels, they will be replaced with four-stroke or equivalent engines.

(4) *Safety Inspection & Quality Control:* The Concessioner will be responsible for implementing and conducting a safety inspection and quality control program for all of its vessels using marine industry best management practices.

(5) *Quality Control Audits:* The Concessioner's Risk Management Plan will be reviewed at least annually by the Superintendent.

C) Removable Equipment

All Concessioner operated appliances, machinery, and equipment, including parts, supplies, and related materials, will be maintained, serviced, and repaired per manufacturers' recommendations and replaced as necessary.

5) <u>Service Responsibilities</u>

The Park assumes no responsibility for the execution of operations or physical maintenance work or replacement of concession facilities assigned to the Concessioner except as stated below. The Park will assist the Concessioner in its maintenance program by assuming and executing the following responsibilities subject to the availability of appropriated funds. The Service may require the Concessioner to replace furniture, removable equipment, and fixtures at the end of their useful life, or when the item presents a quality, safety, or environmental issue.

A) Utilities

(1) General

(a) The Service will repair or replace any damage occurring to utility systems assigned to the Concessioner where such damage is due to the negligence of the Park and/or its employees.

(b) The utility company with the easement, will be responsible for all utility systems running through the concession facilities.

(c) The Concessioner will coordinate with the Service to allow utility work to be completed prior to surface improvements (repairing roads, etc.) except for routine or emergency repairs.

(d) The Service will be responsible for repairing roads, parking areas, trails and walkways in areas that are disturbed by Service-related utility construction. In all other situations the Concessioner will be responsible.

B) Grounds, Landscaping, And Pest Management

(1) The Service will periodically monitor and identify hazardous trees in the concession facilities.

(2) The Service will review the Concessioner's landscaping plans, provide standards as needed, review and approve proposed work, and monitor Concessioner landscaping projects.

(3) The Service will provide oversight of hazardous tree removal for the Concessioner.

C) Exterior Fire Equipment

(1) Fire Hydrants. The Park will maintain all fire hydrants within the Concession Facilities, including the maintenance, repair, replacement, and testing of all fire hydrants on water mains within the concession facilities.

Approved, effective 7/13 **, 200**7

By: _____

Director, National Capital Region

EXHIBIT I

I. INSURANCE REQUIREMENTS

The Concessioner will obtain and maintain during the entire term of this CONTRACT, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the CONTRACT.

All insurance coverage provided for the benefit of, or evidenced to the Service is not to be impaired by any act of the Concessioner, its agents, servants, or employees. The Concessioner will ensure that its insurance carriers provide that the Service, solely for its benefit, ***an unconditional 30 day advance*** notice of cancellation, non-renewal, or material change in coverage or policy terms for all coverage issues.

The amounts of insurance, limits of liability and coverage terms indicated ***are not intended as a limitation*** of the Concessioner's responsibility or liability under the CONTRACT, but rather an indication as to the minimum type(s), amount(s), and scope of insurance that the Service considers necessary to allow the operation of the concession at its park. Nevertheless, if the Concessioner purchases insurance in addition to the limits illustrated herein, the Service will receive the benefit of the additional amounts of insurance without additional cost to the Service.

II. LIABILITY INSURANCE

The Concessioner will maintain the following minimum Liability Coverages all of which, unless noted herein, are to be written on an occurrence basis only.

A) Commercial General Liability Insurance

1) Coverage will be provided for bodily injury, property damage, contractual liability, personal or advertising injury liability (including contractual liability arising out of personal injury and advertising injury liability) and products/completed operations liability insurance protection.

Bodily Injury and Property Damage Limit

(1) General Aggregate	$5,000,000
(2) Products & Completed Operations Aggregate	$5,000,000
(3) Per Occurrence	$5,000,000
(4) Personal Injury & Advertising Injury Liability	$5,000,000
(5) Medical Payments	$5,000

(6) Fire Damage Legal Liability "per fire" $50,000

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

   (a) Athletic or Sports Participation

   (b) Products/Completed Operations

   (c) Personal Injury or Advertising Injury exclusion or limitation

   (d) Contractual Liability limitation (must specifically reference the Service contract number)

   (e) Explosion, Collapse and Underground Property Damage exclusion

   (f) Watercraft limitations affecting the use of watercraft in the course of the Concessioner's operations (unless separate Watercraft coverage is maintained)

3) Pollution liability insurance coverage must be included for damages resulting from smoke, fumes, vapor, or soot, or other contaminants from a hostile fire.

4) If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location.

B) <u>Automobile Liability Insurance</u>

Coverage will be provided for bodily injury or property damage arising out of the ownership, maintenance or use of "any auto," Symbol 1. Where there are no owned autos, coverage will be provided for "hired" and "non-owned" autos, "Symbols 8 & 9".

Bodily Injury and Property Damage (combined): $1,000,000 per occurrence/accident.

C) <u>Liquor Liability</u>

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

Each Common Cause Limit	$500,000
Aggregate Limit	$1,000,000

D) <u>Watercraft Liability (or Protection & Indemnity)</u>

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

Each Occurrence Limit	$5,000,000

E) Aircraft Liability

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

Each Person Limit	$ N/A
Property Damage Limit	$ N/A
Each Accident Limit	$ N/A

F) Garage Liability (Not Applicable)

This coverage is not required, but may be used in place of Commercial General Liability and Auto Liability coverages for some operations where auto repair or maintenance is provided. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability arising out of garage operations (including products/completed operations and contractual liability) as well as bodily injury and property damage arising out of the use of automobiles.

Each Accident Limit – Garage Operations	$_____
Any Auto Only	$_____
Other Than Auto Only	$_____
Personal Injury & Advertising Injury Limit	$_____
Fire Damage Legal Liability "per fire"	$_____
Aggregate Limit – Garage Operations	$_____
Aggregate Limit – Garage Operations	$_____
Other Than Auto Only	$_____
Physical Damage (Coll & Comp)	$_____

If owned vehicles are involved, Liability coverage should be applicable to "any auto" ("Symbol 21") otherwise, coverage applicable to "hired" and "non-owned" autos ("Symbols 28 & 29") should be maintained.

G) Environmental Impairment Liability

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

Each Occurrence or Each Claim Limit	$1,000,000
Aggregate Limit	$5,000,000

H) Excess Liability or Excess "Umbrella" Liability

Bodily Injury/Personal Injury & Property Damage Combined:

As an option, the concessioner may purchase an excess liability/umbrella insurance policy to satisfy the required limits of liability under the CONTRACT. If the Concessioner elects this option, the umbrella/excess policy form must comply with the following requirements:

1) The limit of liability or sub-limit of liability should be at least as broad as the limit of liability required for each coverage part under this exhibit.
2) The inception dates of the underlying policies and the excess policy must be identical. A copy of the excess or umbrella policy's schedule of underlying insurance must be included as part of the Certificate of Insurance submitted to the Service.
3) The coverage provided by the policy must be at least as broad as that provided by the underlying insurance policies outlined on the schedule of underlying insurance.
4) If the limits of liability afforded by the excess or umbrella policy result in limits of liability greater than the limits required within the individual sections hereunder, then the greater limit shall be available to the Service.

I) Special Provisions for Use of Aggregate Policies

If at any time the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the Concessioner may be required to reinstate such limit or purchase additional coverage limits. The General Aggregate under the Commercial General Liability policy must apply on a "per location" basis. The Certificate of Insurance required herein will note compliance with this aggregate provision.

J) Self-Insured Retentions

Self-insured retentions on any of the above described Liability insurance policies (other than Excess "Umbrella" Liability, if maintained) may not exceed $5,000 without prior approval of the Director.

K) Workers Compensation & Employers' Liability

Coverage will comply with the statutory requirements of the state(s) in which the Concessioner operates. The state(s) of concession operations must be specifically included for coverage under the policy.

III. PROPERTY INSURANCE

A) Building(s) and/or Contents Coverage

1) Amount of Insurance (Building): 100% of replacement value (without deduction for physical depreciation) as listed in Exhibit D.
2) Amount of Insurance (Contents): 100% of replacement value (without deduction for physical depreciation).
3) Amount of Insurance (Inventory): 100% of replacement value (without deduction for physical depreciation).
4) Insurance will cover buildings, structures, improvements and betterments and/or contents for all Concession Facilities, as more specifically described in Exhibit D of this CONTRACT.
5) Coverage will apply on an "All Risks" or "Special Coverage" basis.
6) The policy will provide for loss recovery on a replacement value (without deduction for physical depreciation) basis.
7) Blanket coverage is to be provided for real and personal property.
8) The coinsurance provision, if any, will be waived or suspended by an Agreed Amount or Agreed Value clause.
9) Wharves and piers endorsement required.
10) The vacancy and unoccupancy restriction, if any, must be eliminated for property that will be vacant or unoccupied beyond any time period specified in the policy.
11) Flood Coverage shall be maintained at the maximum limit available not to exceed 100% replacement value (without deduction for physical depreciation).
12) Earthquake Coverage shall be maintained at the maximum limit available not to exceed 100% replacement value (without deduction for physical depreciation).
13) Ordinance or Law, demolition and increased cost of construction Coverage shall be maintained with a limit of not less than the building replacement value (without deduction for physical depreciation) listed in Exhibit D.

B) Boiler & Machinery Coverage (Not applicable)

1) Insurance will apply on the "comprehensive" basis of coverage including all objects within the Concession Facilities. Production equipment is to be included if applicable.
2) The policy will provide for loss recovery on a replacement value (without deduction for physical depreciation) basis.
3) The amount of insurance must represent no less than 100% of the replacement value (without deduction for physical depreciation) of the sum total of all insured property.

4) The coinsurance provision, if any, must be waived or suspended by an Agreed Amount or Agreed Value clause.
5) Coverage is to be provided on a blanket basis.
6) If insurance is written with a different insurer than the Building(s) and Contents insurance, both the Property and Boiler insurance policies must be endorsed with a joint loss agreement.
7) Ordinance or Law, demolition and increased cost of construction Coverage must be maintained with a limit of not less than the building replacement costs listed in Exhibit D.

C) <u>Builders Risk Coverage (Only required for new construction or major renovations)</u>

1) Insurance is required for all new construction or major renovations of existing buildings at the concession facilities and will continue in force until the property is accepted by the Service. The coverage must include property that has or will become a part of the project while such property is at the project site, at temporary off-site storage and while in transit. Coverage also applies to temporary structures such as scaffolding and construction forms.
2) Coverage applies on an "All Risk of loss" or "Special Coverage" basis.
3) The policy will provide for loss recovery on a replacement value (without deduction for physical depreciation) basis.
4) Coverage must be arranged using the "completed value" alternative.
5) The amount of insurance must represent no less than 100% of the replacement value (without deduction for physical depreciation) of the insured property.
6) The coinsurance provision, if any, must be waived or suspended by an Agreed Amount or Agreed Value clause.
7) Any occupancy restriction must be eliminated.
8) Any collapse exclusion must be eliminated.
9) Any exclusion for loss caused by faulty workmanship must be eliminated.
10) Flood Coverage must be maintained at the maximum limit available not to exceed the replacement value (without deduction for physical depreciation).
11) Earthquake Coverage must be maintained at the maximum limit available not to exceed the replacement value (without deduction for physical depreciation).

D) <u>Business Interruption and/or Expense (Not Applicable)</u>

1) Business Interruption insurance and extra expense insurance must cover the loss of income and continuation of fixed expenses in the event of damage to or loss of Concession Facilities or any property supporting the Concession operations, including, without limitation and with respect to the interests of the Service, the loss (or reduction) of franchise fee payments to the Service by the Concessioner. Extra Expense insurance will cover the extra expenses above normal operating expenses to continue operations in the

event of damage or loss to covered property. The coverage to be provided can be calculated as follows:

Anticipated annual Gross revenue from operations	$_____
Less non-continuing expenses	($_____)
Business Interruption limit	$_____
Business Interruption limit	$_____

E) <u>Deductibles</u>

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

1) Direct Damage deductibles must not exceed the lesser of 10% of the amount of insurance or $25,000 (except Flood & Earthquake coverage may be subject to deductibles not exceeding $50,000).
2) Extra Expense deductibles (when coverage is not combined with Business Interruption) shall not exceed $25,000.

F) <u>Required Clauses</u>

1) **Loss Payable Clause:**

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

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

IV. CONSTRUCTION PROJECT INSURANCE (Not applicable)

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

The insurance maintained by the construction and construction-related contractors must comply with the insurance requirements stated herein (for Commercial General Liability, Automobile Liability, Workers' Compensation and, if professional services are involved, Professional Liability). Except for the workers' compensation insurance coverage, the interests of the Concessioner and the United States must be covered in the same fashion as required in the other provision of this exhibit. The amounts/limits of the required coverages must be determined in consultation with the Director taking into consideration the scope and size of the project.

V. INSURANCE COMPANY MINIMUM STANDARDS

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

1) All insurers for all coverages must be rated no lower than A- by the most recent edition of A.M Best's Key Rating Guide (Property-Casualty edition).
2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of A.M. Best's Key Rating Guide (Property-Casualty edition).
3) All insurers must be admitted (licensed) or approved to do business in the state(s) in which the concession operation(s) is (are) located.

VI. CERTIFICATES OF INSURANCE

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

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

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

The Certificate of Insurance will contain a notation that the insurance coverage represented therein complies with the provisions of this CONTRACT as outlined in this Exhibit I.

The **notice of cancellation provision** of the certificate must delete any and all qualifying language such as: *"We will endeavor to provide"* or *"failure to provide said notice will not place any liability upon the company or its representative."*

VI. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the higher statutorily required limit will be the minimum amount to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein shall control.

EXHIBIT J
TRANSITION TO A NEW CONCESSIONER.

Section 1. In General

The Director and the Concessioner hereby agree that, in the event of the expiration or termination of this CONTRACT for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessioner is not to continue the operations authorized under this CONTRACT after the Termination Date, the Director and the Concessioner in good faith will fully cooperate with one another and with the new concessioner or concessioners selected by the Director to continue such operations ("New Concessioner" for purposes of this Exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to park area visitors and minimize transition expenses.

Section 2. Cooperation Prior to the Termination Date

At such time as the Director may notify the Concessioner that it will not continue its operations upon the Termination of this CONTRACT, the Concessioner shall, notwithstanding such notification:

(a) Continue Operations. Continue to provide visitor services and otherwise comply with the terms of the CONTRACT in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously, and with a view to maintaining customer satisfaction.

(b) Continue Bookings. Continue to accept all future bookings for any hotel, lodging facilities, or other facilities and services for which advance reservations are taken; not divert any bookings to other facilities managed or owned by the Concessioner or any affiliate of the Concessioner; and notify all guests with bookings for any period after the Termination Date that the facilities and services are to be operated by the New Concessioner. Promptly following notification to the Concessioner by the Director of the selection of the New Concessioner, the Concessioner shall provide the New Concessioner with a copy of Concessioner's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessioner, and thereafter the Concessioner shall update such log on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest's (1) address, (2) contact information, (3) dates of stay, (4) rate quoted, (5) amount of advance deposit received and (6) confirmation number, if applicable.

(c) Designating a Point of Contact and Other Actions. Cooperate with the Director and the New Concessioner to ensure the smooth transition of operations by: (1) designating one of the Concessioner's executives as the point of contact for communications between the Concessioner and the New Concessioner; (2) providing the Director and the New Concessioner with access to any assigned Real Property Improvements, including "back-of-house areas" and including copies of the keys to assigned Real Property Improvements; (3) providing the Director and the New

Concessioner with full access to the books and records, licenses and all other materials pertaining to any assigned Real Property Improvements and the Concessioner's operations in general; (4) providing the Director and the New Concessioner with copies of all maintenance agreements, equipment leases (including short-wave radio) service contracts and supply contracts, including contracts for on-order merchandise (collectively, "Contracts"), and copies of all liquor licenses and other licenses and permits (collectively, "Licenses"); (5) allowing the New Concessioner to solicit and interview for employment all of the concessioner's salaried and hourly employees, including seasonal employees through a coordinated process implemented by the Concessioner; and (6) not entering into any contracts or agreements that would be binding on any assigned Real Property Improvements or operations in general after the Termination Date without the prior written agreement of the New Concessioner.

(d) Financial Reports. Within 30 days after receipt of the notification of the selection of the New Concessioner, provide the New Concessioner with a financial report with respect to the operation of any assigned Real Property Improvements and the Concessioner's operations in general as of the last day of the month prior to receipt of such notification. Thereafter, the Concessioner shall update such financial report on a periodic basis (but no less frequently than thirty (30) days) until the Termination Date. Such financial report shall include, at a minimum, (1) a balance sheet for the Concessioner's assigned Real Property Improvements, if any; (2) a schedule of pending accounts payable; and (3) a schedule of pending accounts receivable.

(e) Inventory. Provide the New Concessioner with a complete, detailed and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Concessioner in connection with its operations under the CONTRACT (including a list of such items that are on-order) The list shall be provided to the New Concessioner within thirty (30) days following receipt of the notification of the selection of the New Concessioner, shall be updated monthly thereafter, and shall designate those items that the Concessioner believes are essential to maintaining the continuity of operations or the special character of its operations. The Concessioner shall assist the New Concessioner in reviewing and validating the list.

(f) Sale of Inventory and Other Personal Property. In addition to inventory that may be sold to the New Concessioner in accordance with Section 16(d)(3) of this CONTRACT, the Concessioner, upon the request of the New Concessioner, shall sell to the New Concessioner at book value such other property listed on the inventory described above as the New Concessioner may request.

(g) Other Information and Reports. Provide the New Concessioner with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessioner's operations for the period of one year prior to notification of the selection of the New Concessioner, and complete information with respect to: (1) utilities, including gas and electric; (2) telephone service; (3) water service; and, (4) specific opening and closing procedures. Such information shall be provided within thirty (30) days after receipt of notification of the selection of the New Concessioner, and shall be updated periodically (but no less frequently than thirty (30) days) until the Termination Date.

(h) Other Cooperation. Provide the Director and the New Concessioner with such other cooperation as may be reasonably requested.

Section 3. Cooperation Upon the Termination Date.

Upon the Termination Date, the Concessioner shall:

(a) Transfer of Contracts and Licenses. Cooperate with the transfer or assignment of all Contracts and Licenses entered into by the Concessioner that the New Concessioner elects to assume.

(b) Reservation Systems. (1) Provide the New Concessioner with an update of the reservation log through the Termination Date; (2), disconnect its operations from the Concessioner's centralized reservation system, if any; and (3) cooperate with the New Concessioner in transitioning to the New Concessioner's reservation system.

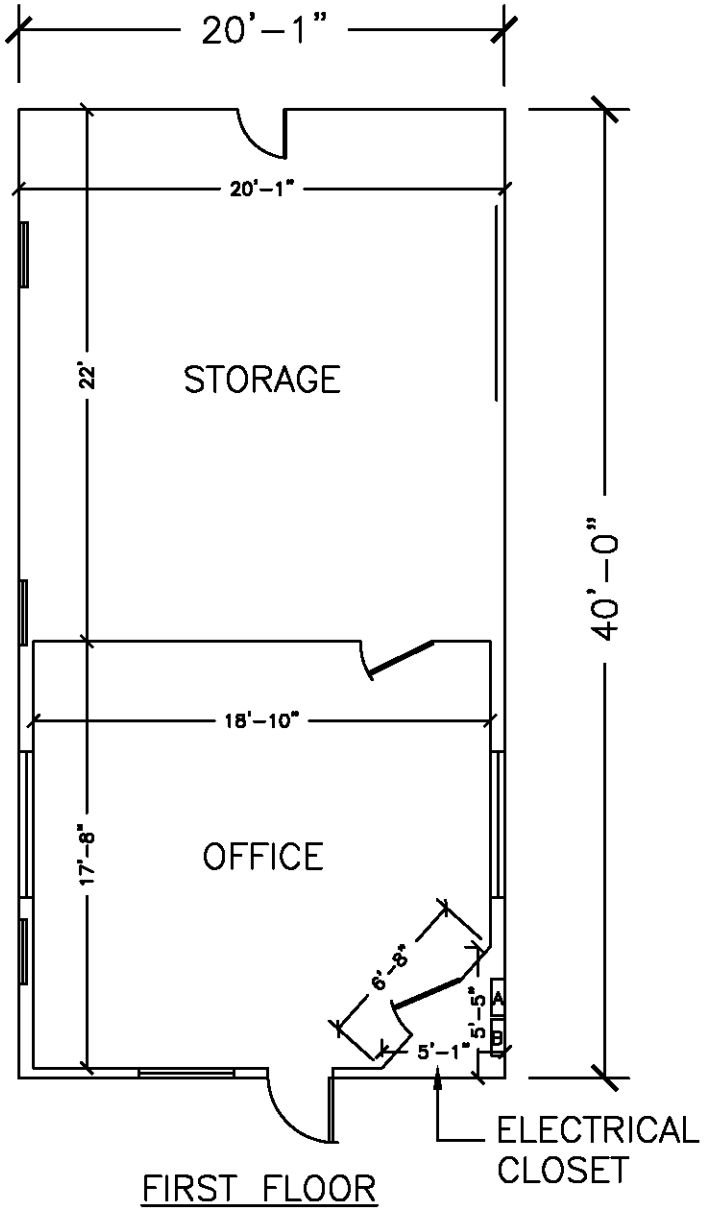
(c) Fees and Payments. Within ten (10) days after the Termination Date, the Concessioner shall provide the Director with an itemized statement of all fees and payments due to the Director under the terms of the CONTRACT as of the Termination Date, including, without limitation, all deferred, accrued and unpaid fees and charges. The Concessioner shall, within ten (10) days of its delivery to the Director of this itemized statement, pay such fees and payments to the Director. The Concessioner and the Director acknowledge that adjustments may be required because of information that was not available at the time of the statement.

