

PART 6 – DRAFT CONCESSION CONTRACT

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION

CONCESSION CONTRACT

*Marinas, Lodging, Food & Beverage, Retail Sales and
Associated Facilities and Services*

at

LAKE BERRYESSA

Reclamation's Concession Contract No. _____

Doing Business As: _____

Covering the Period _____ **through** _____

IDENTIFICATION OF THE PARTIES

THIS Concession Contract is made and entered into by and between the United States of America, acting, through the Regional Director, Mid Pacific Region, Bureau of Reclamation, hereinafter referred to as “Reclamation” or “Contracting Officer” and the (name of offeror, type of business and state of organization.) authorized to do business in the State of California, hereinafter referred to as the “Concession Contractor”.

WITNESSETH

WHEREAS, Reclamation has determined that certain facilities and services are necessary and appropriate for the public use and enjoyment of the concession area, and the Concession Contractor is willing to provide such facilities and services; and

WHEREAS, Reclamation is willing to allow the Concession Contractor an opportunity to operate facilities and provide related services within the concession areas at the Reclamation approved rates that the Concession Contractor has determined are sufficient to create a reasonable opportunity to recover the necessary investment costs, operating costs and realize a profit over the term of the Concession Contract, commensurate with the capital invested and the obligations assumed; and

WHEREAS, the Concession Contractor's facilities and services will not be inconsistent with the requirements of Reclamation's Solano Project and will not interfere with the operation and responsibility of any and all entities associated with that Project; and

WHEREAS, Reclamation desires the Concession Contractor to provide the facilities and services referred to above at reasonable rates under the supervision and regulation of Reclamation; and

WHEREAS, Reclamation desires the Concession Contractor to provide the facilities and services referred to above in a manner that demonstrates sound environmental management, stewardship, and leadership;

NOW, THEREFORE, pursuant to the Reclamation Act of 1902, as amended and supplemented including Title VI of the Act of October 27, 1974, Pub. L. No. 93-493, Reclamation's Concession Management Policy, Directives and Standards; applicable Reclamation Guidelines, and all authorities and policies specific to Lake Berryessa, Reclamation and the Concession Contractor agree as follows:

DEFINITIONS

The following terms as used in this Concession Contract and the exhibits to this Concession Contract are defined as set forth below. Definitions apply to both the singular and the plural forms of the defined terms.

Applicable Laws - Federal, State and local laws governing the development, operation and maintenance of recreation facilities and services at Lake Berryessa, including, but not limited to, the rules, regulations, requirements, and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future.

Appraisal – A value established in accordance with Generally Accepted Appraisal Standards of the Uniform Standards of Professional Appraisal Practices (USPAP), the standards put forth by the Appraisal Standards Board as implemented in accordance with the Department of the Interior's Appraisal Services Directorate "Appraisal Policy Manual". [also, Appraised]

Assignment – Refers to Government land and facilities designated (assigned) by the Government for the use of the Concession contractor in providing contractually required services during the term of this contract. Such designation (assignment) will continue until contract expiration, termination, or until otherwise withdrawn by the Government. This designation (assignment) does not transfer ownership of the subject property.

Best Management Practices - Policies and practices that apply the most current and advanced means and technologies available to the Concession Contractor to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Concession Contract. Best Management Practices are expected to change from time to time as technology evolves.

Change Order - A written agreement between the Construction Supervisor and the contractor or consultant that changes the concession construction or improvement contract documents or scope of project work as agreed upon contractually.

Concession Contractor Improvement(s) – Fixed Assets provided by the Concession Contractor pursuant to the terms of this Concession Contract with the written approval of Reclamation for the purposes of this Concession Contract (including any improvements made to Reclamation improvements and improvements made from funds in the RAFI), during the term of this Concession Contract, including buildings, Structures, Fixtures, equipment, and other improvements affixed to the assigned lands in such a manner as to be a part of the realty. Concession Contractor Improvements constructed affixed to the lands assigned to the Concession Contractor do not include any interest in the land upon which the improvements are located. Additionally, a Concession Contractor Improvement does not include any interest in Personal Property of any kind including, but not limited to, vehicles, boats, barges, park models or other objects, regardless of size, unless an item of Personal Property becomes a fixture as defined in this Concession Contract. Concession Contractor Improvements exclude site preparation work such as grading, cutting and filling of soil or rock.

Construction Cost - The total of the incurred Eligible Direct Costs and Eligible Indirect Costs necessary for constructing or installing the capital improvements that are capitalized by the Concession Contractor in accordance with generally accepted accounting principles (GAAP).

Construction Supervisor - A Concession Contractor employee designated to administer and coordinate construction projects, ensuring the quality of work and compliance with project design specifications.

Consumer Price Index (CPI) - The national “Consumer Price Index for All Urban Consumers” published by the U.S. Department of Labor, Bureau of Labor Statistics. If this index ceases to be published, Reclamation will designate another regularly published cost-of-living index approximating the national CPI.

Contracting Officer- Regional Director of the Mid-Pacific Region as delegated by the Commissioner.

Cost Approach - A set of procedures through which a value is derived for a capital improvement, in accordance with Generally Accepted Appraisal Standards of the Uniform Standards of Professional Appraisal Practices (USPAP), the standards put forth by the Appraisal Standards Board.

Day or Days - Shall mean calendar days, unless the Contract shall specifically refer to business days which shall exclude weekends and federally recognized holidays.

Depreciation – A systematic approach to match the cost of a Fixed Asset with the expected revenues related to that Fixed Asset over the expected period during which the asset will be used.