(d) Access to Records. Notwithstanding any other provision of this CONTRACT to the contrary, upon the Termination Date, the Concessioner shall make available to the Director for the Director's collection, retention and use, copies of all books, records, licenses, permits and other information in the Concessioner's possession or control that in the opinion of the Director, are related to or necessary for orderly and continued operations of the related facilities and services.

(e) Removal of Marks. Concessioner shall within thirty (30) days after Termination, remove (with no compensation to Concessioner) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessioner.

(f) Other Cooperation. Provide the Director and the New Concessioner with such other cooperation as may be reasonably requested.

BASIC DATA: NPS NACE 18274



FIRST FLOOR

KEYED NOTES
A. ELECTRICAL PANEL
B. CIRCUIT BREAKER

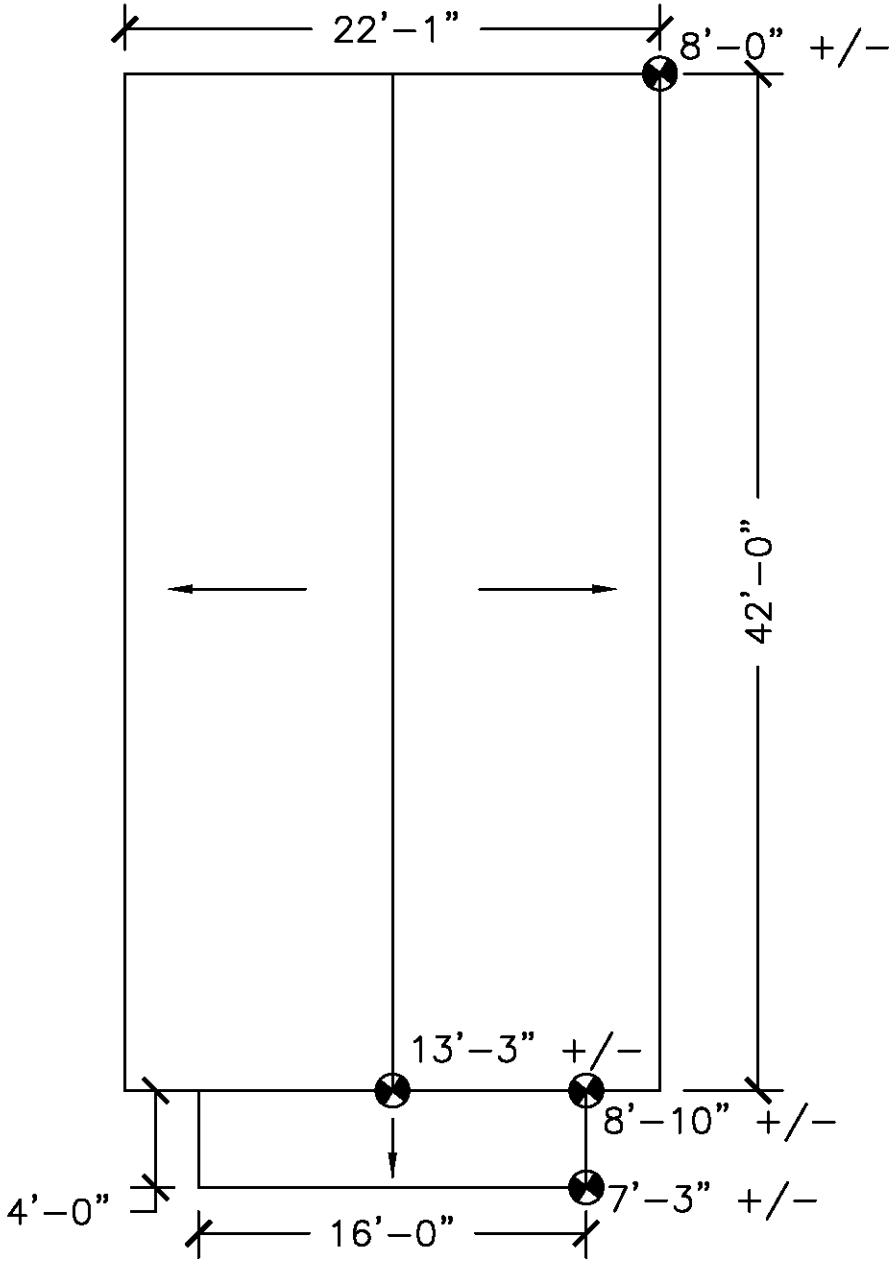
4 0 4 8
SCALE OF FEET

TRUE NORTH

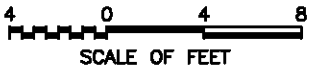
PROJECT NORTH

	COMPREHENSIVE CONDITION ASSESSMENT FEBRUARY 2014 UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE NATIONAL CAPITAL REGION	TITLE OF PROJECT BUZZARD POINT MARINA OFFICE MA-BC CONCESSION I.D. NO. NACE003 LOCATION WITHIN PARK BUZZARD POINT MARINA NAME OF PARK NATIONAL CAPITAL PARKS - EAST REGION: NATIONAL CAPITAL; COUNTY: N/A; STATE: DISTRICT OF COLUMBIA	DRAWING NO. — FMSS NO. 18274 SHEET 1 OF 2

BASIC DATA: NPS NACE 18274



ROOF

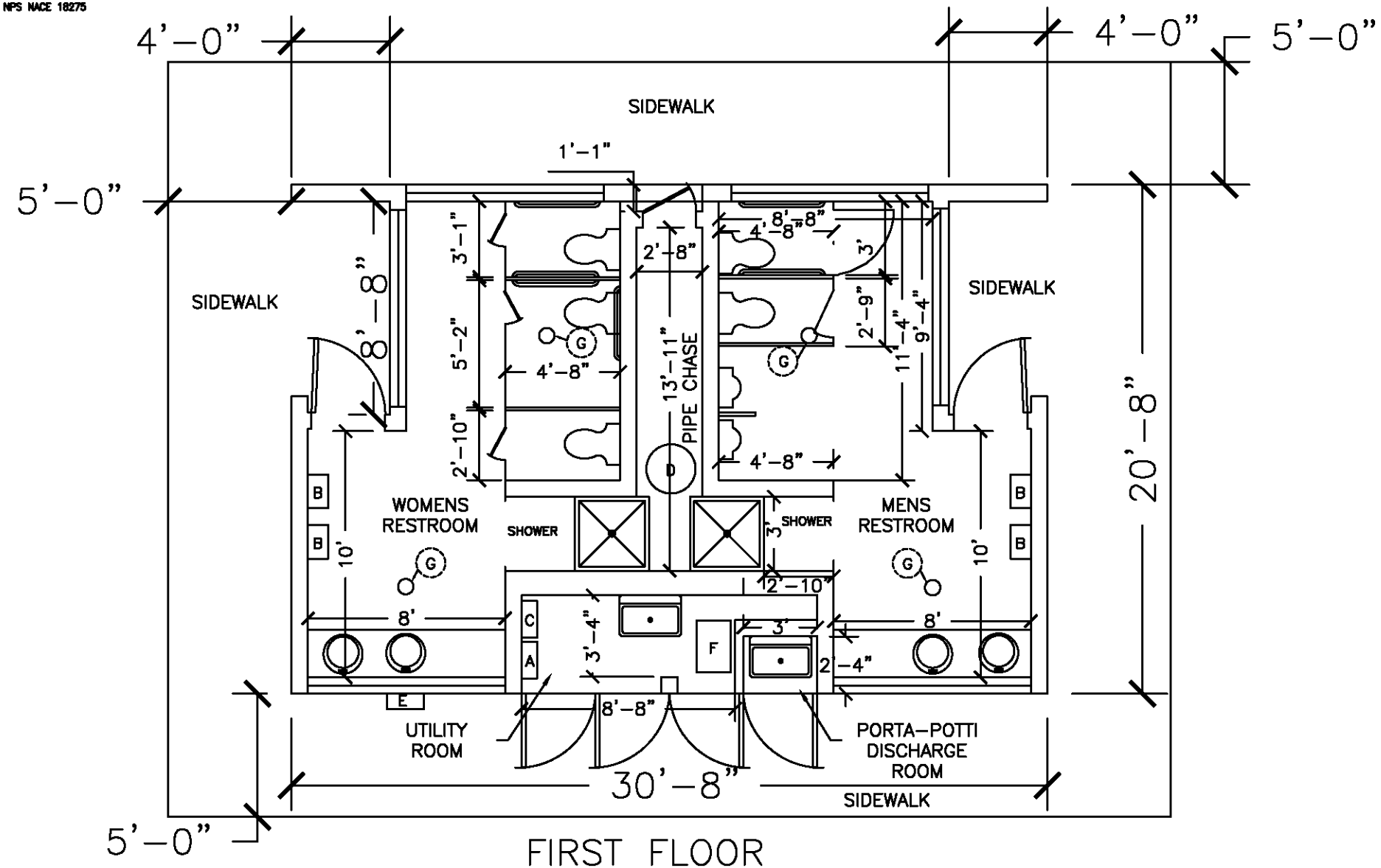


TRUE NORTH

PROJECT NORTH

	COMPREHENSIVE CONDITION ASSESSMENT FEBRUARY 2014 UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE NATIONAL CAPITAL REGION	TITLE OF PROJECT BUZZARD POINT MARINA OFFICE MA-BC CONCESSION I.D. NO. NACE003 LOCATION WITHIN PARK BUZZARD POINT MARINA NAME OF PARK NATIONAL CAPITAL PARKS - EAST REGION: NATIONAL CAPITAL COUNTY: N/A STATE: DISTRICT OF COLUMBIA	DRAWING NO. ——— FMSS NO. 18274 SHEET 2 OF 2

BASIC DATA: NPS NACE 18275



FIRST FLOOR

KEYED NOTES

A. SAFETY SWITCH
B. HAND DRYER
C. ELECTRICAL PANEL
D. HOT WATER HEATER
E. WATER FOUNTAIN
F. FURNACE
G. FLOOR DRAIN

4 0 4 8

SCALE OF FEET

TRUE NORTH

PROJECT NORTH

	COMPREHENSIVE CONDITION ASSESSMENT FEBRUARY 2014	TITLE OF PROJECT BLDG NO.1161 COMFORT STATION BUZZARD POINT CONCESSION I.D. NO. NACE003 LOCATION WITHIN PARK BUZZARD POINT MARINA NAME OF PARK NATIONAL CAPITAL PARKS – EAST REGION: NATIONAL CAPITAL; COUNTY: N/A; STATE: DISTRICT OF COLUMBIA	DRAWING NO. ———
	UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE NATIONAL CAPITAL REGION		FMSS NO. 18275
			SHEET 1 OF 2

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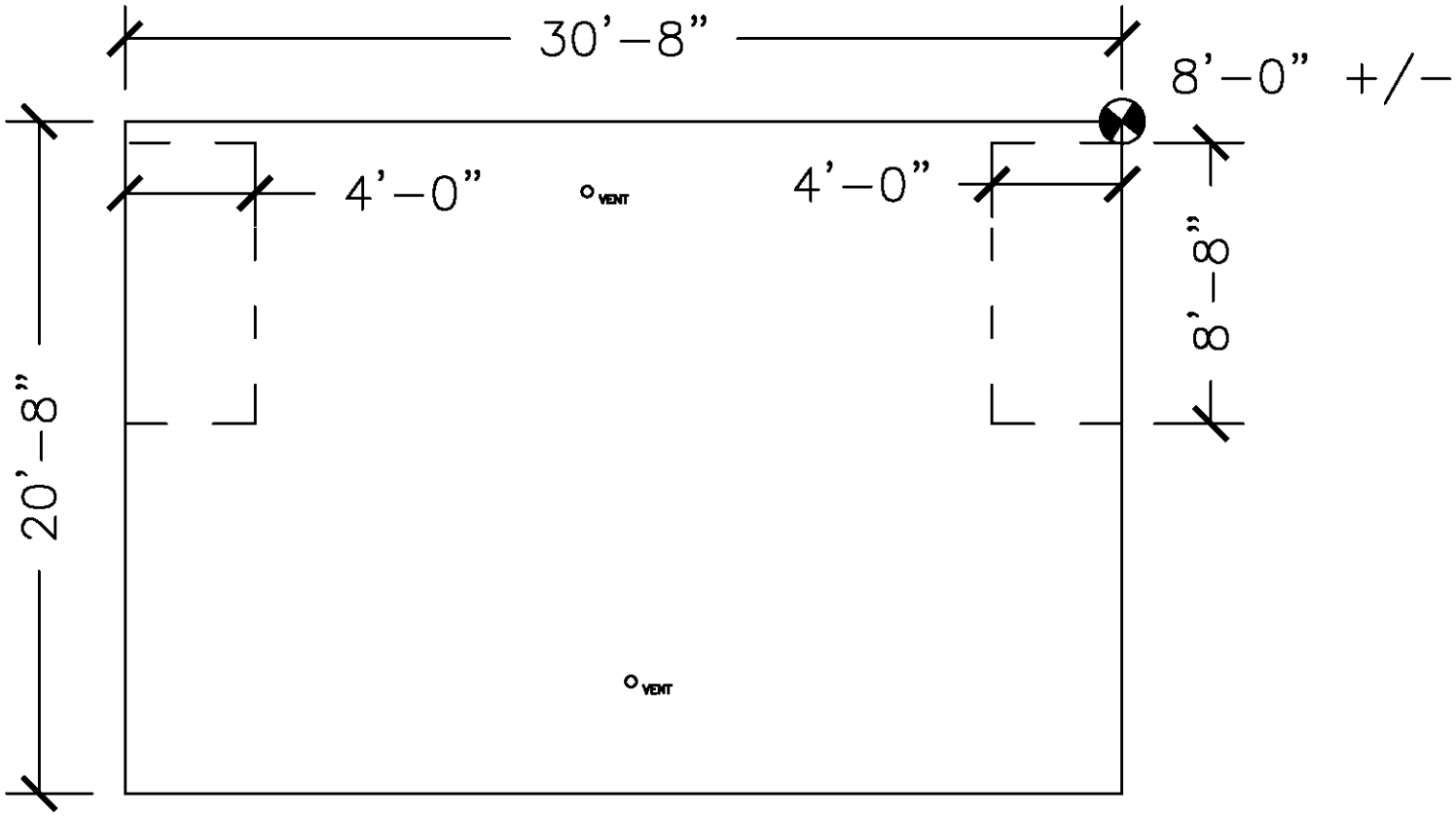

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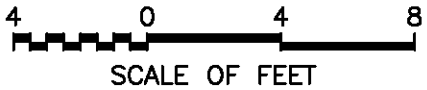
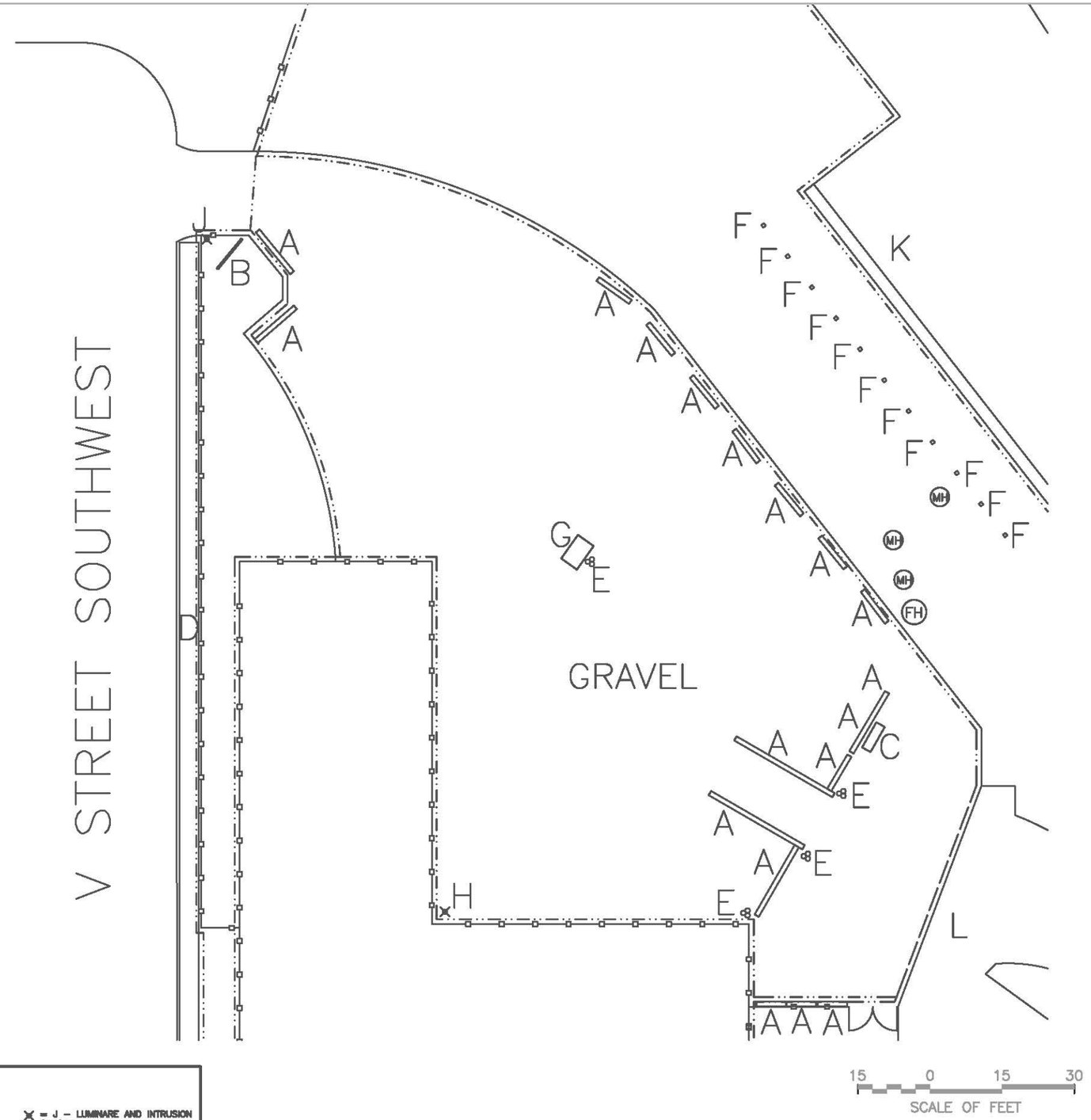


TRUE NORTH

PROJECT NORTH

	COMPREHENSIVE CONDITION ASSESSMENT FEBRUARY 2014	TITLE OF PROJECT BLDG NO.1161 COMFORT STATION BUZZARD POINT	DRAWING NO. —
	UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE NATIONAL CAPITAL REGION	CONCESSION I.D. NO. NACE003 LOCATION WITHIN PARK BUZZARD POINT MARINA NAME OF PARK NATIONAL CAPITAL PARKS – EAST REGION: NATIONAL CAPITAL COUNTY: N/A STATE: DISTRICT OF COLUMBIA	FMSS NO. 18275 SHEET 2 OF 2

BASIC DATA: NPS NACE 52229



PARKING KEYED NOTES

- = PROPERTY BOUNDARY
- = A – WOOD CURBING
- = B – BUZZARD CREEK PARK SIGN
- = C – TRASH ENCLOSURE
- = D – CONCRETE SIDEWALK
- = E – WOOD PILE FENCE POSTS
- = F – SQUARE CONCRETE POSTS
- = G – DUMPSTER
- = H – LUMINARE
- = J – LUMINARE AND INTRUSION SENSOR
- = K – STONE QUAYWALL
- = L – CONCRETE PATIO
- = FIRE HYDRANT
- = CHAIN LINK FENCE
- = CHAIN LINK GATE
- = MANHOLE

	COMPREHENSIVE CONDITION ASSESSMENT FEBRUARY 2014	TITLE OF PROJECT BUZZARD POINT MARINA PARKING CONCESSION I.D. NO. NACE003 LOCATION WITHIN PARK BUZZARD POINT MARINA NAME OF PARK NATIONAL CAPITAL PARKS – EAST	DRAWING NO. ———
	UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE NATIONAL CAPITAL REGION	REGION: NATIONAL CAPITAL COUNTY: N/A STATE: DISTRICT OF COLUMBIA	FMSS NO. 52229 SHEET 1 OF 1

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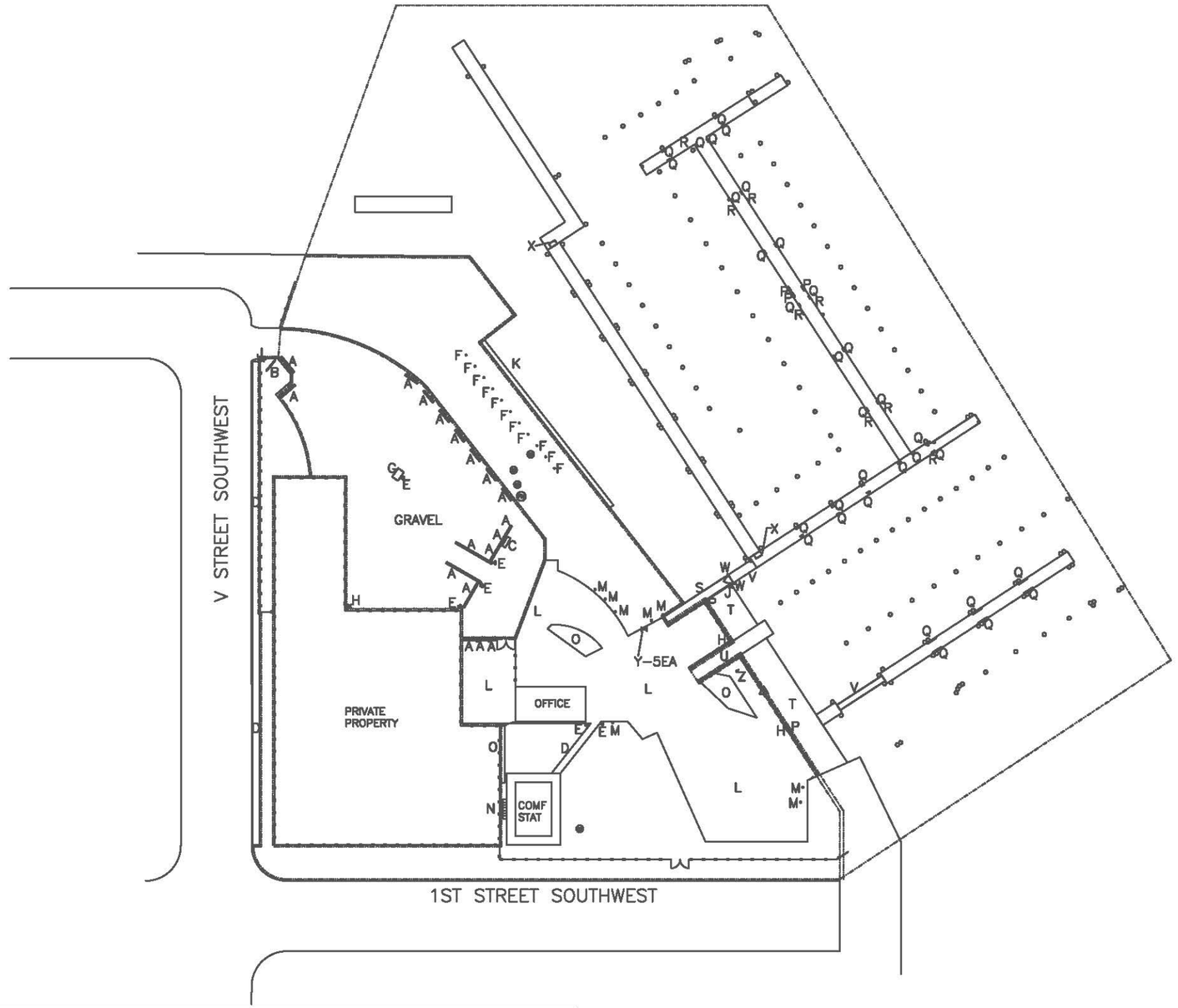

KEYED NOTES

- = PROPERTY BOUNDARY
- = A – WOOD CURBING
- = B – BUZZARD CREEK PARK SIGN
- = C – TRASH ENCLOSURE
- = D – CONCRETE SIDEWALK
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- = K – STONE QUAYWALL
- = L – CONCRETE PATIO
- = M – LANDSCAPING PILES
- = N – CONCRETE PAVERS
- = O – LANDSCAPING (GRASS OR ROCK)
- = P – ELECTRICAL PANELS
- = Q – EXPANSION JOINTS
- = R – LADDERS
- = S – RAMP
- = T – QUAY WALL CONCRETE
- = U – BOAT RAMP
- = V – GANGWAY
- = W – FENCE EXPANDED METAL WING
- = X – WOOD TRANSFER RAMP
- = Y – HOSE BIB
- = Z – FLAGPOLE
- = AA –RAILING
- = FIRE HYDRANT
- = CHAIN LINK FENCE
- = CHAIN LINK GATE
- = BIRD HOUSE
- = MANHOLE

50 0 50 100
SCALE OF FEET

TRUE NORTH

PROJECT NORTH

COMPREHENSIVE CONDITION ASSESSMENT
FEBRUARY 2014

UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION

TITLE OF PROJECT
BUZZARD POINT MARINA SITE
CONCESSION I.D. NO.
NACE003
LOCATION WITHIN PARK
BUZZARD POINT MARINA
NAME OF PARK
NATIONAL CAPITAL PARKS – EAST

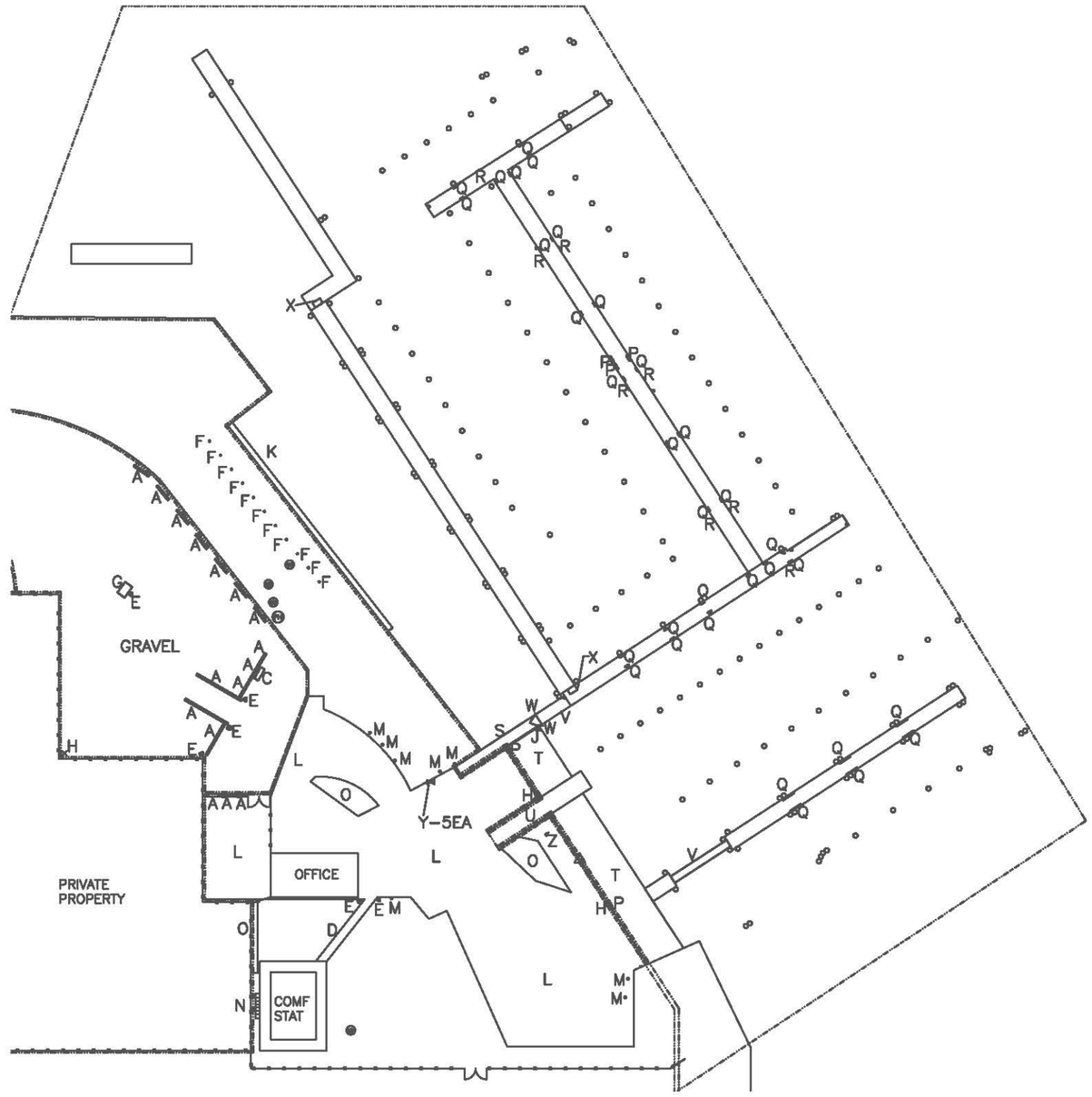
REGION	COUNTY	STATE
NATIONAL CAPITAL	N/A	DISTRICT OF COLUMBIA

DRAWING NO.

FMSS NO.

SHEET 1 OF 1

BASIC DATA: NPS NACE TBDM01



MARINA KEYED NOTES

- = PROPERTY BOUNDARY
- = A – WOOD CURBING
- = C – TRASH ENCLOSURE
- = D – CONCRETE SIDEWALK
- = E – WOOD PILE FENCE POSTS
- = F – SQUARE CONCRETE POSTS
- = G – DUMPSTER
- = H – LUMINARE
- = J – LUMINARE AND INTRUSION SENSOR
- = K – STONE QUAYWALL
- = L – CONCRETE PATIO
- = M – LANDSCAPING PILES
- = N – CONCRETE PAVERS
- = O – LANDSCAPING (GRASS OR ROCK)
- = P – ELECTRICAL PANELS
- = Q – EXPANSION JOINTS
- = R – LADDERS
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- = T – QUAY WALL CONCRETE
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- = W – FENCE EXPANDED METAL WING
- = X – WOOD TRANSFER RAMP
- = Y – HOSE BIB
- = Z – FLAGPOLE
- = AA –RAILING
- = FIRE HYDRANT
- = CHAIN LINK FENCE
- = CHAIN LINK GATE
- = BIRD HOUSE
- = MANHOLE

50 0 50 100
SCALE OF FEET

TRUE NORTH

PROJECT NORTH

COMPREHENSIVE CONDITION ASSESSMENT
FEBRUARY 2014

UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION

TITLE OF PROJECT
BUZZARD POINT MARINA
CONCESSION I.D. NO.
NACE003
LOCATION WITHIN PARK
BUZZARD POINT MARINA
NAME OF PARK
NATIONAL CAPITAL PARKS – EAST

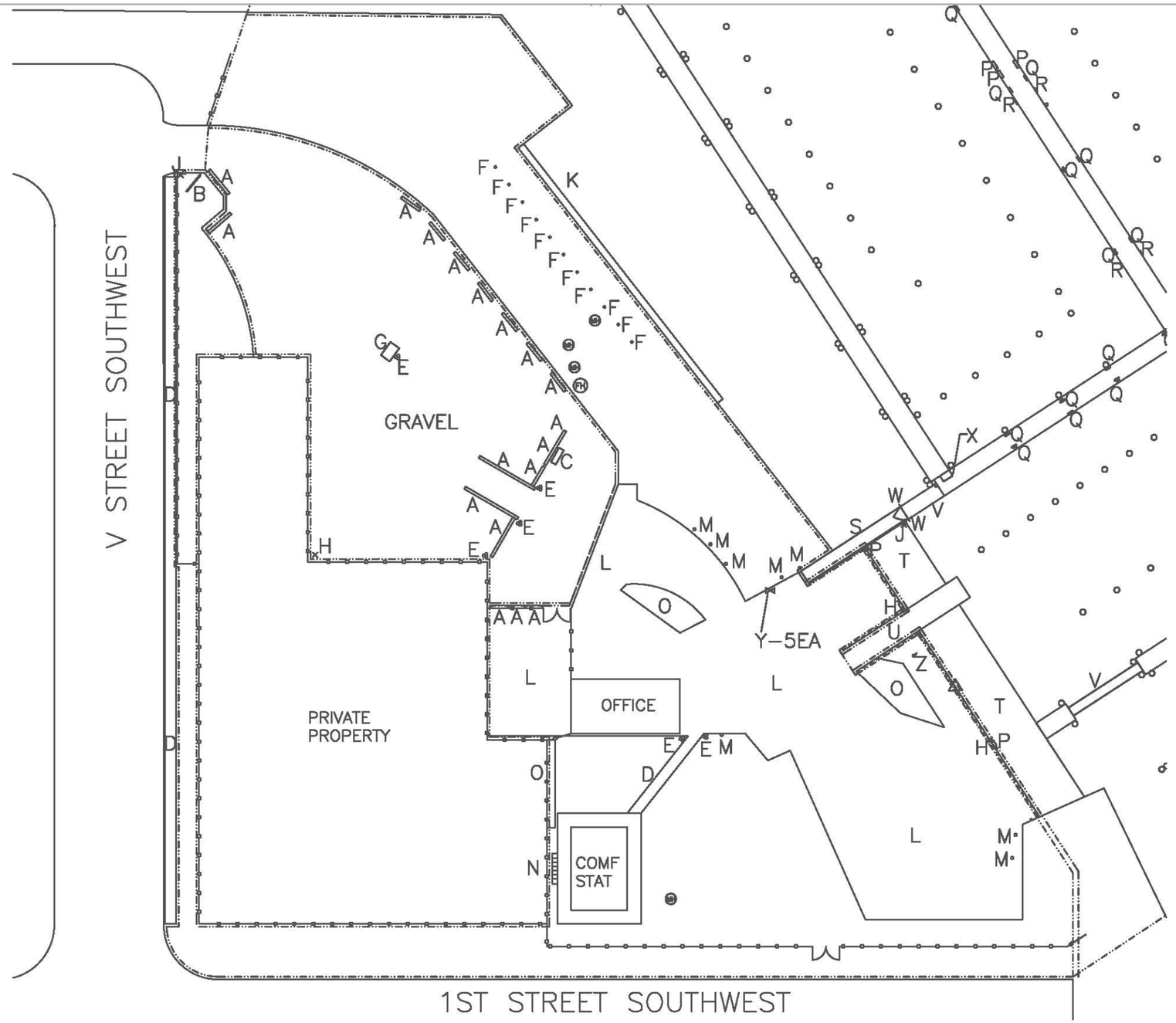
REGION	COUNTY	STATE
NATIONAL CAPITAL	N/A	DISTRICT OF COLUMBIA

DRAWING NO.

FMSS NO.
TBDM01

SHEET
1 OF 1

BASIC DATA: NPS NACE TBDML1



50 0 50 100
SCALE OF FEET

TRUE NORTH

PROJECT NORTH

MAINTAINED LANDSCAPED KEYED NOTES

- = PROPERTY BOUNDARY
- = A – WOOD CURBING
- = B – BUZZARD CREEK PARK SIGN
- = C – TRASH ENCLOSURE
- = D – CONCRETE SIDEWALK
- = E – WOOD PILE FENCE POSTS
- = F – SQUARE CONCRETE POSTS
- = G – DUMPSTER
- = H – LUMINARE
- = J – LUMINARE AND INTRUSION SENSOR
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- = M – LANDSCAPING PILES
- = N – CONCRETE PAVERS
- = O – LANDSCAPING (GRASS OR ROCK)
- = P – ELECTRICAL PANELS
- = Q – EXPANSION JOINTS
- = R – LADDERS
- = S – RAMP
- = T – QUAY WALL CONCRETE
- = U – BOAT RAMP
- = V – GANGWAY
- = W – FENCE EXPANDED METAL WING
- = X – WOOD TRANSFER RAMP
- = Y – HOSE BIB
- = Z – FLAGPOLE
- = AA – RAILING
- = FIRE HYDRANT
- = CHAIN LINK FENCE
- = CHAIN LINK GATE
- = BIRD HOUSE
- = MANHOLE

COMPREHENSIVE CONDITION ASSESSMENT
FEBRUARY 2014

UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION

TITLE OF PROJECT
BUZZARD POINT MARINA MAINTAINED LANDSCAPE
CONCESSION I.D. NO.
NACE003
LOCATION WITHIN PARK
BUZZARD POINT MARINA
NAME OF PARK
NATIONAL CAPITAL PARKS – EAST

REGION	COUNTY	STATE
NATIONAL CAPITAL	N/A	DISTRICT OF COLUMBIA

DRAWING NO.

FMSS NO.
TBDML1

SHEET
1 OF 1

CATEGORY I TEMPORARY CONTRACT

UNITED STATES DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

National Capital Parks-East

Buzzard Point Marina

Marina Services
To Include
Wet Slip Rentals and Dry Storage

CONCESSION CONTRACT NO. TC-NACE003-15

Buzzard Point Boatyard Corporation

P.O. Box 70079
Washington, D.C. 20024
(202) 488-8400

Doing Business as Buzzard Point Marina

Covering the Period January 1, 2015 through June 30, 2015[1]

[1] The effective date of the Contract is subject to change prior to contract award if determined necessary by the Service due to transfer timing issues. The expiration date will be changed to continue the same term length from any effective date. This footnote is to be deleted prior to contract execution.

CONCESSION CONTRACT
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IDENTIFICATION OF THE PARTIES

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 National Capital Region, (hereinafter referred to as the "Director"), and Buzzard Point Boatyard Corporation, a Corporation organized and existing under the laws of Washington, DC, (hereinafter referred to as the "Concessioner"):

WITNESSETH:

THAT WHEREAS, National Capital Parks-East is administered by the Director as a unit of the national park system to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the public enjoyment of the same in such manner as will leave such Area unimpaired for the enjoyment of future generations; and

WHEREAS, to accomplish these purposes, the Director has determined that certain visitor services are necessary and appropriate for the public use and enjoyment of the Area and should be provided for the public visiting the Area; and

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

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

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

SEC. 1. TERM OF CONTRACT

This Concession Contract No. TC-NACE003-15 ("Contract") shall be effective as of January 1, 2015, and shall be for the term of six months (6) until its expiration on June 30, 2015.

SEC. 2. DEFINITIONS

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

(a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws (e.g., 36 CFR Part 51), whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

(b) "Area" means the property within the boundaries of National Capital Parks-East.