Exhibit or Exhibits - Shall mean the various exhibits that are attached to this Concession Contract, each of which is hereby made a part of this Concession Contract.

Federal Estate - The Federal land and water areas of the Solano Project that are under the primary jurisdiction of the Department of the Interior, Bureau of Reclamation.

Fixed Assets- Are any Structures, Fixtures, or capital improvements permanently attached to the Federal Estate.

Fixtures - Manufactured items of property of an independent form and utility, necessary for the basic functioning of a Structure that are affixed to and considered to be part of the Structure as real property once installed. Fixtures do not include building materials until incorporated into a Structure (e.g., wallboards, flooring, concrete, cinder blocks, steel beams, studs, window frames, windows, rafters, roofing, framing, siding, lumber, insulation, wallpaper, and paint). Because of their special circumstances, floating docks (but not other types of floating property) that may be constructed by the Concession Contractor pursuant to the terms of this Concession Contract are considered to be Fixtures.

Franchise Fee - A payment to the Government that is considered a direct return to the Government upon consideration of the value to the Concession Contractor of the use, rights, and privileges granted by this Concession Contract. Such value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of this Concession Contract.

Gross Revenues - The total amount received or realized by, or accruing to, the Concession Contractor from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Concession Contract, commissions earned on contracts or agreements with other persons or companies operating in the area, and Gross Revenues earned from electronic media sales, but excluding

- Intra-company earnings on account of charges to other departments of the operation (such as laundry).
- Charges for employee's meals, lodging, and transportation.
- Cash discounts on purchases.
- Cash discounts on sales.
- Interest on money loaned or in bank accounts.
- Income from investments.
- Income from any subsidiary companies not arising from business conducted in conjunction with this Concession Contract.
- Sale of property that was acquired for the purpose of resale and not for use under this contract.
- Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, fishing license fees, and postages stamps, provided that the amount excluded shall not exceed the amount actually due or paid Government agencies.

All monies actually received by the Concession Contractor from coin operated devices whether provided by the Concession Contractor or by others shall be included in Gross Revenues. All revenues received by the Concession Contractor from charges for in-room telephone or computer access shall be included in Gross Revenues.

Improvements - An addition to real property that increases its value or utility or that enhances its appearance.

Improvement Management Plan - A written document as described in Exhibit H presenting a management plan for all real property improvements, including construction, repair, and maintenance projects.

Intangible Assets - An asset without physical form, such as a contract right that may be owned that provides the owner with value.

Loss Payable Clause - A condition of an insurance policy whereby the company is directed by the insured to pay to some other person designated in the policy any loss that may be due.

Personal Property – All tangible assets not affixed to the land. Personal Property includes but is not limited to: vehicles, boats, barges, park models, or other objects, regardless of size, unless an item of Personal Property becomes a Fixed Asset as defined in this Concession Contract

Reclamation Improvements - Government owned real property improvement existing on the date hereof or hereafter constructed by or on behalf of Reclamation upon or affixed to the lands assigned to the Concession Contractor, including buildings, Structures, Fixtures, equipment, and other improvements affixed to or resting upon the assigned lands in such a manner as to be a part of the realty.

Secretary - The Secretary of the Interior or his/her authorized representatives.

Structure - A building, a dock, or other improvement 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, and 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 other improvement. Interior furnishings that are not Fixtures are not part of a Structure. Structure excludes site preparation work such as grading, cutting and filling of soil or rock.

Substantial Completion - The condition of a Concession Contractor Improvement construction project when the project is ready for use and/or occupancy as set forth in Exhibit H of this Concession Contract.

Supplemental Surcharge – A fee collected on all sales (excluding gasoline and diesel fuel) and on all services it provides where it is not required to pay a Transient Occupancy Tax as defined by applicable county ordinance. The Concession Contractor will find it necessary to pay additional costs, such as imposed assessments, for ongoing and additional services to be provided or required by Napa County and/or other state or local government entity or agency that are necessitated by the use, rights and privileges granted under this Concession Contract, which are not presently identifiable, and the Concession Contractor agrees to pay such costs deemed appropriate and approved by Reclamation.

SECTION 1 – TERMS AND CONDITIONS OF CONCESSION CONTRACT

A. TERM OF CONCESSION CONTRACT AND OPTIONAL TERM

This Concession Contract No. _____, herein and hereafter referred to as the “Concession Contract,” shall be effective as of XXX, and shall be for the term of XXX years until its expiration on December 31, XXXX.

By mutual agreement, Reclamation will have the option one adding one consecutive 10-year term until January 31, XXXX + 10. The exercise of this option will be dependent upon factors, including but not limited to, the useful life and condition of the Concession Contractor Improvements, the Concession Contractor’s past compliance with contract terms, the present and future recreational demands, and Solano Project operational constraints and/or modifications.

Reclamation will consult with the Concession Contractor and notify the Concession Contractor in writing no later than 3 years prior to expiration of the contract if the 10-year term is to be added.

B. CONCESSION CONTRACT TERMINATION

Reclamation may terminate this Concession Contract if Reclamation determines that the Concession Contractor has materially breached any requirement of this Concession Contract. The contract includes the requirement to:

- Maintain and operate visitor services to the satisfaction of Reclamation.
- Provide only those visitor services ‘Required’ by Reclamation pursuant to this Concession Contract by successfully accomplishing the Concession Facility Improvement Program (CFIP).
- Implement the Maintenance Plan.
- Implement the Operating Plan.
- Pay the established franchise fee.
- Pay into the Reserve Account for Facilities Improvement (RAFI) as agreed.
- Prepare and comply with an Environmental Management Program (EMP).
- Prepare and comply with a Risk Management Program (RMP).
- Expend funds from the RAFI in an appropriate and timely manner.