(c) "Best Management Practices" or "BMPs" are policies and practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract. BMPs are expected to change from time to time as technology evolves with a goal of sustainability of the Concessioner's operations. Sustainability of operations refers to operations that have a restorative or net positive impact on the environment.

(d) "Capital Improvement" shall have the meaning set forth in Exhibit A to this Contract.

(e) “Concession Facilities” shall mean all Area lands assigned to the Concessioner under this Contract and all real property improvements assigned to or constructed by the Concessioner under this Contract. The United States retains title and ownership to all Concession Facilities.

(f) “Days” shall mean calendar days.

(g) “Director” means the Director of the National Park Service, acting on behalf of the Secretary of the Interior and the United States, and his duly authorized representatives.

(h) “Exhibit” or “Exhibits” shall mean the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.

(i) “Gross receipts” means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, including gross receipts of subconcessioners as herein defined, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:

(1) Intracompany earnings on account of charges to other departments of the operation (such as laundry);
(2) Charges for employees' meals, lodgings, and transportation;
(3) Cash discounts on purchases;
(4) Cash discounts on sales;
(5) Returned sales and allowances;
(6) Interest on money loaned or in bank accounts;
(7) Income from investments;
(8) Income from subsidiary companies outside of the Area;
(9) Sale of property other than that purchased in the regular course of business for the purpose of resale;
(10) Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, fishing license fees, and postage stamps, provided that the amount excluded shall not exceed the amount actually due or paid government agencies; and
(11) Receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, shall be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones shall be included in gross receipts. All revenues received from charges for in-room telephone or computer access shall be included in gross receipts.

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

(k) “Leasehold Surrender Interest” shall have the meaning set forth in Exhibit A to this Contract.

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

(m) “Major Rehabilitation” shall have the meaning set forth in Exhibit A to this Contract.

(n) “Possessory Interest” shall have the meaning set forth in Exhibit A to this Contract.

(o) “Real Property Improvements” shall have the meaning set forth in Exhibit A to this Contract.

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

(q) “Superintendent” means the manager of the Area.

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

SEC. 3. SERVICES AND OPERATIONS

(a) Required and Authorized Visitor Services

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

(1) Required Visitor Services. The Concessioner is required to provide the following visitor services during the term of this Contract:

		Service
i.		Wet slip rental with utilities available for slips over 35’
ii.		Dry storage for trailered boats (Max. 10)
iii.		Marine Sanitation Device

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

		Service
i.		Boat launching ramp for trailered boats

(b) Operation and Quality of Operation

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

(c) Operating Plan

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

(d) Merchandise and Services

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

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

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

(e) Rates

All rates and charges to the public by the Concessioner for visitor services shall be reasonable and appropriate for the type and quality of facilities and/or services required and/or authorized under this Contract. The Concessioner's rates and charges to the public must be approved by the Director in accordance with Applicable Laws and guidelines promulgated by the Director from time to time.

(f) Impartiality as to Rates and Services

(1) Subject to Section (f)(2) and (f)(3), 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 C.

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

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

SEC. 4. CONCESSIONER PERSONNEL

(a) Employees

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

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

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

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

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

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

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

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

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

(b) Employee Housing and Recreation

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

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

SEC. 5. LEGAL, REGULATORY, AND POLICY COMPLIANCE

(a) Legal, Regulatory and Policy Compliance

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

(b) Notice

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

(c) How and Where to Send Notice

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

National Park Service
National Capital Region
1100 Ohio Drive, SW

Washington, D.C. 20242
Attn: Steve LeBel

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

Buzzard Point Marina
P.O. Box 70079
Washington, D.C. 20024
Attn: Edwin Cohn

SEC. 6. ENVIRONMENTAL AND CULTURAL PROTECTION

(a) Environmental Management Objectives

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

(1) The Concessioner, including its employees, agents and contractors, shall comply with all Applicable Laws pertaining to the protection of human health and the environment.

(2) The Concessioner shall incorporate Best Management Practices (BMPs) in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this Contract.

(b) Environmental Management Program

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

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

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

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

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

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

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

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

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

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

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

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

(c) Environmental Performance Measurement

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

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

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

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

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

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

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

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

(e) Corrective Action

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

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

(f) Indemnification and Cost Recovery for Concessioner Environmental Activities

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

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

(g) Weed and Pest Management

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

(h) Protection of Cultural and Archeological Resources.

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

SEC. 7. INTERPRETATION OF AREA RESOURCES

(a) Concessioner Obligations

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

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

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

(b) Director review of content

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

SEC. 8. CONCESSION FACILITIES USED IN OPERATION BY THE CONCESSIONER

(a) Assignment of Concession Facilities

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

(i) certain parcels of Area land as described in Exhibit D upon which, among other matters, the Concessioner may be authorized to construct real property; and

(ii) certain real property improvements described in Exhibit D in existence as of the effective date of this Contract, as may be modified from time to time to include additional real property improvements completed in accordance with the terms and conditions of this Contract.

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

(b) Concession Facilities Withdrawals

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

(1) The withdrawal is necessary for the purpose of conserving, preserving or protecting Area resources or visitor enjoyment or safety;

(2) The operations utilizing the assigned Concession Facilities have been terminated or suspended by the Director; or

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

(c) Effect of Withdrawal

Any permanent withdrawal of assigned Concession Facilities which the Director or the Concessioner considers to be essential for the Concessioner to provide the visitor services required by this Contract will be treated as a termination of this Contract pursuant to Section 16. The Concessioner will be compensated pursuant to Section 17

for the value of any Leasehold Surrender Interest it may have, if any, in permanently withdrawn Concession Facilities. No other compensation is due the Concessioner in these circumstances.

(d) Right of Entry

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

(e) Personal Property

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

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

(f) Condition of Concession Facilities

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

(g) Utilities Provided by the Director

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

(h) Utilities Not Provided by the Director

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

(1) Any water rights deemed necessary by the Concessioner for use of water on Area or other federal lands must be acquired at the Concessioner's expense in accordance with applicable State procedures and law. Upon expiration or termination of this Contract for any reason, the Concessioner must assign these water rights to the United States without compensation, and these water rights will become the property of the United States;

(2) If requested by the Director, the Concessioner must provide to the Director any utility service provided by the Concessioner under this section to such extent as will not unreasonably restrict anticipated use by the Concessioner. Unless otherwise agreed by the Concessioner and the Director in writing, the rate per unit charged the Director for such service shall be approximately the average cost per unit of providing such service; and

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

SEC. 9. CONSTRUCTION OR INSTALLATION OF REAL PROPERTY IMPROVEMENTS

(a) Construction of Real Property Improvements

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

(b) Removal of Real Property Improvements

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

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

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

(c) Leasehold Surrender Interest

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

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

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

SEC. 10. MAINTENANCE

(a) Maintenance Obligation

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

(b) Maintenance Plan

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

(c) Repair and Maintenance Reserve

(1) The Concessioner shall establish and manage a Repair and Maintenance Reserve. The funds in this Reserve shall be used to carry out, on a project basis in accordance with Exhibits F and H, repair and maintenance of Concession Facilities that are non-recurring within a seven-year time frame. Such projects may include repair or replacement of foundations, building frames, window frames, sheathing, subfloors, drainage, rehabilitation of building systems such as electrical, plumbing, built-in heating and air conditioning, roof replacement and similar projects. Projects will be carried out by the Concessioner as the Director shall direct in writing in advance of any expenditure being made and in accordance with project proposals approved by the Director. No projects may be commenced until the Concessioner receives written approval from the Director.

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

(3) The Concessioner shall establish within its accounting system a Repair and Maintenance Reserve. The Concessioner shall debit to this Reserve, within fifteen (15) days after the last day of each month that the Concessioner operates a sum equal to: four percent (4%) of the Concessioner's gross receipts for the previous month. If the Concessioner fails to make timely debits to the Repair and Maintenance Reserve, the Director may terminate this Contract for default or may require the Concessioner to post a bond in an amount equal to the estimated annual Repair and Maintenance Reserve allocation, based on the preceding year's gross receipts.

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

(5) Repair and Maintenance Reserve funds shall not be used to construct “Capital Improvements” as that term is defined in 36 CFR Part 51, i.e., the construction of a “structure”, a “major rehabilitation”, or the installation or replacement of “fixtures and non-removable equipment” (as these terms are defined in 36 CFR Part 51). The Concessioner shall obtain no ownership, Leasehold Surrender Interest, or other compensable interest as a consequence of the expenditure of Repair and Maintenance Reserve funds.

(6) Any balance in the Repair and Maintenance Reserve not duly expended by the Concessioner as of the termination or expiration of this Contract shall be remitted by the Concessioner to the Director as an additional franchise fee within fifteen (15) days after such termination or expiration. Interest on delayed payment shall be due in accordance with section 11(c) of this Contract. If any Repair and Maintenance Reserve funds have been obligated by the Concessioner but not expended as of the termination or expiration of this Contract, the Director and the Concessioner may enter into an agreement under which the Concessioner will expend such funds for their obligated purposes in lieu of a remittance of the unexpended funds to the Director as an additional franchise fee.

SEC. 11. FEES

(a) Franchise Fee

(1) For the term of this Contract, the Concessioner shall pay to the Director for the privileges granted under this Contract a franchise fee equal to zero percent (0%) of the Concessioner's gross receipts for the preceding year or portion of a year.

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

(b) Payments Due

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

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

(3) All franchise fee payments shall be deposited electronically by the Concessioner in accordance with Applicable Laws.

(c) Interest

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

(d) Adjustment of Franchise Fee

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

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

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

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

down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.

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

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

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

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

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

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

SEC. 12. INDEMNIFICATION AND INSURANCE

(a) Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys’ fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or contractors under this Contract. This indemnification shall survive the termination or expiration of this Contract.

(b) Insurance in General

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

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

(3) At the request of the Director, the Concessioner shall at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner shall provide the Director immediate written notice of

any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

(c) Commercial Public Liability

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

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

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

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

(d) Property Insurance

(1) In the event of damage or destruction, the Concessioner will repair or replace those Concession Facilities and personal property utilized by the Concessioner in the performance of the Concessioner's obligations under this Contract.

(2) For this purpose, the Concessioner shall provide fire and extended insurance coverage on Concession Facilities for all or part of their replacement cost as specified in Exhibit I in amounts no less than the Director may require during the term of the Contract. The minimum values currently in effect are set forth in Exhibit I.

(3) Commercial property insurance shall provide for the Concessioner and the United States of America to be named insured as their interests may appear.

(4) In the event of loss, the Concessioner shall use all proceeds of such insurance to repair, rebuild, restore or replace Concession Facilities and/or personal property utilized in the Concessioner's operations under this Contract, as directed by the Director. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 13 shall apply to such insurance proceeds. The Concessioner shall not be relieved of its obligations under subsection (d)(1) because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

(5) Insurance policies that cover Concession Facilities shall contain a loss payable clause approved by the Director which requires insurance proceeds to be paid directly to the Concessioner without requiring endorsement by the United States, unless the damage exceeds $1,000,000. The use of insurance proceeds for repair or replacement of Concession Facilities will not alter their character as properties of the United States and, notwithstanding any provision of this Contract to the contrary, the Concessioner shall gain no ownership, Leasehold Surrender Interest or other compensable interest as a result of the use of these insurance proceeds.

(6) The commercial property package shall include the coverages and amounts described in Exhibit I.

SEC. 13. BONDS AND LIENS

(a) Bonds

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

(b) Lien

As additional security for the faithful performance by the Concessioner of its obligations under this Contract, and the payment to the Government of all damages or claims that may result from the Concessioner's failure to observe any such obligations, the Government shall have at all times the first lien on all assets of the Concessioner within the Area, including, but not limited to, all personal property of the Concessioner used in performance of the Contract hereunder within the Area and any Leasehold Surrender Interest of the Concessioner.

SEC. 14. ACCOUNTING RECORDS AND REPORTS

(a) Accounting System

(1) The Concessioner shall maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system shall be capable of providing the information required by this Contract, including but not limited to the Concessioner's repair and maintenance obligations. The Concessioner's system of accounts classification shall be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are $250,000 or more, the Concessioner must use the accrual accounting method.

(3) In computing net profits for any purposes of this Contract, the Concessioner shall keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner shall submit annually as soon as possible but not later than one hundred twenty (120) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

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

(3) If annual gross receipts are between $500,000, and $1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Statements on Standards for Accounting and Review Services (SSARS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than $500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Financial Reports

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

must describe these capital improvements in detail showing for each such capital improvement the date acquired, constructed or installed.

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

SEC. 15. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this Contract:

(a) Insurance Certification

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

(b) Environmental Reporting

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

(c) Miscellaneous Reports and Data

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

SEC. 16. SUSPENSION, TERMINATION, OR EXPIRATION

(a) Suspension

The Director may temporarily suspend operations under this Contract in whole or in part in order to protect Area visitors or to protect, conserve and preserve Area resources. No compensation of any nature shall be due the Concessioner by the Director in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, or the necessity to make expenditures as a result of the suspension.

(b) Termination

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

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

(3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that

the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature shall be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 16(a).

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

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

(c) Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, NPS considers that this Contract is not a lease but an executory contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365.

(d) Requirements in the Event of Termination or Expiration

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

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

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

(4) Prior to and upon the expiration or termination of this Contract for any reason, and, in the event that the Concessioner is not to continue the operations authorized under this Contract after its expiration or termination, the Concessioner shall comply with all applicable requirements of Exhibit J to this Contract, "Transition to New Concessioner." This section and Exhibit J shall survive the expiration or termination of this Contract.

SEC. 17. COMPENSATION

(a) Just Compensation

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

(b) Compensation for Contract Expiration or Termination

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

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

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

(d) Compensation for Personal Property

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

SEC. 18. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

(a) This Contract is subject to the requirements of Applicable Laws, including, without limitation, 36 CFR Part 51, with respect to proposed assignments and encumbrances, as those terms are defined by Applicable Laws. Failure by the Concessioner to comply with Applicable Laws is a material breach of this Contract for which the Director may terminate this Contract for default. The Director shall not be obliged to recognize any right of any person or entity

to an interest in this Contract of any nature, including, but not limited to, Leasehold Surrender Interest or operating rights under this Contract, if obtained in violation of Applicable Laws.

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

SEC. 19. GENERAL PROVISIONS

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

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

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

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

(e) Any and all taxes or assessments of any nature that may be lawfully imposed by any State or its political subdivisions upon the property or business of the Concessioner shall be paid promptly by the Concessioner.

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

(g) This Contract is subject to the provisions of 2 C.F.R. Part 1400, as applicable, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

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

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

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

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

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

(m) Nothing contained in this Contract shall be construed as binding the Director to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Contract, or to involve the Director in any contract or other obligation for the future expenditure of money in excess of such appropriations.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Contract on the dates shown below.

CONCESSIONER

By_____
Edwin Cohn
President
Buzzard Point Boatyard Corporation

DATE: _____, 20__

ATTEST:

By_____
NAME

DATE: _____, 20__

UNITED STATES OF AMERICA

By_____
Robert A. Vogel
Regional Director
National Park Service

DATE: _____, 20__

EXHIBIT A

LEASEHOLD SURRENDER INTEREST

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

SEC. 1. DEFINITIONS

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

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

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

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

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

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

(g) "Eligible indirect costs" means, except as provided in the last sentence of this definition, the sum of all other incurred capitalized costs (in amounts no higher than those prevailing in the locality of the project) necessary for the construction of a capital improvement. Eligible indirect costs may include, without limitation, the costs of (if capitalized in accordance with GAAP and in amounts no higher than those prevailing in the locality of the project): architectural and engineering fees for plans, plan checks; surveys to establish building lines and grades; environmental studies; if the project is financed, the points, fees or

service charges and interest on construction loans; all risk insurance expenses and ad valorem taxes during construction. The actual capitalized administrative expenses (in amounts no higher than those prevailing in the locality of the project) of the Concessioner for direct, on-site construction inspection are eligible indirect costs. Other administrative expenses of the Concessioner are not eligible indirect costs.

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

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

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

(1) The initial construction cost of the related capital improvement;

(2) Adjusted by (increased or decreased) the same percentage increase or decrease as the percentage increase or decrease in the Consumer Price Index from the date the Director approves the substantial completion of the construction of the related capital improvement to the date of payment of the leasehold surrender interest value;

(3) Less depreciation of the related capital improvement on the basis of its condition as of the date of termination or expiration of this Contract, or, if applicable, the date on which the Concessioner ceases to utilize a related capital improvement (e.g., where the related capital improvement is taken out of service by the Director pursuant to the terms of this Contract).

(k) "Major rehabilitation" means a planned, comprehensive rehabilitation of an existing structure that:

(1) The Director approves in advance and determines is completed within 18 months from start of the rehabilitation work (unless a longer period of time is approved by the Director in special circumstances); and

(2) The construction cost of which exceeds fifty percent of the pre-rehabilitation value of the structure.

(l) "Pre-rehabilitation value" of an existing structure means the replacement cost of the structure less depreciation.

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

(n) "Related capital improvement" or "related fixture" means a capital improvement in which the Concessioner has a leasehold surrender interest.

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

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

(q) "Substantial completion of a capital improvement" means the condition of a capital improvement construction project when the project is substantially complete and ready for use and/or occupancy.

SEC. 2. OBTAINING A LEASEHOLD SURRENDER INTEREST

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

SEC. 3. AUTHORIZING THE CONSTRUCTION OF A CAPITAL IMPROVEMENT

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

SEC. 4. REQUIREMENTS FOR BEGINNING TO CONSTRUCT A CAPITAL IMPROVEMENT

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

SEC. 5. REQUIREMENTS AFTER SUBSTANTIAL COMPLETION OF A CAPITAL IMPROVEMENT

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

SEC. 6. DETERMINING CONSTRUCTION COST FOR PURPOSES OF LEASEHOLD SURRENDER INTEREST VALUE

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

SEC. 7. ARBITRATING THE CONSTRUCTION COST OF A CAPITAL IMPROVEMENT

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

SEC. 8. ACTIONS THE CONCESSIONER MAY OR MUST TAKE REGARDING LEASEHOLD SURRENDER INTEREST

The Concessioner:

(a) May encumber a leasehold surrender interest in accordance with the terms of this Contract;

(b) Where applicable, must transfer its leasehold surrender interest in connection with any assignment, termination or expiration of this Contract; and

(c) May waive or relinquish a leasehold surrender interest.

SEC. 9. EXTINGUISHMENT OF A LEASEHOLD SURRENDER INTEREST

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

(b) The Director at any time during the term of this Contract or after its termination or expiration may in his discretion pay the Concessioner the then applicable Leasehold Surrender Interest Value in all or portions of the related capital improvements in which the Concessioner holds a Leasehold Surrender Interest under the terms of this Contract. Upon receipt of such payment by the Concessioner, the applicable Leasehold Surrender Interest shall be extinguished or reduced, as applicable, for all purposes of this Contract and Applicable Laws. In the event of a dispute between the Director and the Concessioner as to the appropriate amount of such payment under the terms of this Contract, the dispute shall be resolved through binding arbitration as defined above.

SEC. 10. LEASEHOLD SURRENDER INTEREST UNDER A NEW CONCESSION CONTRACT

If the Concessioner under this Contract is awarded a new concession contract by the Director, and the new concession contract continues a leasehold surrender interest in related capital improvements, then the

Concessioner's leasehold surrender interest value (established as of the date of expiration or termination of this Contract) in the related capital improvements will be continued as the initial value of the Concessioner's leasehold surrender interest under the terms of the new concession contract.

SEC. 11. PAYMENT FOR LEASEHOLD SURRENDER INTEREST IF THE CONCESSIONER IS NOT AWARDED A NEW CONCESSION CONTRACT

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

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

SEC. 12. PROCESS FOR DETERMINING LEASEHOLD SURRENDER INTEREST VALUE

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

SEC. 13. PAYMENT OF LEASEHOLD SURRENDER INTEREST BY A NEW CONCESSIONER

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

SEC. 14. OBTAINING ADDITIONAL LEASEHOLD SURRENDER INTEREST BY UNDERTAKING A MAJOR REHABILITATION OR ADDING TO A STRUCTURE IN WHICH THE CONCESSIONER HAS A LEASEHOLD SURRENDER INTEREST

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

construction cost as of the date of substantial completion of the major rehabilitation or new structure. Approvals for major rehabilitations and additions to structures are subject to the same requirements and conditions applicable to new construction as described in this Contract.

SEC. 15. OBTAINING ADDITIONAL LEASEHOLD SURRENDER INTEREST BY REPLACING A FIXTURE IN WHICH THE CONCESSIONER HAS A LEASEHOLD SURRENDER INTEREST

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

SEC. 16. OBTAINING A LEASEHOLD SURRENDER INTEREST IN EXISTING REAL PROPERTY IMPROVEMENTS IN WHICH NO LEASEHOLD SURRENDER INTEREST EXISTS

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

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

SEC. 17. NO LEASEHOLD SURRENDER INTEREST RESULTS FROM REPAIR AND MAINTENANCE OF REAL PROPERTY IMPROVEMENTS

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

EXHIBIT B

OPERATING PLAN

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I. INTRODUCTION

This Operating Plan between Buzzard Point Corporation (hereinafter referred to as the "Concessioner") and the National Park Service (hereinafter referred to as the "Service") describes specific operating responsibilities of the Concessioner and the Service with regard to those lands and facilities within National Capital Parks-East (hereinafter referred to as the "Area") that are assigned to the Concessioner for the purposes authorized by the Contract.

In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, will prevail.

This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Any revisions shall not be inconsistent with the main body of this Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

II. Management Responsibilities

A) Concessioner

(1) To achieve an effective and efficient working relationship between the Concessioner and the Service, the Concessioner must designate an on-site general manager who:

(a)Has the authority and the managerial experience for operating the authorized Concession Facilities and services required under the Contract;

(b)Will employ a staff with the expertise and training necessary to operate all services authorized under the Contract;

(c)Has full authority to act as a liaison in all concession administrative and operational matters within the Area; and,

(d) Has the responsibility for implementing the policies and directives of the Service.

(e) Will designate an assistant manager or an acting "manager on duty" when the on-site general manager is absent.

B) Service

(1) The Superintendent manages the Area with responsibility for all operations, including appropriate oversight of concession operations. The Superintendent carries out the policies and directives of the Service, including concession contract management. Directly, or through designated representatives, the Superintendent reviews, directs, and coordinates Concessioner activities relating to the Area. This includes:

(a) Evaluation of Concessioner services and Concession Facilities and related operations;

(b) Review and approval of rates charged for all services;

(c) Review and approval of construction and all improvements to Concession Facilities.

III. General operating standards and requirements

A) Season and Hours of Operation

(1)Boat storage must be provided throughout the term of this contract.

(2)The minimum office hours will be from 10:00 AM to 6:00 PM daily from January 1 through March 31. The Concessioner may close on Mondays and Tuesdays, and on Federal holidays. Any deviation from this schedule must be submitted as a request to the Superintendent.

B) Rates

1)Rate Determination. All rates and charges to the public by the Concessioner must comply with the provisions of Section 3(e) of the Contract, including (without limitation) Section 3(e)'s requirements regarding approval by the Service of the rates and charges set. The reasonableness and appropriateness of rates and charges under this Contract shall be determined, unless and until a different rate determination is specified by the Service, using the methodologies set out below. As used in this Operating Plan, each of the specified methodologies has the same meaning as that set out in the most recent National Park Service Concession Management Rate Approval Guide ("Rate Approval Guide") (a copy which can be obtained by contacting the Service) as it may be amended, supplemented, or superseded throughout the term of this Operating Plan.

2) Approval of rates charged by the Concessioner must be based on comparability with other operations offering similar services and facilities in the private sector. Comparability studies will be conducted in accordance with Service guidelines. Selection of comparables is the responsibility of the Superintendent. The Concessioner is, however, permitted to assist in gathering information and data pertinent to selection of the comparables.
3) Comparables, once established, will not ordinarily be changed, unless significant changes occur to the operations of either the Concessioner or the comparable(s) which would deem the comparable inappropriate. Comparables will be reviewed upon each rate request submission.

C) Rate Approval Process

1) Rate Changes. Requests for rate approvals must be submitted prior to implementation. All rate increase requests must be in writing and in accordance with applicable Service policy and provide information to substantiate the requested rates in sufficient detail for the Service to be able to replicate results using methodology specified in the Rate Approval Guide. The Service will promptly approve, disapprove, or adjust rates, using its selected comparables, and will inform the Concessioner of the approved rates and the reason for any disapproval or adjustment.
2) Approved Rate Posting. The Concessioner must prominently post all rates for goods and services provided to the visiting public.
3) Rate Compliance. Rate compliance will be checked during periodic operational evaluations and throughout the year. Approved rates will remain in effect until superseded by written changes approved by the Service.

D) Evaluations and Inspections

(1) The Service and the Concessioner must separately inspect and monitor Concession Facilities and services with respect to Service policy, applicable standards, authorized rates, safety, public health, fire safety, impacts on cultural and natural resources, correction of operating deficiencies, responsiveness to visitor comments, and compliance with the Contract including its Exhibits.
(a) Annual Overall Rating. The Service will determine and provide the Concessioner with an Annual Overall Rating on or around April 1 for the preceding calendar year. The Annual Overall Rating will include a Contract Compliance Report and rating and an Operational Performance Report and rating.
(b) Contract Compliance Report. The Contract Compliance Report and rating will consider such items as the timely submission of annual financial report, timely submission of proof of general liability, timely and accurate submission of franchise fees, and insurance.
(c) Operational Compliance Report. The Operational Compliance Report and rating will consider such things as the evaluation of the Concessioners Risk Management Program, Public Health Rating and Periodic Operational Evaluations.
(d) Risk Management Program Evaluation. The Service will annually conduct an evaluation of the Concessioner's Risk Management Program.
(e) Safety Inspections. The Concessioner must perform periodic interior and exterior safety inspections of all Concession Facilities in accordance with its documented Risk Management Plan. The Concessioner must ensure employee compliance with health, fire, and safety code regulations as well as Service policy.
(f) Periodic Operational Evaluations. The Service will conduct both announced and unannounced periodic operational evaluations of concession services and Concession Facilities. The Service will evaluate concession services to ensure conformance with applicable operational standards. The Service will also evaluate the conformance of the Concession Facilities to the established Maintenance Plan. The Concessioner must be contacted at the time of these evaluations so that a representative of the Concessioner may accompany the evaluator.
(g) Concessioner Environmental Evaluations. The Concessioner must self-assess its performance under its Environmental Management Program (EMP) at least annually per Section 6(b) of the Contract. The Service may conduct environmental audits of Concession Facilities and operations based on the Service Environmental Audit Program.

(2) The Concessioner must be required to close all periodic evaluation audit findings. The Concessioner must meet with Service officials to prioritize and schedule the correction of deficiencies and the implementation of improvement programs resulting from these inspections. The Concessioner must be responsible for correction of deficiencies and abatement plans within dates agreed to with the Service within the timeframe specified in the Environmental Audit Report.

E) Visitor Comments

(1) The Concessioner must investigate and respond to all visitor complaints regarding its services within 10 business days of receipt. The Concessioner must provide a copy of the initial comment, its response, and any other supporting documentation to the Service by the 15th of each month for the previous month's activities.
(2) The Concessioner must provide visitor comments that allege misconduct by Concessioner or Service employees, or that pertain to the safety of visitors or employees, or concern the safety of Area resources to the Superintendent immediately upon receipt.
(3) The Service will forward to the Concessioner any comments and complaints received regarding Concession Facilities or services. The Concessioner must provide a copy of any responses to the Service, and the Service will copy any response it makes to the Concessioner.

F) Human Resources Management

(1) Employee Identification and Appearance. The Concessioner must ensure that employees in direct contact with the general public wear personal nametags. All employees must be neat and clean in appearance and project a hospitable, positive, friendly and helpful attitude.
(2) Employee Conduct. The Concessioner must review the conduct of any of its employees whose actions or activities are considered by the Service or Concessioner to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors. The Concessioner must take all actions needed to fully correct any such situation. Concession staff must avoid engaging in controversial topics with guests while on duty. Concessioner expectation of employees should be clearly documented in writing.
(3) Employee List. The Concessioner must submit to the Superintendent a list of the names, job titles, and contact information for all managers. This information will be provided to the Service by April 1st and updated when necessary.
(4) Employee Hiring Procedures

(a) General Manager. The General Manager will have an appropriate background as a manager or administrator that indicates his or her ability to manage a boat rental business of this size.
(b) Staffing Requirements. The Concessioner must hire a sufficient number of employees to ensure high-quality visitor services throughout the operating season.
(c) Work Schedule. The Concessioner must offer its employees a full workweek whenever possible. Prior to employment, the Concessioner must inform employees of salary, schedules, holiday pay, overtime requirements, and any possibility that less-than-full-time employment may occur during slow periods.
(d) Background Checks. The Concessioner must ensure that comprehensive background checks are performed on all employee hires as appropriate to the position. These may include: wanted notices/warrants check; local criminal history checks; federal criminal records check; national multi-jurisdictional database and sexual offender search; social security number trace; and driving history check. No employee will be hired if they show any active wanted notices or warrants (current fugitive from justice).
(e) Employment of Service employees or their family members. The Concessioner may not employ in any status the spouses and/or dependent children of a National Capital Parks - East employee, without prior Superintendent written approval. The Concessioner may not employ in any status the spouses and/or dependent children of the Superintendent, Concessions Management staff, Safety Officer, or Public Health Service Consultant.
(f) Drug-free Awareness and Testing Program. The Concessioner must provide its employees with a statement of its policies regarding drug and alcohol abuse, and conduct educational program(s) for its employees to deter drug and alcohol abuse. The Concessioner must establish an appropriate employee drug-testing program. Should the Concessioner become aware of illegal drug use or underage drinking, the Concessioner must promptly report it to the Service's Visitor Protection Staff.

(5) Training

(a) The Concessioner must provide and maintain records of appropriate training as set forth below and will provide those records to the Service upon request.

(i) Safety. The Concessioner must train its employees annually in its Risk Management Program.
(ii) Environmental Training. The Concessioner must provide annual environmental awareness training to all employees on its Environmental Management Program.
(iii) Job Training. The Concessioner must provide appropriate job training to each employee prior to duty assignments and working with the public.
(iv) Customer Service. The Concessioner must provide customer service and hospitality training for employees who have direct visitor contact.

(v) Resource and Informational Training. The Concessioner must provide training for all employees who provide interpretive and safety information.
(vi) The Concessioner may request Service staff to present certain topics of interest.

G) Risk Management Program

(1) The Concessioner must develop, maintain, and implement a Concessioner Risk Management Program that is in accordance with the Occupational Safety and Health Act and Director's Order #50B, Occupational Safety and Health Program. The Concessioner must submit its initial plan to the Superintendent within 60 days of effective date of the Contract and annually thereafter by February 1 of each year. The Concessioner must update its Concessioner Risk Management Program to comply with Applicable Laws.

(2) The Risk Management Program must include, at a minimum, the following basic elements:

(a) Documented Program
(b) Inspections
(c) Deficiency Classification and Hazard Abatement Schedule
(d) Accident Reporting and Investigation
(e) Public Safety and Awareness Program
(f) Training
(g) Emergency Procedures

H) Environmental Management

(1) The Concessioner must prepare an Environmental Management Program ("EMP") in accordance with Section 6 of the Contract. The Concessioner must develop all plans and submit all reports as required by Applicable Laws.

(2) The Concessioner must participate in the District of Columbia Clean Marina program.

(3) The Concessioner must maintain up to date Best Management Procedures (BMP) on the handling of emergencies, hazardous materials, solid waste and recycling.

(4) Receipts and records for the disposal of waste oil and batteries will be maintained by the Concessioner for a period of three years.

(5) The Concessioner is responsible for reporting any hazardous material spills to the Coast Guard and the Superintendent.

I) Security and Protection

(1) The Concessioner is responsible for securing buildings, equipment, and facilities under its control, and for providing and maintaining fire extinguishers, smoke detectors, and other safety and security devices as may be necessary.

(2) All security personnel must be duty stationed and operate out of the assigned marina office at all times.

(3) The United States Park Police (202 619-7300) are responsible for law enforcement, public safety, and emergency response within the National Capital Parks - East. Routine patrols may include the concession, but are not a substitute for Concessioner-provided security patrols.

(4) The District of Columbia Fire Department is responsible for responding to all fires and medical emergencies within National Capital Parks - East.

(5) The Concessioner must immediately report any fires, medical emergencies, accidents, or other incidents to the United States Park Police dispatcher by calling (202) 619-7300.

J) Emergency Services

(1) Visitor Protection: The Service provides primary visitor protection in conjunction with cooperative arrangements between the Service and associated local city, county, and state agencies.

(2) Fire Protection: The Concessioner must ensure that all Concession Facilities meet all applicable Fire and Life Safety Codes and that fire detection and suppression equipment is in good operating condition at all times.

(3) Emergency Medical Care: The Service, in conjunction with cooperative arrangements between the Service and associated local city, county, and state agencies, provides emergency medical care. Any injury sustained by a visitor or employee in a Concessioner facility should be reported promptly to the Service.

(4) The Concessioner must provide adequate training and certification to all appropriate staff to respond to basic emergency medical needs including CPR. All reasonable efforts are to be made to see that an employee certified in basic first aid and CPR is on site during all scheduled operation hours and events.

(5) Human Illness Reporting. Any suspected outbreak of human illness, whether amongst employees or visitors, must be reported immediately to the Service. A suspected outbreak of human illness is two or more persons with common symptoms that could be associated with contaminated water or food sources or other adverse environmental conditions.

K) Public Relations

(1) Required Notices. The Concessioner must prominently post the following notice at all Concessioner cash registers and payment areas:

"This service is operated by Buzzard Point Corporation, a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner. Prices are approved by the National Park Service. Please address comments to:
Superintendent
National Capital Parks - East
1900 Anacostia Drive, S.E.
Washington, D.C. 20020

(2) Public Statements. All media inquiries concerning operations within the Area, questions about the Area, or concerning any incidents occurring within the Area must be forwarded to the Superintendent. This includes all requests for media interviews.

L) Advertisements and Promotional Material

(1) Approval. The Concessioner must submit any new or updated promotional material, including websites, to the Service for review and approval at least 30 days prior to publication, distribution, broadcast, etc. The Superintendent may require the Concessioner to remove any unapproved promotional material. Promotional material distributed within the Area must promote only services and facilities within the Area, unless the Superintendent approves exceptions in writing.

(2) Authorization. Advertisements must include a statement that the National Park Service and the Department of the Interior authorize the Concessioner to serve the public at the National Capital Parks - East.

(3) Equal Opportunity. Advertisements for employment must state that the company is an equal opportunity employer.

(4) Boat sales or brokering on Service property is prohibited.

(5) "For Sale" signs are not permitted on boats.

M) Lost and Found

(1) Unattended or found items which are discovered by or turned over to the Concessioner are to be subsequently turned over to the United States Park Police District Sub-station (D-3) if not claimed by a visitor within 24 hours.

N) General Policies

(1) Concession Facilities may not be used for activities or services that do not directly and exclusively support contractual services authorized by the Contract without written permission from the Service.

(2) Smoking Policy. All buildings within the Concession Facilities are designated as non- smoking.

(3) Credit Cards. Major credit cards must be honored. The Concessioner may accept debit cards at its discretion or at the direction of the Superintendent.

4) Specific Operating Standards and Requirements

General

All services are to be provided in a consistent, quality manner. Standards provided by current concession management guidelines (as amended, supplemented, or superseded) are considered Service minimums. The Concessioner is expected to make every effort to exceed these standards. The Concessioner will be responsible for monitoring its operations to ensure that quality standards are met.

Maximum Required Boat Storage and MSD Inventory
Wet Slips: 93
Dry Slips: 10
Marine Sanitation Device: 1

A) Marina Policy

(1) Concessioner is encouraged to have a manager on staff that has or has applied for and is actively pursuing the Certified Marina Manager (CMM) designation from the International Marine Institute.

(2) Boat storage rental agreements. The Concessioner shall submit its proposed rental agreement or changes to its rental agreement and marina operating rules to the Superintendent for review prior to implementation within 15 (fifteen) days of the execution of this contract.

(a) Boat storage rental agreements records will be made available to the Park for review. The Concessioner will maintain and provide to the Service upon request, a Rental Slip Inventory including an inventory of all rental slips and dry storage spaces customer name, boat name, and registration number.

(b) Each occupied slip will have a current agreement in place with the appropriate renter's signature. Ownership of the vessel will be documented on each agreement.

(c) All restrictions must be included in the boat storage rental agreement.

(d) The Concessioner will inform slip holders in writing and as part of the boat storage rental agreement, of prohibited maintenance activities, procedures for allowable minor boat maintenance and other environmental management requirements, including stating that the use of environmentally preferred products is encouraged.

(e) The Concessioner shall inform all slipholders in writing and as part of the boat storage rental agreement that living aboard boats at the marina is not permitted. A "live-aboard" is defined as someone who stays aboard a boat in the marina for four (4) or more nights in any seven (7) day period more than three (3) times in any twelve (12) month calendar period. Responsibility for enforcement of this restriction rests with the Concessioner. Lease agreements for slipholders who violate this provision must be terminated by the concessioner. This provision is applicable to the concessioner’s personal vessel(s), if stored at the marina.

(f) The Concessioner shall abide by all applicable Federal and District of Columbia laws, and National Park Service regulations and policy, and require as a condition of the slip lease agreement, that all slipholders abide by all applicable Federal and District of Columbia laws, and National Park Service regulations and policy.

(3) The Concessioner shall post marina rules and regulations on bulletin boards within the marina and provide copies to all slip renters.

(4) The Concessioner shall require, as a condition of the slip lease agreement, that boat owners maintain their boats in overall good condition, seaworthy, with the bilges reasonably clean and the hull and structure generally sound. Boat owners must maintain current insurance on vessels stored in the marina. Boats shall not be allowed to become unsightly or dilapidated condition.

(5) Normal and routine boat maintenance work is allowed. Extensive repairs, beyond normal maintenance procedures, require the boat to be relocated outside the concession to an area suitable for the intended work. Any and all work must comply with Service "Clean Marina" standards (as amended, supplemented, or superseded). Normal and routine maintenance work includes changing batteries, fuel cans, and oil, and the washing of boats with biodegradable soap.

(6) The Concessioner shall include in the rental agreement a clause reserving the right to request a copy of a recent National Association of Marine Survey (NAMS) certified marine survey as a condition of the lease agreement

(7) The concessioner’s personal vessel(s), if stored at the marina, must be used for recreational purposes only, and are not considered an additional resource in the performance of this contract.

(8) The Concessioner will insure that all public areas, including the docks and land areas adjacent to the slips, are well maintained and kept clear of personal property of slipholders. The Concessioner shall require of slipholders that personal property (such as furniture, barbecue grills, etc.) and other safety hazards, including but not limited to trash, equipment, paint, and fuel containers are not left on the docks or other public areas.

(9) The Concessioner shall insure that all aspects of marina operations are conducted in accordance with all Applicable Laws, codes, regulations and other requirements. This requirement includes, but is not limited to, boat maintenance activities, use of hazardous materials, storage of fuels, refueling boats, and other operation where environmental, hazmat, safety, and other requirements may be particularly stringent.

(10) Slip holders must have 24-hour access. All slip holder vehicles must have a parking pass issued by the marina visibly displayed on the dashboard. The Concessioner must maintain a register of passes issued to slip renters.

(11) Slipholders must be informed in the slip rental agreement subletting of slips and/or dry storage spaces is not permitted. Only one boat will be registered to each slip. Slips and/or dry storage space may not be sold or

transferred by the renter. Slips will not be acquired or held by boat dealers for the purpose of the sale of boats. Boats and trailers may not display "For Sale" signs.

(12) It is the policy of the Service that wet and dry storage slips will be used for recreational purposes only.

(13) Vacant slip and dry storage spaces are to be filled from waiting lists on a first come-first served basis. The Concessioner will manage and maintain an accurate and current waiting list.

(14) The Concessioner will ensure that no maintenance wastes generated by customers remain on site. The Concessioner will properly dispose of all concessioner generated wastes and maintain records as necessary.

(15) Salvage companies hired to retrieve submerged concessioner boats must be bonded. Slip renters must follow park regulations, if applicable, when hiring salvage companies. In addition whenever possible a copy of the report should be submitted to the Park.