- Comply with Applicable Laws, regulations and codes.
- Apply the conditions of the contract when assigning, selling, or transferring responsibilities of this Concession Contract to a third party.
- Establish an account for, and collect, a Supplemental Surcharge on all services and goods not subject to TOT and fuel sales and to use and administer the funds as outlined in the Concession Contract.

In addition, this Concession Contract will be subject to termination pursuant to the conditions set forth in Exhibit G (Operating Plan). Reclamation shall reserve the right to collect penalties and administrative costs and shall terminate this Concession Contract for default and for nonperformance.

In the event of a breach of this Concession Contract, Reclamation will provide the Concession Contractor an opportunity to cure by providing written notice to the Concession Contractor of the breach. In the event of a monetary breach, Reclamation will give the Concession Contractor a 15-day period to cure the breach. If the breach is not cured within that period, Reclamation may terminate this Concession Contract for default. In the event of a non-monetary breach, if Reclamation considers that the nature of the breach so permits, Reclamation will give the Concession Contractor 30 days to cure the breach or to prepare a plan to cure the breach that is approved by the Contracting Officer and 30 days to implement the plan over a period of time unless the breach involves immediate danger to persons or property or immediate threat to the environment, in which case Reclamation shall give reasonable notice under the circumstances. If the breach is not cured within this specified period of time, Reclamation may terminate this Concession Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature will be grounds for termination for default without a cure period. In the event of a breach of any nature, Reclamation may suspend the Concession Contractor's operations, as appropriate. This Concession Contract is subject to 43 Code of Federal Regulations (CFR) Part 430, in the event of termination for default.

Reclamation may terminate this Concession Contract upon the filing by the Concession Contractor's of any petition seeking relief under any provision of the Bankruptcy Act or successive legislation; an assignment by the Concession Contractor for the benefit of creditors; a petition or other proceeding against the Concession Contractor for the appointment of a trustee, receiver, or liquidator. Reclamation may terminate this Concession Contract if the Contracting Officer determines that the Concession Contractor is unable to perform the terms of the Concession Contract because of such filings or assignments. Termination of this Concession Contract for any reason shall be by written notice to the Concession Contractor.

C. NOTICE OF BANKRUPTCY OR INSOLVENCY

The Concession Contractor must give Reclamation immediate notice (within 5 business days) after the Concession Contractor files any petition seeking relief under any provision of the Bankruptcy Act or its successive legislation; the Concession Contractor makes any assignment for the benefit of creditors; any petition or other proceeding is filed against the Concession Contractor for the appointment of a trustee, receiver, or liquidator. For purposes of the bankruptcy statutes, Reclamation considers that this Concession Contract is not a lease but an executory contract exempt from inclusion in assets of the Concession Contractor pursuant to 11 United States Code (U.S.C.) 365.

D. REQUIREMENTS IN THE EVENT OF TERMINATION OR EXPIRATION

In the event of termination of this Concession Contract, any compensation due the Concession Contractor for such termination or expiration shall be as described in Section 5 of this contract. No other compensation of any nature shall be due the Concession Contractor in the event of a termination or expiration of this Concession 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, bankruptcy, or expiration.

Personal Property

In the instance of a regularly scheduled expiration the Concession Contractor will have all Personal Property removed and all restoration accomplished, at the Concession Contractor's expense, in advance of the last day of the contract.

Miscellaneous Assets

Upon termination or expiration, Reclamation may require and the Concession Contractor shall consent to the use by another operator or Reclamation Intangible Assets and other property and data including but not limited to; telephone and website reservation systems, operation manuals, vendor lists and customer lists and such tangible Personal Property on the premises as is necessary to avoid interruption of services to the public.

Concession Contractor Improvements

However, in the event of contract termination, Reclamation may request, and the Concession Contractor will permit the use, by another operator, of the Concession Contractor Improvements needed to provide uninterrupted services to the public. Such use will be for a period of time not to exceed 1 year from the date of any contract termination or expiration. Reclamation will make such request at least 90-days prior to contract expiration and as soon as possible in the event of a termination. The other operator shall pay the Concession Contractor a fee ("Usage Fee") for use of such property, prorated for the period of use, in the amount of 1% per month of original cost.

E. CONCESSION CONTRACT SUSPENSION

Reclamation may direct the Concession Contractor to temporarily suspend its operations under this Concession Contract in whole or in part, as deemed necessary by Reclamation, to protect area visitors or to protect, conserve, and preserve area resources. This Concession Contract may also be suspended in whole or in part as deemed necessary by Reclamation for Concession Contract violations that include, but are not limited to, contract noncompliance, operational deficiency, health and safety, and noncompliance with environmental regulations. No compensation of any nature shall be due the Concession Contractor by Reclamation in the event of a suspension of operations, including, but not limited to, compensation for losses based on lost income, profit, wages, or the necessity to make expenditures as a result of the suspension.

F. NO RIGHT OF RENEWAL PREFERENCE

This Concession Contract does not include a preferential right of renewal.

G. CONTRACT SALE OR TRANSFER OF INTERESTS

The Concession Contractor shall not transfer, assign, sell, or otherwise convey or pledge interests, part of its interests, under this Concession Contract, the concession operation, Concession Contractor Improvements within the Concession Area to another party without prior notification of intent and written approval of the transaction by Reclamation. Concession contractors must complete and submit all transactional information as required by Reclamation before any consideration will be given to the approval of a sale or transfer of all or any portion of a concession operation. A proposed transaction is subject to the same evaluation process, including but not limited to an assessment of financial health, concession management experience or those that may have been delinquent in paying fees to the United States, that is performed for a new Concession Contract. Reclamation may choose not to approve a proposed transaction or may place such conditions on any approval that Reclamation considers necessary to protect the public. Before the approval of a transaction, the terms and conditions of this Concession Contract are subject to reasonable changes that are consistent with the purpose and objectives of this Concession Contract and current Reclamation policy, at the discretion of Reclamation.

Failure by the Concession Contractor to comply with applicable laws is a material breach of this Concession Contract for which Reclamation may terminate this Concession Contract for default. Reclamation shall not be obliged to recognize any right of any person or entity to an interest in this Concession Contract of any nature, including, but not limited to, operating rights under this Concession Contract, if obtained in violation of applicable laws.

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SECTION 2 – SERVICES AND OPERATIONS

A. BASE SERVICES

During the term of this Concession Contract, Reclamation requires the Concession Contractor to provide the services, as listed in Exhibit H, and summarized below, to the public within the XXX concession area:

- **Insert Required Services**

Additional details on the Concession Facilities Improvement Program (CFIP) necessary to accomplish many of the eventual operations outlined in the “Required Services” is set forth in Section 4.G. (CFIP) of this Concession Contract and Exhibit H (Improvement Project Procedures) to this Concession Contract.

During the term of this Concession Contract, the Concession Contractor is not authorized to provide any services not identified in this Concession Contract, except as an amendment to this Concession Contract and signed by Reclamation. In providing these required services, the Concession Contractor must not permit any visitor, person, or organization to occupy or use the subject services for an extended period of time so as to preclude use by others as determined by Reclamation. Reclamation shall prescribe the appropriate time-use limitations in the Operating Plan set forth in Exhibit G of this Concession Contract, which may be changed from time to time during the term of this Concession Contract at the discretion of Reclamation. In providing these required services, only the Concession Contractor and its contractors are authorized to commence construction as set forth in Section 4.G. of this Concession Contract.

The Concession Contractor is authorized to provide only those services as identified in this section, Section 4.G and Exhibit H, by type and schedule. Any eventual decision by Reclamation will consider the impact on the operations of other Concession Contractors at Lake Berryessa to assure compliance with the requirements in the 2006 Visitor Services Plan Record of Decision (VSP ROD) wherein it discusses “lake-wide integration of government operations and commercial operations in the best interest of the visiting public.”

The VSP ROD specifies the types of facilities that may be developed within each of three geographic locations at each concession area. The locations correspond with elevations above mean sea level (MSL) related to critical reservoir operations. Specifically, elevation 440’ MSL represents the top of the active conservation pool for water supply and water quality purposes, and elevation 440’ - 455’ MSL is the reservoir surcharge capacity for flood control purposes. Locations are described in terms of elevations above MSL and reservoir capacity allocations for the Solano Project. In summary:

1. **From elevation 440’ to elevation 455’ MSL.** Reserved for day-use facilities (marina facilities, swimming areas, picnic sites) and the following non-permanent overnight use facilities: park models approved for short-term occupancy, RV and travel trailer sites, campgrounds, and tent camping. Picnic tables, BBQ grills, restrooms, and other supporting infrastructure for these facilities must be flood-

proofed. Flood-proofing for these Structures and facilities includes, but is not limited to, sealed openings, removable utilities, flotation devices, and anchoring. Park models must be removed during the off-season or in anticipation of high-water events. Retail stores and food and beverage facilities may be located at elevations 440'-455' MSL but only where certified by Reclamation as flood-proof in accordance with reservoir operation requirements, health and safety codes, and other requirements. Flood-proofing for these facilities includes, but is not limited to, stilts, lifts, floating barges, or other features that safely elevate the Structure above elevation 455' MSL.

2. **From elevation 455' MSL to the Federal Property Line.** Hotels, motels, conference facilities, cabins, cottages, and lodges must be located above the reservoir surcharge area (455' MSL and above). This is consistent with project operational requirements for flood control, water supply, and water quality, and promotes compliance with health and safety code requirements. In addition, the following overnight use facilities and supporting infrastructure may be located at or above elevation 455' MSL: park models approved for short-term occupancy, RV and travel trailer sites, campgrounds, tent camping, and picnic sites.
3. **From elevation 455' MSL plus 100 Linear Foot (LF) Buffer to the Federal Property Line.** Aeration ponds and sewage system infrastructure other than pipelines, lift stations, and other appurtenant devices – must be located above elevation 455' MSL plus 100 LF buffer. All other facilities identified in paragraphs A.1. and A.2. above, may also be located above this level. The 100 LF buffer preserves space at each concession area for short-term occupancy facilities consistent with the VSP ROD.

In the provision of the general oversight and management of the facilities and services permitted in this contract the Concession Contractor will assure that members of the public who may rent moorage slips do not use such slips or the watercraft stored there for any commercial activities such as fishing, touring, water skiing, time share, rental boat, etc. All agreements with slip customers will include a clause indicating that if such commercial activities are discovered to be occurring from their assigned slip that their rental agreement will be immediately canceled, no refunds will be given and they will be required to remove their watercraft within 48 hours.