(a) Submerged vessels must be raised within a reasonable period, as determined by the Service in consultation with the Concessioner.

B) Wet Storage

(1) Maximum Boat Sizes to be served:

(a) 2 slips will be available to accommodate up to a 60-foot boat.

(b) 16 slips will be available to accommodate up to a 40-foot boat.

(c) 11 slips will be available to accommodate up to a 35-foot boat.

(d) 40 slips will be available to accommodate up to a 26-foot boat.

(e) 24 slips will be available to accommodate up to a 20-foot boat.

(2) Storage slips of more than 35' in length may be equipped with shore power of at least 20 amperes, may have an individual water tap, or may share services. Storage slips of less than 35' in length may have a mixture of shore power and courtesy power. The Concessioner will insure that power connections from the shore power to the vessel are approved for that use by NFPA guidelines. Water taps will be reasonably available for slips less than 35' in length.

(3) Boat owners are responsible for securing their boats to the slip, maintaining their boats, and checking them regularly. The Concessioner shall require slipholders to be properly registered, licensed, insured and to maintain their boats in good, seaworthy condition. A National Association of Marine Surveyors (NAMS) survey, or equivalent survey, may be required. Boats shall not be allowed to become unsightly or reduced to a dilapidated condition. Inadequate or faulty securing equipment maybe replaced by the Concessioner at the boat owner's expense when necessary to adequately secure the boat.

(4) The Concessioner is responsible for the condition of each slip, including all cable lines, cleats, connecting eyes and other appurtenances. The Concessioner will enforce minimum standards for the lines and equipment used to secure the boat to the slip. Inadequate or faulty securing equipment may be replaced by the Concessioner at the boat owner's expense when necessary to adequately secure the boat.

(5) Boat attachments, such as pulpits, will not extend more than six inches over a walkway or dock to reduce safety hazards.

(6) The Concessioner will develop protocols to avoid slips and falls on the docks by boaters, guests and employees.

C) Dry Storage for Trailered Vessels

(1) Dry storage may not be used to store empty boat trailers.

(2) Dry boat storage will be on a first come-first served basis.

(3) The Concession must maintain a waitlist for future availability.

D) Launch Ramp

(1) The launch ramp must be kept clear of debris and the ramp surface maintained.

E) Marine Sanitation Device

(1) The Marine Sanitation Device must be maintained according to manufacturer’s specifications and available during operating hours. The Concessioner will provide water-based sanitary pump-out facilities at the marina insufficient capacity to accommodate the boating public without unreasonable waiting times. The pump-out facility shall be well marked. All holding tanks and wastewater delivery lines shall meet applicable Federal and District of Columbia codes for this type of service. Patrons will pump-out their own boats. This service is offered at no charge

F) Restrooms

(1) Restrooms will be cleaned according to a posted schedule, at least once daily.

G) Utilities

(1) Utility services will be obtained by the Concessioner from commercial sources at its own expense

5) Reporting Requirements

A) Concessioner Operational Reports

(1) The Service and/or its representatives will be allowed to inspect supporting documentation for all operational reports upon request.

(2) Operational and Financial Reports

(a) Monthly use statistics. The following operational statistics must be provided monthly by the 15th of each month of operation unless otherwise agreed upon by the Superintendent. This data will be presented in a concise spreadsheet format. The Service may request additional information regarding services, trends, etc., during the life of this Contract.

Number of Dry Storage Renters	
Number of Wet Storage Renters	
Gross Revenue	

(b) As renewed, the Concessioner must provide a copy of all operating permits, licenses and certifications.

(c) Any inspection reports conducted by outside regulatory agencies (i.e., fire department, OSHA, etc.) must be submitted to the Superintendent within fourteen (14) calendar days.

(d) Monthly Franchise Fee Report. The Concessioner must report on the franchise fee deposit made from the preceding month. Reporting documentation will include a copy of the check or wire transfer identifying the account and the amount.

EXHIBIT C

NONDISCRIMINATION

SEC. 1 REQUIREMENTS RELATING TO EMPLOYMENT AND SERVICE TO THE PUBLIC

(a) Employment

During the performance of this Contract the Concessioner agrees as follows:

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

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

(3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed $50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

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

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

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

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

(b) Construction, Repair, and Similar Contracts

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

(c) Facilities

(1) Definitions: As used herein:

(i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;

(ii) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:

(i) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;

(ii) discriminating by segregation or other means against any person.

SEC. 2 ACCESSIBILITY

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

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

(a) Discrimination Prohibited

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

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(4) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

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

(b) Existing Facilities

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

EXHIBIT D

ASSIGNED LAND AND REAL PROPERTY IMPROVEMENTS
(CONCESSION FACILITIES)

Land Assigned

Land is assigned in accordance with the boundaries shown on the following map[s]:

Real Property Improvements Assigned

The following real property improvements are assigned to the Concessioner for use in conducting its operations under this Contract:

FMSS Asset Code	FMSS Asset Description	FMSS Asset Type	Unit of Measure	Date Built or Installed	Historic (Y or N)	Insurance Replacement Value
18274	Buzzard Point Marina Office				N	
18275	Bldg. No. 1161 Comfort Station				N	
52229	Buzzard Point Marina (U/P) 923 AN				N	
TBDML 1	Buzzard Point Maintanined Landscape				N	

** Please note: The lack of value for an asset in the column for Insurance Replacement Value does not relieve the Concessioner of its obligation to insure the asset according to the terms of this Contract.*

Approved, effective _____, 20___

By: _____
Robert A. Vogel
Regional Director, National Capital Region

EXHIBIT E

ASSIGNED GOVERNMENT PERSONAL PROPERTY

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

NONE

Approved, effective _____, 20___

By: _____
Robert A. Vogel
Regional Director, National Capital Region

EXHIBIT F

CONCESSIONER CONSTRUCTION, MAJOR REHABILITATION, AND REPAIR AND MAINTENANCE PROJECT PROCEDURES

SEC. 1. INTRODUCTION

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

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

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

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

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

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

SEC. 2. DEFINITIONS

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

(b) "Approved Project Documents" means project drawings and specifications approved by the Director and used by the Concessioner to direct a contractor in the type, size and quality of projects.

(c) "Change Order" means a written agreement between the "Construction Supervisor" and the Contractor or Consultant that changes the contract documents or scope of project work as agreed upon contractually.

(d) "Construction" means the removal or assembly of a building, road, utility or any other facility part or material that changes the nature, appearance, or value of that facility.

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

(f) "Conventional Design-Bid-Build Methods" means construction developed and implemented under several separate agreements managed and coordinated directly by the Concessioner.

(g) "Contact Person" means a Concessioner employee designated as the person to contact with regard to a specific matter, concern, or issue.

(h) "Facilitator" means a Concessioner employee designated to have the role of providing structure and agendas for meetings with the Service and who records meeting discussions and outcomes.

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

(j) " Licensed Contractor" means an entity performing construction certified or licensed by the State to perform construction services within that State.

(k) "Major Rehabilitation" Defined in Exhibit A: Leasehold Surrender Interest.

(l) "Project Coordinator" means a Concession employee vested with the authority to direct consultants and contractors in the expenditure of construction and R&M funds.

(m) "Project Statement" (PS) means an agreement between the Service and the Concessioner approved by the Director that authorizes the development and implementation of individual projects identified in a CMP.

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

(o) "Substantially Complete": Defined in Exhibit A: Leasehold Surrender Interest.

(p) "Total Project Cost" means the total of all actual project expenditures (invoiced and paid) for completion of a project.

(q) "Total Project Price" means the total of all estimated project expenditures for completion of a project.

SEC. 3. PROJECT PLANNING AND DESIGN

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

Before approval to proceed with any project is granted by the Director, the Concessioner must submit a CMP for implementation the following year. Some projects may require several years of planning and design before construction. The purpose of the plan is to identify the need and tentative scope of projects a complete year in advance of actual work to allow adequate time to prepare for project commencement. The CMP should include any intended projects. Projects shown in the plan must include at least a project title; project concept description; a brief statement of justification; and anticipated NEPA and Section 106 planning and compliance established in collaboration with the Service.

(b) Notify Service of Intent-to-Proceed

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

(c) Identify a Project Coordinator

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

(d) Prepare a Proposed Project Statement (PS)

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

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

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

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

(4) Methods of Establishing the Expected Value of Leasehold Surrender Interest. A number of methods are available to estimate the Concessioner's leasehold surrender interest as long as eligible direct and indirect costs are specified. The methods of identifying the expected value of leasehold surrender interest include

guaranteed maximum price design-build construction methods, conventional design-bid-build methods, and construction price estimates professionally prepared by subject area experts.

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

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

(e) Submit Project Statement for Service Review

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

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

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

(f) Establish a Project File

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

(1) Leasehold Surrender Interest Project File. The Project File will become an LSI project file when the Concessioner requests approval of LSI. It shall be established and maintained by the Concessioner and shall include all of the documents identified in item (2) below. This file shall be submitted at the time of Project Close-out to the Director as the basis for the leasehold surrender interest request. As part of this file, the Concessioner must maintain auditable records of all expenditures attributable to each project and have them available for review if requested by Service personnel. Invoices shall contain sufficient information to identify the tasks completed or products delivered as agreed upon in contracts presenting a full scope of

work. The file shall clearly provide a "paper trail" between expenditures eligible for LSI purposes and the payment of those expenses.

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

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

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

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

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

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

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

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

(g) Submit Resource Compliance Documents for Review and Approval

During development of the project statement, responsibility for compliance work will be established. The Concessioner must request the participation of Service staff early in project planning to assure uninterrupted project implementation. Development of compliance documentation must occur as soon as possible. Every effort shall be made to perform compliance document preparation tasks concurrently with project planning and design.

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

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

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

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

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

(h) Submit Project Documents (PDs) for Review and Approval

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

statutes, codes, regulations and appropriate industry standards. Any exception to this will be by written authorization from the Director.

(i) Submit a Project Estimate and Schedule

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

SEC. 4. PROJECT MANAGEMENT PROCEDURES

(a) Identify a Project Supervisor

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

(b) Submit a Total Project Price for Review

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

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

(c) Notice-to-Proceed with a Project

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

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

The Concessioner shall arrange and facilitate a pre-project conference as needed or as requested by the Director with the Contractor. The purpose of the conference is to provide the Service the opportunity to meet the Contractor and confirm that the Contractor has full understanding and knowledge of all work to be performed. In addition, the conference provides the opportunity to confirm established communication linkages between the Concessioner, the Contractor and the Service. Any questions the Contractor may have regarding any matter of the project or anything about Area access, rules and regulations may also be discussed.

(e) Submit Project Activity Reports (As Required)

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

(1) Content. Project activity reports shall summarize daily project activity recording important observations and decisions. It shall also identify project expenditures to date if required for leasehold surrender interest purposes. The reports shall identify any changes to the approved PDs either by change order or any other variance from approved PDs. The Director shall be notified immediately, if a change is likely to occur in the

Total Project Price where the project involves LSI. (See discussion below for review and approval of change orders and contract modifications.)

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

(f) Submit Requests for Changes in Approved Project Documents

The Director's approval will be required before any significant changes are made to the project scope during the completion of projects, as identified in the approved PDs. The Concessioner shall provide the Director with written notification immediately upon identifying the need for a change in project scope that affects any of the items listed below. The written notification shall include a request for change in the approved PDs complete with justification and explanation of effect of change on all other aspects of project design and work. Requests for any significant changes in the approved PDs shall be reported in project activity reports with attachment of any documentation requested. Changes in approved project scope during the work that will require review and approval of the Director include the following:

(1) Changes affecting natural, cultural and/or historic resources;

(2) Changes in designated visual appearance;

(3) Changes in the interface with Service utility and/or road facility maintenance operations;

(4) Changes in project scope and/or the estimated leasehold surrender interest, as required for facility improvement projects.

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

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

When one of the five factors listed above exists, the Concessioner shall submit, for the review and approval of the Director, documentation justifying the proposed changes. The Concessioner shall also submit a revised Total Project Price for each proposed change, as needed, indicating the proposed change in estimated LSI. All change orders or any other means of directing the Contractor that may have the effect of increasing the Total Project Price will require the Director's review and approval, if the project has LSI implications.

(h) Service Project Inspection

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

(i) Project Supervision Documents

Project drawings and specifications must be kept on the project site complete with any design or project modifications, in a well-organized form. The Construction Supervisor shall keep a current "red-line" copy of approved PDs updated daily showing any changes. In addition, a well-organized file of submittals required in

the approved PDs and approved where required by professional Architects and/or Engineers must also be kept on the project site with the PDs for periodic inspection by the Service.

(j) Substantial Completion Inspection and Occupancy

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

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

(k) Requesting Approval of Leasehold Surrender Interest

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

(l) Project Completion Report

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

(m) "As-Constructed Drawings"

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

(n) Request Project Acceptance and Close-out by the Director

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

EXHIBIT G

LEASEHOLD SURRENDER INTEREST
AS OF THE EFFECTIVE DATE OF THIS CONTRACT

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

NONE

Exhibit G Approved Effective: [Date].

CONCESSIONER

By: _____
Edwin Cohn
Title: President

REGIONAL DIRECTOR, NATIONAL PARK SERVICE
United States of America

By: _____
Robert A. Vogel
National Capital Region

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EXHIBIT H
MAINTENANCE PLAN

INTRODUCTION

This Maintenance Plan between Buzzard Point Corporation (hereinafter referred to as the "Concessioner") and the National Park Service (hereinafter referred to as the "Service") sets forth the maintenance responsibilities of the Concessioner and the Service with regard to those lands and facilities within National Capital Parks-East (hereinafter referred to as the "Area") that are assigned to the Concessioner for the purposes authorized by the Contract. In the event of any apparent conflict between the terms of the main body of the Contract and this Maintenance Plan, the terms of the Contract, including its amendments, will prevail. Full compliance with the requirements of this Maintenance Plan is required in order to satisfy the Concessioner's Maintenance obligations under the terms of the Contract.

This plan will remain in effect until superseded or amended. It will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Revisions may not be inconsistent with the terms and conditions of the main body of the Contract. Any revisions must be reasonable and in furtherance of the purposes of this Contract.

PART A – GENERAL STANDARDS

1) General Concession Facilities Standards

Pursuant to the Contract, the Concessioner is solely responsible for the maintenance of all Concession Facilities to the satisfaction of the Service. Compliance with the terms of this Maintenance Plan is required for this purpose.

The Concessioner must conduct all maintenance activities in compliance with Applicable Laws. Applicable Laws include, but are not limited to Service standards, DOI and NPS Asset Management Plans, NPS Management Policies, and manufacturer recommendations and specifications.

2) Definitions

In addition to the defined terms contained or referenced in the Contract, the following definitions apply to this Maintenance Plan.

Asset – Real Property that the Service desires to track and manage as a distinct identifiable entity. It may be a physical structure or grouping of structures, land features, or other tangible property that has a specific service or function such as an office building, lodge, motel, cabin, residence, campground, marina, etc.

Capital Improvement - A Capital Improvement, as further defined in Exhibit A to the Contract, is a structure, fixture, or non-removable equipment provided by the Concessioner pursuant to the terms of this Contract.

Component – A portion of an Asset or system.

Component Renewal/Replacement (CR) – The planned Replacement of a Component at the end of its Useful Life. Component Renewal/Replacement examples include the replacement of roofs; electrical distribution systems; heating and cooling systems; pavement replacement for roads, parking lots and walkways; and the rehabilitation of windows and/or replacement of windows and doors. Component Renewal/Replacement includes the deconstruction of the existing Component and Replacement with a new Component of equal capability and performance. These actions recur on a periodic cycle of greater than seven years.

Concession Facilities - Concession Facilities, as defined in the main body of the Contract, are all Area lands assigned to the Concessioner under the Contract and all real property improvements assigned to or constructed by the Concessioner under the Contract.

Deferred Maintenance (DM) – Maintenance that was not timely or properly conducted. Continued Deferred Maintenance will result in Deficiencies.

Deficiencies – Defects in an Asset or Component that result when Maintenance is not performed in a timely manner. Deficiencies may not have immediately observable physical consequences, but when allowed to accumulate uncorrected, lead to deterioration of performance, loss of Asset value, or both.

Environmentally Preferable - Products or services that have a lesser or reduced adverse effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, productions, manufacturing, packaging, distribution, reuse, operations, Maintenance, or disposal of a product or service. Product considerations include, but are not limited to, the environmental impacts of the product's manufacture, product toxicity, and product recycled content including postconsumer material, amount of product packaging, energy or water conserving features of the product, product recyclability and biodegradability. These include those products for which standards have been established for federal agency facilities and operations.

Facility Operations – Operational actions performed by the Concessioner on a recurring basis that meet daily operational needs of Concession Facilities. Typical work performed under Facility Operations includes janitorial and custodial services, snow removal, operation of utilities, and grounds keeping. Certain Facility Operations requirements may be included in Exhibit B (Operating Plan) to the Contract.

Feasible - The ability to provide the equipment, materials or procedures that are required because they are technically possible, economically reasonable, appropriate for the location and the use identified, and consistent with industry best management practices.

Hazardous Substance – Any Hazardous Waste, hazardous chemical or hazardous material as defined under Applicable Laws.

Hazardous Waste - Any waste defined as such under 40 CFR 261 – 265 or other Applicable Laws.

Maintenance – The maintenance of Concession Facilities as described in this Maintenance Plan. Maintenance includes, but is not limited to, actions taken under the following maintenance categories: Component Renewal/Replacement; Recurring Maintenance; Facility Operations; Preventive Maintenance; and Repair.

Personal Property – For purposes of this Maintenance Plan, manufactured items of independent form and utility including equipment and objects solely for use by the Concessioner to conduct business. Personal Property includes, without limitation, removable equipment, furniture and goods, necessary for Concessioner operations under the Contract. Personal Property may be Government assigned property.

Preventive Maintenance (PM) – Planned, scheduled periodic Maintenance activities that are performed weekly, monthly, quarterly, semi-annually, or annually on selected Assets or Components, typically including, but not limited to, inspection, lubrication, and adjustment.

Recurring Maintenance (RM) – Planned work activities that reoccur on a periodic cycle of greater than one year to sustain the useful life of an Asset or Component. Typical projects include, but are not limited to painting, pump and motor replacement, cleaning, repair and replacement of lighting, engine overhaul, replacement of carpeting, and refinishing hardwood floors.

Repair – Work undertaken to restore damaged or worn out Assets or Components to a fully functional operating condition.

Repair and Maintenance Reserve – A Concessioner reserve account that is established in the main body of this Contract. Repair and Maintenance Reserve funds may only be used to carry out Component Renewal on a project basis that is authorized in writing by the Service and that is non-recurring within a seven-year time frame. Repair and Maintenance Reserve funds may not be expended to construct or install Capital Improvements.

Replacement – Exchange or substitution of one Asset or Component for another that has the capacity to perform the same function at a level of utility and service equivalent to the original Asset or Component.

Solid Waste - Discarded household and business items such as product packaging, grass clippings and other green waste, furniture, clothing, bottles, food scraps, newspapers, white goods and other appliances. It is more commonly referred to as trash, garbage, litter, or rubbish. The term "Solid Waste," as used in this Maintenance Plan, does not include sewage, septic sludge, Hazardous Waste, Universal Waste and miscellaneous maintenance wastes such as used oil, tires and lead-acid batteries.

Sustainable Design – Design of physical objects, the built environment, and services to reduce the negative impacts on the environment throughout their life-cycle. The basic objectives are to reduce consumption of non-renewable resources, minimize waste, limit impact on the local and global ecosystem and create healthy, productive environments.

Sustainable Practices/Principles - Those choices/decisions, actions and ethics that will best achieve ecological/biological integrity; protect qualities and functions of air, water, soil, and other aspects of the natural environment; and preserve human cultures. Sustainable Practices allow for use and enjoyment by the current generation, while ensuring that future generations will have the same opportunities.

Useful Life – The serviceable life of an Asset or Component.

Universal Waste – Any waste as defined under Applicable Laws, including but not limited to, 40 CFR § 273. Such waste includes but is not limited to mercury-containing materials such as thermostats, mercury containing lamps such as fluorescent, high intensity discharge, sodium vapor, mercury vapor lamps, cathode ray tubes (CRTs) from computers and televisions, nickel-cadmium and sealed lead-acid batteries and waste pesticides.