Allowing any long-term exclusive use or unauthorized extended period use shall be considered a material breach of this Concession Contract for which Reclamation may seek monetary damages and other legal relief, including, without limitation, termination of this Concession Contract. Exclusive use is any use which excludes other appropriate public recreational use or users for extended periods of time.

The Concession Contractor will participate in the regional trail development program to the extent that there is a clear, delineated trail located within the concession area that connects the regional trail as it enters and exits the concession area. The trail within the concession area may utilize the road system and pass through/by amenity areas, such as stores, restaurants, comfort stations, etc.

The Concession Contractor is prohibited from permitting the conduct of any commercial activities within the concession area by an outside party that is not an employee of the Concession Contractor in the conduct of required services. An example of this would be a person that rents a boat slip from the Concession Contractor and uses that boat in the conduct of a business as a paid fishing guide. If an external business has a written authorization from Reclamation to conduct activities, such as a fishing guide, it is permissible for the Concession Contractor to allow such authorized person(s) to launch at the concession launch ramp. Furthermore Concession Contractors may not allow advertising through signs or marketing handouts for any business intending to provide services to Lake Berryessa visitors or planning to use Reclamation land at Lake Berryessa unless they receive written authorization from Reclamation to permit such advertising and business activities.

B. SCOPE OF SERVICES AND OPERATING PLAN

Reclamation reserves the right to determine and control the nature, type, and quality of the services provided and merchandise sold at the Concession Area as described in this Concession Contract. All such services and merchandise will be compatible with the intent of the Concession Contract, and questions of applicability or requests for variance shall be forwarded to the Contracting Officer for consideration. Approvals must be in writing.

The Concession Contractor shall provide, operate, and maintain the required visitor services and any support facilities and services in accordance with this Concession Contract to such an extent and in a manner considered satisfactory, pursuant to the Concession Review Program, by Reclamation.

The Concession Contractor shall comply with all conditions set forth in the Operating Plan. The initial Operating Plan is attached to this Concession Contract as Exhibit G. The Contracting Officer, in his/her discretion, after consultation with the Concession Contractor, may make reasonable modifications to the initial Operating Plan from time to time that are in furtherance of the purposes of this Concession Contract and are not inconsistent with the terms and conditions of the main body of this Concession Contract.

C. LEGAL, REGULATORY, AND POLICY COMPLIANCE

This Concession Contract, the operations hereunder by the Concession Contractor, and its administration by Reclamation shall be in accordance with all applicable federal, state and local laws, rules, regulations, and policies. The Concession Contractor shall operate and maintain its facilities in safe working order and shall ensure compliance with all applicable federal, state, and local laws, rules, regulations, policies, and directive and standards affecting such works. Certain applicable laws relating to nondiscrimination in employment and providing accessible facilities and services to the public are further described in Exhibit A of this Concession Contract.

The Concession Contractor shall give Reclamation immediate written notice of any known violation of applicable laws by its employees, agents, or contractors, and, at its sole cost and expense, must promptly rectify any such violation. Failure to notify

Reclamation will be a breach of the contract and can be reason for Reclamation to terminate the contract.

D. RATES FOR GOODS AND SERVICES

Rates for all goods and services shall be reasonable and appropriate for the type and quality of the goods, and services provided and must be approved by Reclamation. Rate change requests should reflect changes in rates for comparable goods and services provided by the private sector operating in a competitive environment under similar operating conditions. Should Reclamation not approve a rate change request for any of the Concession Contractor's goods or services, based upon this comparability approach, the Concession Contractor is required to continue using the currently approved rates. If the Concession Contractor disagrees with Reclamation's determination it may request reconsideration upon submission of additional support information, or may be required to resubmit a modified proposal.

Reclamation may choose to accept the Concession Contractor's proposed rates; however, if Reclamation does not accept the Concession Contractor's proposed rates, Reclamation's decision is final and non-challengeable.

The Concession Contractor shall require its employees to observe strict impartiality as to rates and services in all circumstances. The Concession Contractor may, subject to the prior approval of Reclamation, grant complimentary or reduced rates under such circumstances as are customary in businesses similar to that which will be conducted under this Concession Contract. However, Reclamation reserves the right to review and modify the Concession Contractor's complimentary or reduced rate policies. The Concession Contractor shall report the retail value of all gratuities provided as part of gross revenues. In addition, the Concession Contractor shall document and maintain a record all gratuities provided, the name and relationship of the recipient to the company, and the full retail value of each gratuity provided.

The Concession Contractor will provide Federal employees conducting official business with rates that are no greater than the Federal Per Diem rates for lodging, essential transportation, and other specified services necessary for conducting official business in accordance with Reclamation guidelines and policy. Complimentary or reduced rates and charges shall otherwise not be provided to Federal employees by the Concession Contractor, except to the extent that they are equally available to the general public. The Concession Contractor shall prominently post all rates and charges for goods and services provided to the visiting public.

E. NONDISCRIMINATION OF SERVICE TO VISITORS

Concession Contractor employees shall not discriminate when setting rates or providing services to visitors. The Concession Contractor shall comply with all applicable laws and regulations, whether now in force or made effective after the execution of this Concession Contract, relating to nondiscrimination in providing services to the public and accessible facilities and services, including, but not limited to, those set forth in Exhibit A.

F. CONCESSION CONTRACTOR EMPLOYEES

The Concession Contractor shall provide all personnel necessary to provide the visitor services required by this Concession Contract.