Waste Prevention - Any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste Prevention also refers to the reuse of products or materials.

Waste Reduction - Preventing or decreasing the amount of waste being generated through Waste Prevention, recycling, or purchasing recycled and Environmentally Preferable products.

3) Concessioner Responsibilities

A) **In General**

(1) The Concessioner must undertake Maintenance of Concession Facilities to the satisfaction of the Service, including, without limitation, compliance with the requirements of this Maintenance Plan.

(2) All Maintenance must be undertaken in accordance with Applicable Laws, including without limitation, applicable building and safety codes. All personnel conducting Maintenance must have the appropriate skills, experience, licenses and certifications to conduct such work.

(3) The Concessioner, where applicable, must submit project plans to the Service that are stamped by a Professional Engineer or Registered Architect licensed in the applicable State.

(4) The Concessioner, where applicable, must obtain the appropriate permits required by State or local law, U.S. Environmental Protection Agency, and other regulatory agencies and provide copies of the permits to the Service.

(5) The Concessioner must conduct Maintenance activities in a manner that, to the extent feasible, minimizes environmental impact and utilizes principles of Preventive Maintenance, Waste Prevention and Waste Reduction, Sustainable Design and Sustainable Practices/Principles and incorporates best management practices.

(6) The Concessioner must follow those LEED (Leadership in Energy and Environmental Design) standards set for achieving a silver rating for applicable maintenance. However, the Concessioner is not required to apply for and receive third-party verification or certification of LEED compliance.

(7) The Concessioner must comply with the Americans with Disabilities Act and the Architectural Barriers Act guidelines where applicable.

(8) The Concessioner must not construct or install real property improvements as defined in the regulations (including, without limitation, Capital Improvements) as part of Maintenance or otherwise except in compliance with all terms and conditions of the Contract, including without limitation, the provisions of Exhibits A and F.

(9) The Concessioner must comply with the Repair and Maintenance Reserve procedures and requirements set forth in Exhibit F to the Contract prior to and after expending Repair and Maintenance Reserve funds.

(10) The Concessioner may perform emergency repairs without prior Service approval as long as appropriate documentation follows within one business day.

B) **Environmental, Historic, and Cultural Compliance**

(1) Certain Maintenance actions may be subject to compliance procedures under the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and other Applicable Laws.

(2) Any proposed Maintenance actions that require review under these procedures must be submitted to the Service by the Concessioner in the format required.

(3) The Concessioner may be required to prepare an environmental assessment, environmental impact statement, or related documents at its expense for certain Maintenance actions. The Service will assist the Concessioner on proper process and procedure.

4) Maintenance Tracking

(1) The Concessioner must schedule and track completion of all of the Concessioner's Maintenance actions and associated expenditures in an electronic format acceptable to the Service that is capable of effectively providing the Service the Maintenance information required by this Maintenance Plan.

(2) The Concessioner must provide the Service with requested Maintenance information on a frequency determined by the Service in an electronic format defined by the Service. This information may include, but is not limited to: (1) outstanding Deferred, Recurring, Preventive, scheduled, and unscheduled Maintenance and Component Renewal by Asset; and (2) budgeted and actual expenditures by Asset for Deferred, Recurring, Preventive, scheduled, and unscheduled Maintenance and Component Renewal. The Service, in consultation with the Concessioner, will define the specific requirements for providing requested information, including data export formats, required fields, and data structure.

5) Concessioner Inspections

The Concessioner must conduct annual inspections of Concession Facilities to determine compliance with this Maintenance Plan and to develop future Maintenance requirements.

6) Annual Concessioner Maintenance Plan (ACMP)

The Concessioner must provide the Service on an annual basis (for Service review and approval) a proposed Annual Concessioner Maintenance Plan for the next calendar year applicable to all Concession Facilities. The Concessioner must deliver the proposed revised ACMP to the Service on or before February 1. The ACMP must include the following information.

A) **Maintenance Action Information**

The ACMP must include the following Maintenance action information:

(1) Preventive Maintenance. The proposed ACMP must include PM actions, procedures and schedules that ensure proper Preventive Maintenance of all Concession Facilities. At a minimum, the PM actions, procedures and schedules must include summary procedures for each Asset, including, but not limited to, roofs, building envelopes, and mechanical equipment.

(2) Recurring Maintenance. The ACMP must include Recurring Maintenance actions, procedures and schedules for Recurring Maintenance to be performed.

(3) Scheduled Repair. The proposed ACMP must include actions, plans and procedures for scheduled Repair of Concession Facilities.

(4) Unscheduled Repair. The ACMP must include a service call procedure and method to prioritize service calls for unscheduled Repairs.

(5) Component Renewal/Replacement. The proposed ACMP must include actions, plans and procedures for Component Renewal/Replacement.

(6) A description of the Deferred Maintenance (and any resulting Deficiencies) that are to be cured under the terms of the proposed ACMP.

(7) Inspection plans and procedures that demonstrate how the Concessioner will oversee the conduct of Maintenance during the next calendar year.

B) **Projected Maintenance Expenditures**

The ACMP must also include the Concessioner estimated expenditures associated with the proposed ACMP, including, without limitation, a breakout of labor, materials, contracted services, and indirect costs on an Asset basis applicable to each Maintenance category set forth above.

7) Annual Concessioner Maintenance Reporting (ACMR)

The Concessioner must provide the Service with an Annual Concessioner Maintenance Report that covers all Concession Facilities and presents the Maintenance accomplished during the previous calendar year. The Concessioner must deliver the report to the Service on or before February 1. The ACMR must include the following elements:

A) **Maintenance Actions**

The ACMR must include a summary of all Maintenance actions by applicable Asset and Maintenance category that were completed in the previous calendar year, including, without limitation, actions to cure Deferred Maintenance (and any resulting Deficiencies).

B) **Maintenance Expenditures**

The ACMR must include the Concessioner's expenditures associated with Maintenance by applicable Asset and Maintenance category for the previous calendar year, including, without limitation, expenditures to cure Deferred Maintenance (and any resulting Deficiencies).

8) Repair and Maintenance Reserve Plans and Reports

In addition to applicable Repair and Maintenance Reserve expenditure approval requirements set forth in Exhibit F to the Contract, the Concessioner must provide the Service with the following plans and reports:

A) **Multiyear Repair and Maintenance Reserve Plan**

The Concessioner must provide the Service (for review and approval) with a Multiyear Repair and Maintenance Reserve Plan that covers all Concession Facilities. The Concessioner must update the plan as requested by the Service but no less frequently than once per year. The Concessioner must deliver the plan to the Service on or before February 1. The plan must include

(1) A forecast, by year, of projects that will use Repair and Maintenance Reserve funds for the next five years, or over the remaining life of the Contract, whichever is shorter.

(2) The plan must provide for expenditure of all funds the Concessioner must deposit into the Repair and Maintenance Reserve prior to the expiration of the Contract.

B) **Repair and Maintenance Reserve Status Reports**

The Concessioner must submit a monthly report on the status of projects funded by the Repair and Maintenance Reserve by the 15th of each month and a summary report by May 30.

9) Personal Property Report

The Concessioner must provide the Service with a planned Personal Property replacement, rehabilitation, and repair schedule through June 30 by March 31 for review and approval of the Service. The plan must include the specifications, item description, estimated date of replacement, estimated replacement cost, expected life of replacement property, and expected salvage value of replaced Personal Property at time of replacement.

10) Service Responsibilities

Nothing in this Maintenance Plan will be construed as requiring the Service to conduct Maintenance of Concession Facilities of any kind except as otherwise expressly stated by the terms of this Maintenance Plan. Part B of this Maintenance Plan may describe certain Service responsibilities for particular elements of Maintenance of Concession Facilities. Any approval or consent given by the Service, whether of any plan, permit, report, inspection, or otherwise, under this Maintenance Plan does not relieve the Concessioner or the Concessioner's contractors of any responsibility for any errors or omissions or from the responsibility to comply with the requirements of this Maintenance Plan or the Contract.

A) **Inspections**

The Service from time to time (as determined necessary by the Service but no less than annually) will inspect the condition of Concession Facilities and the progress and quality of Maintenance activities. The Concessioner must provide qualified personnel to accompany the Service when a Concession Facilities inspection is performed.

B) **Evaluation of Concessioner Maintenance**

The Service will provide the Concessioner with an annual evaluation of Concession Facilities. The evaluation will be provided to the Concessioner as a record of Concession Facilities condition documenting the Concessioner's compliance with its obligation to perform all necessary Maintenance, including, without limitation, Annual Concessioner Maintenance Plan (ACMP) actions. The findings and results of the evaluation will become part of the basis of evaluating Concessioner performance under the "NPS Concessioner Annual Overall Rating" program.

PART B – PARK REQUIRED CONCESSIONER RESPONSIBILITIES

1) Concessioner Responsibilities

A) Office Structure

(1) The concessioner must maintain and repair its personal property structure in good condition including all interior and exterior surfaces, unless required more frequently per the manufacturer's recommendations, the structure must be painted or stained on a regular cycle of three (3) years, unless written Service approval is given to postpone the activity. The concessioner must obtain prior written approval from the Service for any changes to interior and exterior finishes from the color range or types of materials currently in use on the structure.

(2) The concessioner must provide and maintain in a serviceable condition all interior safety equipment, such as smoke detectors, fire extinguishers, and other appurtenances as necessary for the protection of the public and the concession facilities.

B) Grounds and Landscaping

(1) The concessioner must keep all grounds within the concession facilities well maintained, properly illuminated, uncluttered, and free of litter and debris. Vegetation - The concessioner must perform all mowing, weeding, trimming, watering, and other activities related to turf and vegetation care. The concessioner must request prior written approval from the Service for the use of any chemicals, fertilizer, pesticides, or herbicides prior to use.

(2) Landscaping Changes - The concessioner must request prior written approval from the Service for any proposed landscaping work that will change, alter, or modify the grounds.

C) Roads, Parking Areas, and Walkways

(1) The concessioner must maintain all walkways within the concession facilities in good condition.

(2) The concessioner must keep all roads, parking areas, and walkways within the concession facilities in good condition including sweeping, erosion control, and snow removal (the latter only if snow occurs during concessioner's operating season). All walking surfaces, including roads and parking areas, must be clean and swept free of debris, obstacles, or other hazards.

D) Docks, Ramps, and other Marina Facilities

(1) The concessioner must maintain the dock surface, flotation, and ramps in good repair, level, properly positioned, and secured. Docks must be sturdy, free of large cracks, uneven or broken planks, etc. The concession must maintain the railings in good repair and compliant with National Building Officials and Code Administrators, International, Inc. (BOCA) Code.

E) Signs

(1) The concessioner must install, maintain, and replace all interior and exterior signs relating to its operations and services within the concession facilities. Examples of this responsibility are signs identifying the location of functions (when attached to concession facilities or on grounds assigned to the concessioner), signs identifying operating services and hours, and signs identifying the concessioner's rules or policies.

(2) The concessioner must ensure signage is appropriately located, accurate, attractive and well maintained. The concessioner must replace any signs that have been defaced or removed within seven (7) days. Signs that address a life safety issue must be replaced immediately with a professional looking temporary sign pending the permanent replacement within seven (7) days.

(3) The concessioner must ensure that its signs comply with Service sign standards including but, not limited to, director's Order #52, Park Signage. The concessioner must submit plans for all new sign installations to the Service for approval before installation. The concessioner must not use handwritten or typed signs within concession facilities without written Service approval.

F) Utilities

(1) Electrical: The concessioner must maintain all electrical lines and equipment and all fixtures, including street lamps, within the concession facilities. The concessioner must ensure that all electrical circuits under its control meet or exceed the standards of the National Electric Code.

(2) All electrical work or rewiring of existing facilities must be inspected at the concessioner's expense, and the inspector must certify to the Service that the installation meets code.

2) Service Responsibilities

A) Grounds and Landscaping

(1) The Service will trim trees and remove hazardous trees during the term of this contract as necessary.

B) Signs

(1) The Service will provide and maintain regulatory, traffic control, or information signs that serve the interest of the Service; examples include information signs along roadways, directional signs along trails, and interpretive signing..

PART C – CONCESSIONER ENVIRONMENTAL RESPONSIBILITIES

The following Concessioner environmental responsibilities are specified for Maintenance. Park-required Concessioner responsibilities provided in Part B may provide more specific and/or additional environmental requirements. When in conflict, responsibilities described in Part B supersede those identified in this part.

1) General

A) **Air Quality**

(1) The Concessioner must minimize impacts to air quality in Maintenance under this Contract through the use of appropriate control equipment and practices.

(2) The Concessioner must use diesel fuel/heating oil containing no more than 500 parts per million (ppm) sulfur (i.e., low sulfur fuel).

(3) The Concessioner must obtain Service approval to use halon fire suppression systems.

B) **Environmentally Preferable Products, Materials and Equipment**

(1) The Concessioner must use products, materials and equipment that are Environmentally Preferable where feasible in maintenance. Environmentally Preferable maintenance related products, materials and equipment include but are not limited to re-refined oils, re-tread tires, bio-based lubricants, low-toxicity cleaners and chemical additives for toilets, low-toxicity and recycled antifreeze, safe alternatives to ozone-depleting substances for HVAC equipment, construction and building materials with recycled content, and alternative fuel vehicles.

(2) The Concessioner must use polystyrene as little as possible and may not use polystyrene that contains chlorofluorocarbons.

C) **Hazardous Substances**

(1) The Concessioner must minimize the use of Hazardous Substances for Maintenance purposes under this Contract where feasible.

(2) The Concessioner must provide secondary containment for Hazardous Substances storage where there is a reasonable potential for discharge to the environment. At a minimum, the Concessioner must provide secondary containment for Hazardous Substances located in outside storage areas, in interior storage areas in the proximity of exterior doorways or floor drains, on docks and on vessels.

(3) All flammable Hazardous Substances materials must be stored in UL approved flammable storage cabinets, rooms or buildings as defined by the National Fire Prevention Association.

(4) The Concessioner must provide an inventory of Hazardous Substances to the Service annually in accordance with Section 6(d)(1) of the Contract. The inventory must identify each substance, location and amounts stored.

D) **Hazardous, Universal and Other Miscellaneous Maintenance Wastes**

(1) The Concessioner must minimize the generation of Hazardous Waste, Universal Waste and miscellaneous maintenance waste where feasible.

(2) The Concessioner must recycle Hazardous Waste, Universal Waste, and miscellaneous maintenance wastes, where feasible, including but not limited to, used oil, used oil contaminated with refrigerant, used solvents, used antifreeze, paints, used batteries, and used fluorescent lamps (including CFLs).

(3) Concessioner must obtain approval from the Service for Hazardous Waste, Universal Waste, and miscellaneous maintenance waste storage area siting and designs.

(4) The Concessioner must address Hazardous Waste, Universal Waste and other maintenance wastes in its inventory of waste streams which is required annually in accordance with Section 6(d)(1) of the Contract. The inventory must identify each waste type, locations stored, amount generated annually, amount typically generated per month and amount typically stored on site at any one time.

(5) The Concessioner must follow small quantity generator (CESQG) requirements as defined in federal regulations, related to container labeling, storage, accumulation times, use of designated disposal facilities, contingency planning, training, and recordkeeping.

(6) The Concessioner must manage Universal Waste (i.e., storage, labeling, employee training, and disposal) in accordance with federal universal waste regulations irrespective of hazardous waste generator status.

E) **Pest Management**

(1) The Concessioner must eradicate any pest infestation in personal or other property and in all Concession Facilities, including infestation that requires fumigation/tenting for termites or other pests.

(2) The Concessioner must conduct pesticide management activities in accordance with NPS Integrated Pest Management (IPM) procedures contained in NPS 77 and the Park IPM Plan.

(3) The Concessioner must obtain Service approval to control pests utilizing chemicals or by other means. The Concessioner must submit by January 15 of each calendar year a pesticide request form requesting approval of anticipated pesticide use and a Pesticide Use Log which tracks the pesticide use for the current year.

(4) The Concessioner must obtain Service approval for pesticide storage area siting and design.

(5) The Concessioner must obtain Service approval to use contracted pesticide applicators.

F) **Solid Waste**

(1) Litter Abatement

(a) The Concessioner must develop, promote and implement a litter abatement program.

(b) The Concessioner must keep all Concession Facilities free of litter, debris, and abandoned equipment, vehicles, furniture, and fixtures.

G) **Solid Waste Storage and Collection and Disposal**

(1) The Concessioner must provide, at its own expense, an effective system for the collection, storage and disposal of Solid Waste generated by its facilities and services as well as the Solid Waste generated by the visiting public at its facilities.

(2) To prevent pest attraction and breeding, all Solid Waste from the Concessioner's operations must be adequately bagged, tied and stored in sealed containers.

(3) Solid Waste collection and disposal must be conducted on a schedule approved by the Service, on a frequency as necessary to prevent the accumulation of waste.

(4) Solid Waste that is not recycled must be properly transported and disposed of at an authorized sanitary landfill or transfer station.

(5) The Concessioner must obtain Service approval for any contracted Solid Waste services.

(6) Solid Waste Receptacles

(a) The Concessioner must locate its Solid Waste containers (i.e., cans, "roll-off" containers/dumpsters, etc.) conveniently and in sufficient quantity to handle the needs of its operations. The Concessioner must not allow waste to accumulate in containers to the point of overflowing.

(b) Outdoor receptacles must be waterproof, vermin-proof, and covered with working lids. Indoor receptacles should be similarly constructed based on use (i.e., food waste versus office trash).

(c) The Concessioner must keep its receptacles clean, well maintained, painted in Service-approved colors, and serviceable; containers must be clearly signed; sites must be free of spills, waste, and odors. All Solid Waste containers must remain closed when containers are not in use.

(d) Concessioner bulk Solid Waste storage/accumulation facilities must be screened from the public.

H) **Solid Waste Source Reduction and Recycling**

(1) The Concessioner must implement a source reduction program designed to minimize its use of disposable products in its operations. Purchase and reuse of materials is encouraged where feasible as the first choice in source reduction.

(2) The Concessioner must reuse materials where allowable under Applicable Laws where the collection of the materials will not present public health, safety or environmental concerns. Opportunities include the reuse of retail product packaging.

(3) The Concessioner must develop, promote and implement a recycling program that fully supports the efforts of the Service for all Park specified materials. These include but may not be limited to paper,

newsprint, cardboard, bimetals, plastics, aluminum and glass. The plan must address large items such as computers and other electronics, white goods and other bulky items.

(4) The Concessioner must make recycling receptacles available to the public and Concession employees.

(5) Recycling containers must be waterproof, vermin-proof and covered with working lids as necessary to maintain the quality of the recyclables for market and to prevent vermin from being attracted to the recycling containers. Containers must be clearly signed; sites must be free of spills, waste, and odors. Lids must be provided with openings or holes sized to limit the types of materials deposited and to minimize contamination in recycling containers.

(6) The Concessioner must remove all recyclables from the Area and transport them to an authorized recycling center. The Service must approve any recycling services contracted with an independent vendor.

(7) Solid Waste Inventory. The Concessioner must address Solid Waste in its inventory of waste streams, which is required annually in accordance with Section 6(d)(1) of the Contract. The inventory must identify waste types including trash, each category of recyclables, green waste, construction debris, and other Solid Waste streams. The inventory must specify amount generated by weight, annually.

I) **Water and Energy Efficiency**

(1) The Concessioner must consider water and energy efficiency in all facility management practices and integrate water-conserving and energy conserving measures whenever feasible.

(2) In addition to meeting standards established in accordance with Applicable Laws, Concession Facilities equipment and practices must be consistent with water and energy efficiency standards established for federal facilities and operations where feasible. All new equipment must meet Energy Star standards where feasible.

(3) Where feasible, the Concessioner must replace incandescent light fixtures with energy conserving fixtures.

(4) As new technologies are developed, the Concessioner must assess these opportunities and integrate them into existing operations where feasible and when there is the potential for increased efficiency, reduced water or energy consumption, or reduced impacts on the environment.

J) **Wastewater**

(1) The Concessioner must minimize impacts to water quality in maintenance under this Contract through the use of appropriate control equipment and practices.