The Concession Contractor shall comply with all applicable laws relating to employment and employment conditions, including, but not limited to, those set forth in Exhibit A.

The Concession Contractor shall require and ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public. The Concession Contractor will require its employees who come in direct contact with the public to wear a uniform by which they can be identified as employees of the Concession Contractor. Concession Contractor uniforms must be consistent in style and color and approved by Reclamation.

The Concession Contractor shall review the conduct of any of its employees whose action or activities are considered by the Concession Contractor or Reclamation to be contrary to the proper administration of the area and protection of visitor safety and enjoyment and shall immediately take such actions as are necessary to correct the problem.

In the initial hiring efforts of employees for this contract the Concession Contractor will, to the full extent allowable under applicable law, give priority consideration to employees of the outgoing Concession Contractor that have properly applied for positions. This effort does not require that these employees are to be considered for the same position or even the same type of position.

G. CONCESSION CONTRACTOR EMPLOYMENT CONDITIONS

The Concession Contractor shall comply with applicable laws relating to employment of workers, nondiscrimination in employment, and providing accessible facilities and services including, but not limited to, those set forth in attached Exhibit A.

The Concession Contractor 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 Concession Contractor shall conduct appropriate background reviews of applicants to whom an offer of employment may be extended to ensure that they conform

to the hiring policies established by the Concession Contractor.

The Concession Contractor shall maintain, to the greatest extent possible, a drug-free environment, both in the workplace and in any Concession Contractor employee housing, within the concession area. The Concession Contractor 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 concession area and specifying the actions that will be taken against employees for violating this prohibition. In addition, the Concession Contractor shall establish a drug-free awareness program to inform employees about the danger of drug abuse in the workplace, the availability of drug counseling, rehabilitation and employee assistance programs, and the Concession Contractor's policy of maintaining a drug-free environment both in the workplace and in the concession area.

The Concession Contractor shall conduct educational programs for its employees to deter substance abuse and alcohol abuse. Those employees who are in safety sensitive positions as determined by or consistent with Federal, State, or local health, law enforcement, or other appropriate agency, will be required to participate in periodic drug testing. The Concession Contractor will promptly report illegal drug use to Reclamation, should it occur. It is the responsibility of the Concession Contractor to structure a drug testing program that ensures, to the greatest extent possible, a drug-free workplace. The Concession Contractor shall provide Reclamation with a written summary of drug testing activity, if any, on an annual basis.

The drug awareness and management responsibility of the Concession Contractor may be exercised through an external agreement with individuals, companies, or agencies qualified to provide such assistance.

If the Concession Contractor provides employee housing within the concession area, the Concession Contractor's charges to its employees for this housing must be reasonable. Housing provided to Concession Contractor employees must be owned by the Concession Contractor. Suitable long-term contractor owned housing does not include mobile homes or other similar units/structures. Reclamation reserves the right to approve all employee housing units. Concession Contractors may however provide an employee RV site area separate and apart from the visitor/public use areas for privately owned employee RVs in which the employee may reside. Under no circumstances may the Concession Contractor allow the employee or his/her RV to remain on site if the employee is no longer employed by the Concession Contractor. The Concession Contractor's Operation Plan will detail employee housing requirements, subject to Reclamation approval.

H. CONCESSIONS REVIEW PROGRAM

The Concession Contractor shall be evaluated by Reclamation under the Concessions Review Program. The Concessions Review Program consists of four separate

evaluations: (1) Operations and Facilities Evaluation, (2) Public Health Service Inspection, (3) Safety and Environmental Evaluation, and (4) Contract Compliance Evaluation. The Operation and Facilities Evaluation shall be conducted semiannually with one occurring during high visitation season. All other evaluations shall be conducted as Reclamation may desire and as identified in the Operation Plan. An external Reclamation review (evaluation) will be conducted every 5 years.

A year end annual overall rating will be assigned as required under the Concessions Review Program.

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SECTION 3 – PROTECTION AND INTERPRETATION OF AREA RESOURCES

A. ENVIRONMENTAL MANAGEMENT OBJECTIVES

The Concession Contractor shall meet the following environmental management objectives in the conduct of its operations under this Concession Contract:

1. The Concession Contractor, including its employees, agents, and contractors, shall comply with all applicable laws pertaining to the protection of the public, employees, and natural and cultural resources within the concession area.
2. The Concession Contractor shall incorporate Best Management Practices in its operation, construction, maintenance, acquisition, provision of visitor services, and other activities under this Concession Contract.
3. The design, construction, and operation of the facilities and the provision of services under this Concession Contract shall be performed in a manner that prevents, identifies, and reduces pollution at the source. The Concession Contractor shall comply with all applicable laws and Reclamation policies and instructions promulgated and enacted during the term of this Concession Contract concerning any hazardous materials that will be used, produced, transported, stored, or disposed of on or in lands, water, or facilities owned by the United States of America or administered by Reclamation.
4. The Concession Contractor may not knowingly allow contamination of lands, water, or facilities within the concession area by hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial or commercial waste, petroleum products, mine tailings, mineral salts, pesticides, pesticide containers, or any other pollutants, including, but not limited to, misuse of pesticides.
5. The Concession Contractor's operation, maintenance, acquisition, and purchasing activities will, to the extent practical, promote the use of environmentally preferable products, including materials and supplies with recycled content, and will avoid or minimize the quantity of toxic and hazardous materials entering the waste stream.
6. The Concession Contractor shall immediately report to the Contracting Officer any event that may or does result in pollution or contamination adversely affecting lands, water, or facilities within the concession area.
7. The Concession Contractor will become ISO 14001 certified no later than **XXX** and maintain certified for the life of this contract. The ISO 14001 certification represents a level of commitment to the environment regarding efforts to 1) minimize harmful effects on the environment caused by its business activities; and 2) achieve continual improvement of its environmental performance.