(2) The Concessioner must prevent discharges to the sanitary sewer system that could result in pass through of contaminate or that could interfere with the operation of the sanitary wastewater treatment system.

(3) The Concessioner must maintain assigned wastewater treatment systems on a frequency adequate to ensure proper operation to maintain wastewater quality. The Concessioner must maintain maintenance log for this wastewater treatment equipment which must be made available to the Service upon request.

(4) The Concessioner must minimize the storage of equipment and materials in the Concession Facilities in a manner that would cause storm water contamination (i.e., storage outside without weather protection).

PART D – CONCESSIONER REPORTING RESPONSIBILITIES

1) General

The following chart summarizes the plan and reporting dates established by Parts A, B and C of this Maintenance Plan.

Report or Plan	Schedule	Due Date
Part A – Annual Concessioner Maintenance Plan (ACMP)		February 1
Part A – Annual Concessioner Maintenance Reporting (ACMR)		February 1
Personal Property Report		February 1

EXHIBIT I

INSURANCE REQUIREMENTS

SEC. 1. INSURANCE REQUIREMENTS

The Concessioner shall obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. No act of the Concessioner, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Service. The Concessioner must ensure that its insurance carriers provide the Service, solely for the benefit of the Service, **an unconditional 30 days advance notice** of cancellation in coverage or policy terms for all property insurance. The Concessioner must provide the Service with a 30-day notice of cancellation on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Concessioner's responsibility or liability under the Contract, but rather an indication as to the minimum types, amounts, and scope of insurance that the Service considers necessary to allow the operation of the concession at the Area. Nevertheless, if the Concessioner purchases insurance in addition to the limits set forth herein, the Service will receive the benefit of the additional amounts of insurance without cost to the Service.

SEC. 2. LIABILITY INSURANCE

The Concessioner must maintain the following minimum liability coverages, all of which, unless noted herein, are to be written on an occurrence form of coverage. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with excess or umbrella liability as explained below.

(a) Commercial General Liability

(1) The Concessioner must obtain coverage for bodily injury, property damage, contractual liability, personal and advertising injury liability, and products and completed operations liability. The Concessioner must provide the following minimum limits of liability:

General Aggregate	$5,000,000
Products and Completed Operations Aggregate	$5,000,000
Per Occurrence	$5,000,000
Personal and Advertising Injury Liability	$5,000,000
Medical Payments	$5,000
Damage to Premises Rented to You	$5,000

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

Athletic or Sports Participants
Products/Completed Operations
Personal & Advertising Injury exclusion or limitation
Contractual Liability
Explosion, Collapse and Underground Property Damage exclusion
Total Pollution exclusion

(3) Pollution liability insurance coverage must be included for injuries resulting from smoke, fumes, vapor, or soot, or other contaminants arising from equipment used to heat the building or from a hostile fire.

(4) If the policy insures more than one location, the general aggregate limit must be amended to apply separately to each location.

(b) Automobile Liability

The Concessioner must provide coverage for bodily injury and property damage arising out of the ownership, maintenance or use of "any auto," Symbol 1, including garage operations for products and completed operations. Where there are no owned autos, coverage will be provided for "hired" and "non-owned" autos, "Symbols 8 & 9." Garage-keepers' liability is to be included on a "direct" basis for all Concessioner operations handling, parking or storing automobiles owned by others for a fee.

Combined Single Limit Each Accident	$1,000,000

(c) Excess Liability or Umbrella Liability

The Concessioner may use an Excess or Umbrella Liability policy to achieve the commercial general liability and automobile liability limits set forth above. The limit of liability under the excess policy must be in an amount that together with the subordinate policy meets the minimum limit of liability required.

The Concessioner is not required to provide excess liability or umbrella liability coverage, but may use it to supplement any insurance policies obtained to meet the minimum requirements of the Contract. If maintained, the Concessioner will provide coverage for bodily injury, property damage, personal injury, or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Umbrella Liability policy.

(d) Liquor Liability (Not Applicable)

The Concessioner must provide coverage for bodily injury and property damage including damages for care, loss of services, or loss of support arising out of the selling, serving, or furnishing of any alcoholic beverage.

Each Common Cause Limit	$ 0
Aggregate Limit	$ 0

(e) Watercraft Liability (or Protection and Indemnity) (if applicable)

The Concessioner must provide coverage for bodily injury and property damage arising out of the use of any watercraft.

Each Occurrence Limit	$ 5,000,000

Marina liability shall be maintained at the same each occurrence limit if the Concessioner operates a marina.

Tower's liability shall be maintained at the same each occurrence limit if the Concessioner tows or transports non-owned vessels by water.

(f) Marina Operator's Legal Liability

Coverage will be provided for damage to property in the care, custody or control of the Concessioner.

Any One Loss	$ 1,000,000

(g) Environmental Impairment Liability

The Concessioner will provide coverage for bodily injury and property damage arising out of pollutants or contaminants on-site and off-site and for cleanup.

Each Occurrence or Each Claim Limit	$ 1,000,000
Aggregate Limit	$ 5,000,000

(h) Aircraft Liability (Not Applicable)

The Concessioner must provide coverage for bodily injury (including passengers) and property damage arising out of the use of any aircraft.

Each Person Limit	$ Not Applicable
Property Damage Limit	$ Not Applicable
Each Accident Limit	$ Not Applicable

The Concessioner must maintain airport liability insurance at a limit of at least [$ Click here to enter text.] if the Concessioner maintains landing facilities for use by third parties. Hangerkeeper's liability shall be maintained at a limit sufficient to cover the maximum estimated value of non-owned aircraft in the Concessioner's care, custody or control if the Concessioner provides aircraft storage to third parties.

(i) Garage Liability (Not Applicable)

This coverage is required for any operations in which the Concessioner services, handles or repairs automobiles owned by third parties. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability arising out of garage operations (including products/completed operations and contractual liability) as well as bodily injury and property damage arising out of the use of automobiles.

Each Accident Limit - Garage Operations (Other than Covered Autos)	$ Not Applicable
Aggregate Limit-Garage Operations	$ Not Applicable
Covered Auto Limit (each accident)	$ Not Applicable
Garagekeepers Liability	$ Not Applicable
Personal Injury Protection (or equivalent no-fault coverage)	$ Not Applicable
Uninsured Motorists	$ Not Applicable
Personal & Advertising Injury Limit	$ Not Applicable
Fire Legal Liability "per fire"	$ Not Applicable

If owned vehicles are involved, liability coverage should be applicable to "any auto" ("Symbol 21"), otherwise coverage applicable to "hired" and "non-owned" autos ("Symbols 28 & 29") should be maintained.

(j) Care, Custody and Control – Legal Liability, i.e. Innkeeper's Legal Liability (Not Applicable)

Coverage will be provided for damage to property in the care, custody or control of the Concessioner.

Any one Guest	$ Not Applicable
Any One Loss	$ Not Applicable

(k) Professional Liability, e.g. dive instructor, massage therapist (Not Applicable)

The Concessioner must maintain, or cause professionals working on its behalf to maintain, professional liability insurance for all professional services provided by or on behalf of the Concessioner.

Each Occurrence Limit	$ Not Applicable

Aggregate Limit $ Not Applicable

(l) Special Provisions for Use of Aggregate Policies

The general aggregate under the Commercial General Liability policy must apply on a "per location" basis. The Certificate of Insurance required herein will note compliance with this aggregate provision.

(m) Deductibles/Self-Insured Retentions

The Concessioner's self-insured retentions or deductibles on any of the above described liability insurance policies (other than umbrella liability, environmental impairment liability or professional liability, if maintained) may not exceed $5,000 without the prior written approval of the Director. Deductibles or retentions on umbrella liability, environmental impairment liability and professional liability may be up to $25,000.

(n) Workers' Compensation and Employers' Liability

The Concessioner must obtain coverage that complies with the statutory requirements of the state(s) in which the Concessioner operates. The employer's liability limit will not be less than as required by law.

If the Concessioner's operations include use of watercraft on navigable waters and employ persons in applicable positions, a Maritime Coverage Endorsement must be added to the Workers' Compensation policy, unless coverage for captain and crew is provided in a Protection and Indemnity policy.

If Concessioner operations are conducted in proximity to navigable waters and employ persons in applicable positions, United States Longshore and Harbor Workers' Compensation Act coverage must be endorsed onto the Workers' Compensation policy.

SEC. 3. PROPERTY INSURANCE

(a) Building(s) and Contents Coverage

Amount of insurance (buildings): Full replacement value as listed in Exhibit D without deduction.

Amount of insurance (contents): Full replacement value without deduction.

Amount of insurance (inventory): Full replacement value without deduction.

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

(2) Coverage shall apply on an "all risks" or "special coverage" basis and shall include earthquake coverage if the Concession Facilities are located within Seismic Zones 3 or 4.

(3) The policy shall provide for loss recovery on a replacement value basis without deduction.

(4) The amount of insurance must represent no less than 100% of the replacement cost value of the insured property. The Concessioner must insure inventory for 100% of the replacement cost of the products held for sale.

(5) The vacancy restriction and unoccupied restriction, if any, must be eliminated for all property that will be vacant beyond any vacancy or unoccupied time period specified in the policy.

(6) The Concessioner must maintain flood coverage at least at the maximum limit available in the National Flood Insurance Program (NFIP) or the total replacement cost of the property, whichever is less, if the Concession Facilities are partially or fully within a Special Flood Hazard Area (Flood Zones A or V as identified by the Federal Emergency Management Agency).

(7) The Concessioner must maintain earthquake coverage (if applicable) at the maximum limit available not to exceed 100% replacement value, without a deductible greater than 5% of the property value, or its equivalent in whole dollars.

(8) The coinsurance provision, if any, shall be waived or suspended by an agreed amount clause.

(9) The Concessioner must provide coverage on a blanket basis for real and personal property.

(10) Ordinance or law, demolition, and increased cost of construction. The Concessioner must maintain coverage with a limit of not less than 20% of the building replacement costs listed in Exhibit D, each for the increased cost of construction and for the cost to replace the undamaged portion of a building ordered torn down by the appropriate authorities.

(b) Boiler and Machinery/Equipment Breakdown Coverage

(1) Insurance shall apply on the comprehensive basis of coverage including all objects within the Concession Facilities.

(2) The policy shall provide a limit at least equal to the full replacement cost for all covered objects in the highest valued Concession Facilities location, plus 20% on a replacement cost basis.

(3) No coinsurance clause shall apply.

(4) The Concessioner must provide coverage on a blanket basis.

(5) If insurance is written with a different insurer than the building(s) and contents insurance, both the property and boiler insurance policies must be endorsed with a joint loss agreement.

(6) The Concessioner must maintain ordinance or law, demolition, and increased cost of construction coverage.

(c) Inland Marine Coverage

(1) Insurance shall apply to all boats, office trailers, equipment, storage racks and docks owned or rented by the insured, unless otherwise covered by building and contents coverage or provided for as part of a Watercraft Liability (or Protection and Indemnity) policy.

(2) Coverage shall apply to direct damage to covered property.

(3) The Concessioner must maintain flood coverage and earthquake coverage as described above.

(4) The Concessioner must maintain coverage while covered property is in transit or away from the insured's premises.

(5) No coinsurance clause shall apply.

(d) Builders Risk Coverage

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

(2) Coverage shall apply on an "all risks" or "special coverage" basis.

(3) The policy shall provide for loss recovery on a replacement cost basis.

(4) The amount of insurance should represent no less than 100% of the replacement value of the property in the process of construction.

(5) No coinsurance clause shall apply.

(6) Any occupancy restriction must be eliminated.

(7) Any collapse exclusion must be eliminated.

(e) Business Interruption and/or Expense

Business interruption insurance is required on all property polices, and Boiler and Machinery policies. Business interruption insurance and extra expense insurance covers the loss of income and continuation of fixed expenses in the event of damage to or loss of any or all of the Concession Facilities. Extra expense insurance covers the extra expenses above normal operating expenses to continue operations in the event of damage or loss to covered property. The Concessioner must calculate the minimum coverage provided as follows:

Anticipated annual gross revenue from operations	$_____
Less non-continuing expenses	($_____)
Annual Total	$_____
Divided by 12 Times the number of months estimated to rebuild or repair the Concession Facilities	$_____
Minimum Coverage	$_____

(f) Deductibles

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

(1) Direct damage deductibles shall not exceed the lesser of 10% of the amount of insurance or $50,000 (except flood coverage and earthquake coverage may be subject to deductibles not exceeding 5% of the property value for flood, windstorm and earthquake).

(2) Extra expense deductibles (when coverage is not combined with business interruption) shall not exceed $50,000.

(g) Required Clauses

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

"In accordance with Concession Contract No. ___ dated ___, between the United States of America and Buzzard Point Corporation payment of insurance proceeds resulting from damage or loss of structures insured under this policy is to be disbursed directly to the Concessioner without requiring endorsement by the United States of America, unless the damage exceeds $1,000,000."

SEC. 4. CONSTRUCTION PROJECT INSURANCE

Concessioners entering into contracts with outside contractors for various construction projects, including major renovation projects, rehabilitation projects, additions or new structures must ensure that all contractors retained for such work maintain an insurance program that adequately covers the construction project.

The insurance maintained by the construction and construction-related contractors shall comply with the insurance requirements stated in the Contract including this Exhibit (for commercial general liability, automobile liability, Workers' Compensation and, if professional services are involved, professional liability). Except for Workers' Compensation insurance, the interests of the Concessioner and the United States shall be covered in the same fashion as required in the commercial operator Insurance requirements. The amounts and limits of the required coverages shall be determined in consultation with the Director taking into consideration the scope and size of the project.

SEC. 5. INSURANCE COMPANY MINIMUM STANDARDS

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

(1) All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

(2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

SEC. 6. THIRD PARTY INSURANCE

Concessioners entering into contracts with third parties for various services or activities that the Concessioner is not capable of providing or conducting, must ensure that each third party retained for such work maintain an insurance program that adequately covers the activity and comply with all the requirements applicable to that party's own insurance.

SEC. 7. CERTIFICATES OF INSURANCE

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

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

In addition to providing certificates of insurance, the Concessioner, upon written request of the Director, shall provide the Director with a complete copy of any of the insurance policies (and all endorsements thereto) required herein to be maintained by the Contract including this Exhibit.

The certificate of insurance shall contain a notation by the Concessioner's insurance representative that the insurance coverage represented therein complies with the provisions of the Contract, including this Exhibit.

SEC. 8. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the Concessioner must maintain the higher statutorily required limit, which shall be considered as the minimum to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein apply.

EXHIBIT J
TRANSITION TO A NEW CONCESSIONER

SEC 1. GENERAL

The Director and the Concessioner hereby agree that, in the event of the expiration or termination of this Contract for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessioner is not to continue the operations authorized under this Contract after the Termination Date, the Director and the Concessioner in good faith will fully cooperate with one another and with the new concessioner or concessioners selected by the Director to continue such operations ("New Concessioner" for purposes of this exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to Area visitors and minimize transition expenses.

SEC. 2. COOPERATION PRIOR TO THE TERMINATION DATE

At such time as the Director may notify the Concessioner that it will not continue its operations upon the Termination of this Contract, the Concessioner, notwithstanding such notification, shall undertake the following tasks.

(a) Continue Operations

The Concessioner shall continue to provide visitor services and otherwise comply with the terms of the Contract in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously with a view to maintaining customer satisfaction.

(b) Continue Bookings

(1) The Concessioner shall continue to accept all future bookings for any hotel, lodging facilities, or other facilities and services for which advance reservations are taken. The Concessioner shall not divert any bookings to other facilities managed or owned by the Concessioner or any affiliate of the Concessioner. The Concessioner shall notify all guests with bookings for any period after the Termination Date that the New Concessioner will operate the facilities and services.

(2) Promptly following notification to the Concessioner by the Director of the selection of the New Concessioner, the Concessioner shall provide the New Concessioner with a copy of Concessioner's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessioner. The Concessioner thereafter shall update such log on a periodic basis (but no less frequently than 30 days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest's address, contact information, dates of stay, rate quoted, amount of advance deposit received, and confirmation number, if applicable.

(c) Designating a Point of Contact and Other Actions

(1) The Concessioner shall designate one of the Concessioner's executives as the point of contact for communications between the Concessioner and the New Concessioner.

(2) The Concessioner shall provide the New Concessioner with access to all Concession Facilities, including "back-of-house areas". The Concessioner also shall provide the New Concessioner copies of the keys to all Concession Facilities.

(3) The Concessioner shall provide the Director and the New Concessioner full access to the books and records, licenses, and all other materials pertaining to all Concession Facilities and the Concessioner's operations in general.

(4) The Concessioner shall provide the Director and the New Concessioner with copies of all maintenance agreements, equipment leases (including short-wave radio), service contracts, and supply contracts,

including contracts for on-order merchandise (collectively "contracts"), and copies of all liquor licenses and other licenses and permits (collectively "licenses").

(5) The Concessioner shall allow the New Concessioner to solicit and interview for employment all of the concessioner's salaried and hourly employees, including seasonal employees, through a coordinated process implemented by the Concessioner.

(6) The Concessioner shall not enter into any contracts or agreements that would be binding on any Concession Facilities or concession operations in general after the Termination Date without the prior written agreement of the New Concessioner.

(d) Financial Reports

Within 30 days after receipt of the notification of the selection of the New Concessioner, The Concessioner shall provide the New Concessioner with a financial report with respect to the operation of the Concession Facilities and the Concessioner's operations in general as of the last day of the month prior to receipt of such notification. The Concessioner, thereafter, shall update such financial report on a periodic basis (but no less frequently than 30 days) until the Termination Date. Such financial report shall include, at a minimum: a balance sheet for the Concession Facilities, if any; a schedule of pending accounts payable; and a schedule of pending accounts receivable.

(e) Personal Property List

The Concessioner shall provide the New Concessioner with a complete, detailed, and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Concessioner in connection with its operations under the Contract (including a list of such items that are on order) The Concessioner must provide the list to the New Concessioner within 30 days following receipt of the notification of the selection of the New Concessioner. The Concessioner, thereafter, shall update the list on a monthly basis. The Concessioner shall designate those items that the Concessioner believes are essential to maintaining the continuity of operations or the special character of the concession operations. The Concessioner shall assist the New Concessioner in reviewing and validating the list.

(f) Other Information and Reports

The Concessioner shall provide the New Concessioner with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessioner's operations for the period of one year prior to notification of the selection of the New Concessioner. The Concessioner must also provide complete information on the following to the New Concessioner: utilities, including gas and electric; telephone service; water service; and specific opening and closing procedures. The Concessioner must provide all such information within 30 days after receipt of notification of the selection of the New Concessioner and update the information periodically (but no less frequently than 30 days) until the Termination Date.

(g) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

SEC. 3. COOPERATION UPON THE TERMINATION DATE

Upon the Termination Date, the Concessioner shall undertake the following activities.

(a) Transfer of Contracts and Licenses

The Concessioner shall cooperate with the transfer or assignment of all contracts and licenses entered into by the Concessioner that the New Concessioner elects to assume.

(b) Reservation Systems

The Concessioner shall cooperate with the transfer of reservation information by:

(i) Providing the New Concessioner with an update of the reservation log through the Termination Date;

(ii) Disconnecting its operations from the Concessioner's centralized reservation system, if any; and

(iii) Assisting the New Concessioner in transitioning to the New Concessioner's reservation system.

(c) Fees and Payments

No later than 10 days after the Termination Date, the Concessioner shall provide the Director with an itemized statement of all fees and payments due to the Director under the terms of the Contract as of the Termination Date, including, without limitation, all deferred, accrued, and unpaid fees and charges. The Concessioner, within 10 days of its delivery to the Director of this itemized statement, shall pay such fees and payments to the Director. The Concessioner and the Director acknowledge that adjustments may be required because of information that was not available at the time of the statement.

(d) Access to Records

The Concessioner shall make available to the Director for the Director's collection, retention, and use, copies of all books, records, licenses, permits, and other information in the Concessioner's possession or control that in the opinion of the Director are related to or necessary for orderly and continued operations of the related facilities and services, notwithstanding any other provision of this Contract to the contrary.

(e) Removal of Marks

The Concessioner shall remove (with no compensation to Concessioner) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessioner within 30 days after Termination.

(f) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.