8. The Concession Contractor is financially and managerially responsible for accomplishing, either independently or through a third party, all required NEPA compliance efforts in advance of new Concession Contractor Improvements or other projects where such compliance is necessary. Reclamation, as the ultimate party responsible for assuring proper NEPA compliance, will provide prompt agency review of all compliance work in advance of providing approval to begin any construction projects.

B. ENVIRONMENTAL MANAGEMENT PROGRAM

1. The Concession Contractor shall submit an Environmental Management Plan (EMP) for Reclamation approval within 60-days of the execution of this Concession Contract. Once approved by Reclamation, the Concession Contractor shall implement and fully comply with the EMP. The EMP shall conform closely to the Concession Contractor's commitments and content in their original Prospectus proposal.
2. Any proposed revisions to the EMP shall be submitted to Reclamation annually for approval.

C. ENVIRONMENTAL EVALUATION

The Concession Contractor shall be evaluated by Reclamation on its environmental performance under this Concession Contract including, without limitation, compliance with the approved EMP and on the following criteria, as a part of the Safety and Environmental Evaluation element of the Concession Review Program referred to in Section 2.H.:

1. Hazardous wastes are properly identified and managed.
2. An Oil and Hazardous Substance Spill Contingency Plan is in place; all employees are trained in first response procedures; Reclamation and appropriate regulatory authorities are notified of any spill or release of a hazardous substance.
3. A hazardous waste minimization strategy is in place, reporting requirements are met, and progress is being made toward reduction goals.
4. Areas of contamination caused by or attributable to the Concession Contractor are cleaned up to the satisfaction of Reclamation and regulatory authorities.
5. Hazardous material inventories and use records are maintained and provided to Reclamation. Hazardous materials are stored and handled in a manner that minimizes the potential for spill or release.
6. A solid waste minimization strategy is in place, waste generation information is provided to Reclamation, and progress is being made toward waste reduction goals.

7. An affirmative procurement program is in place to ensure that, where available, products containing recycled material or materials that are environmentally preferable are preferentially acquired (Green Procurement).
8. The Concession Contractor will conserve energy and improve energy efficiency of operations being implemented. Every effort will be made to ensure that environmentally safe and sustainable energy sources are used. A program to reduce overall energy consumption is documented and actively pursued.
9. The goals and objectives of the area's water conservation program are being met.
10. Prior written approval has been obtained from Reclamation for implementation of any pesticide, herbicide, or vector control action.
11. Sight, sound, and odor impacts to the environment and visitor experience are avoided when possible.
12. Care is exercised to avoid introduction of nonnative biota except as approved by the Contracting Officer.
13. The Concession Contractor conducts recurring training for staff concerning the critical importance of pollution prevention and spill report procedures, emergency incident and spill response, water and energy conservation, and the Concession Contractor's role in stewardship of concession area lands and waters. Training of employees in emergency and spill response includes field exercises done in coordination with Reclamation.
14. Employee incentive system is in place to reward employees for innovative or exemplary contributions toward prevention of pollution and to allocate some of the savings gained in energy and water conservation programs back to staff members who produce those gains.
15. Planning and design for facilities are coordinated with the Contracting Officer, including application of sustainable design principles and Reclamation reviews and approvals including, but not limited to, procedures imposed by Federal, State, county, or municipal regulations (e.g., National Environmental Policy Act, Historic Preservation Act (Section 106) and fire and safety and building codes).
16. Required environmental protection and pollution prevention facilities are in place or are in the process of being acquired, designed, or constructed with due diligence. Construction is conducted in a manner that prevents or minimizes pollutant emissions or discharges and protects public health and the environment.

D. ENVIRONMENTAL DATA, REPORTS, NOTIFICATIONS, AND APPROVALS

1. **Inventory of Hazardous Substances and Inventory of Waste Streams** – The Concession Contractor shall submit to the Contracting Officer, at least annually, an inventory of Federal Occupational Safety and Health Administration (OSHA)

designated hazardous chemicals used and stored in the Concession Area by the Concession Contractor. The Contracting Officer may prohibit the use of any OSHA hazardous chemical by the Concession Contractor in operations under this Concession Contract. The Concession Contractor shall obtain the Contracting Officer's approval before using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Concession Contract. The Concession Contractor shall also submit to the Contracting Officer, at least annually, an inventory of all waste streams generated by the Concession Contractor under this Concession Contract. Such inventory shall include any documents, reports, monitoring data, manifests, or other documentation required by applicable laws regarding waste streams.

2. **Reports** – The Concession Contractor shall submit to the Contracting Officer copies of all documents, reports, monitoring data, manifests, and other documentation required under applicable laws to be submitted to regulatory agencies. The Concession Contractor shall also submit to the Contracting Officer any environmental plans for which coordination with area operations are necessary and appropriate, as determined by the Contracting Officer in accordance with applicable laws. The Concession Contractor shall submit a quarterly report on the amount of toxic chemicals entering the waste stream from concession facilities.
3. **Notification of Releases** – The Concession Contractor shall give the Contracting Officer immediate written notice of any discharge, release, or threatened release (as these terms are defined by applicable laws) within or in the vicinity of the concession area, (whether solid, semisolid, 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 byproduct.
4. **Notice of Violation** – The Concession Contractor shall give the Contracting Officer, 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 Concession Contractor, its agents, or employees.
5. **Communication with Regulatory Agencies** – The Concession Contractor shall provide to the Contracting Officer timely written advance notice of communications, meetings, audits, inspections, hearings, and other proceedings, between regulatory agencies and the Concession Contractor related to compliance with applicable laws concerning operations under this Concession Contract. The Concession Contractor shall also provide to the Contracting Officer any written materials prepared or received by the Concession Contractor in advance of or subsequent to any such communications. The Concession Contractor shall allow the Contracting Officer to participate in any such communications. The Concession Contractor shall notify the Contracting Officer immediately following any unplanned communications between regulatory agencies and the Concession Contractor.

E. CORRECTIVE ACTION

1. The Concession Contractor, 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 Concession Contractor's operations under this Concession 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 Concession Contractor 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 Concession Contractor shall comply with directives of the Contracting Officer to clean up or remove any materials, products, or byproducts used, handled, stored, disposed of, or transported onto or into the concession area by the Concession Contractor to ensure that the concession area remain in good condition.

F. INDEMNIFICATION AND COST RECOVERY FOR ENVIRONMENTAL ACTIVITIES

1. In accordance with Section 7 (Insurance and Indemnification) of this Concession Contract, the Concession Contractor shall indemnify the United States from all losses, claims, damages, environmental injuries, expenses, response costs, allegations or judgments (including, without limitation, fines, and penalties), and expenses (including, without limitation, attorney's fees and expert's fees) arising out of the activities of the Concession Contractor, its employees, agents, and contractors pursuant to this section. Such indemnification shall not apply to any environmental condition or violations of environmental laws which exists at the time possession of the concession area is delivered to Concession Contractor. Such indemnification shall survive termination or expiration of this Concession Contract.

Reclamation shall be responsible for performing, or causing prior Concession Contractors to promptly perform, a clean up of the environmental condition or correction of environmental law violations that predate the execution of this contract.

2. If the Concession Contractor does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concession Contractor, its employees, agents, and contractors, as set forth in this section, or correct any environmental self-assessment finding of noncompliance, in full compliance with applicable laws, the Contracting Officer may, in its sole discretion and after notice to the Concession Contractor, take any such action consistent with applicable laws as the Contracting Officer 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 Concession Contractor shall be liable for and shall pay to Reclamation any costs incurred by Reclamation associated with such action, upon demand. Nothing in

this section shall preclude the Concession Contractor from seeking to recover costs from a responsible third party.

3. Any intentional violation of any of the provisions of this section shall constitute grounds for initiation of the procedure for immediate termination of the Concession Contract and shall make the Concession Contractor liable for the cost of full and complete remediation or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.
4. Reclamation shall not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by the Concession contractor proves to be inadequate or otherwise insufficient for any reason whatsoever.

G. WEED AND PEST MANAGEMENT

1. The Concession Contractor shall be responsible for managing weeds, vermin, and other pests on all authorized land and in all facilities assigned for use in conducting operations under the Concession Contract. Plants and animals that are native to Lake Berryessa may not be removed or harmed except with the prior written approval of Reclamation.
2. The Concession Contractor shall submit to Reclamation, at least 30 days in advance of any planned pesticide application, a Pesticide Use Permit. The Concession Contractor must request a pesticide application authorization even for emergency applications from Reclamation. Every effort will be made by Reclamation to streamline 'immediate need' applications in recognition of the impact to the business and the public. The Concession Contractor is responsible for complying with all training requirements (Federal, State, and local), operational requirements, and licensing requirements as may be pertinent to and required for the application of pesticides within the state of operation.
3. The Concession Contractor shall not take ANY action on lands assigned under this contract, other than exclusion of entry, to control infestations without the prior approval of Reclamation. This specifically applies to the application of herbicides, pesticides, or rodenticides to control unwanted plants, insects, or vermin. The Concession Contractor may prepare a list in advance in conjunction with a licensed/certified applicator to address potential or likely infestations that are known to occur in the area for pre-approval by Reclamation. In this manner if such an infestation occurs and is verified by the licensed applicator the Concession Contractor may proceed with the appropriate application and notify Reclamation after the fact. Such a list for pre-approval may also include preventative applications that are legally acceptable and traditional within the county and state.

H. HAZARDOUS MATERIALS

1. **Handling/Storing Hazardous Materials** - The Concession Contractor shall maintain health and safety standards and take necessary mitigative and corrective measures to ensure healthy working and living environments in all assigned buildings and improvements. The Concession Contractor shall store, handle, and use hazardous materials in a manner that protects workers from harmful exposure, minimizes the potential for spills and releases, and reduces the use of these materials to diminish the subsequent generation of hazardous waste.

Hazardous materials shall be handled in accordance with subpart Z of 29 CFR Parts 1910 and 1926. Examples of hazardous materials requiring special management controls include asbestos, radon, and lead-based paint. The Concession Contractor shall obtain Reclamation approval before using chemicals, pesticides, and toxic materials. Applications and methods of use shall conform to Federal, State, and local laws and applicable codes, policies, and guidelines.

2. **Hazardous Materials-Related Training** – The Concession Contractor shall provide training to all employees in accordance with 29 CFR 1910.120 (First Responder for Hazardous Materials Incidents) and 29 CFR 1910.1200 (Hazard Communication). The Concession Contractor shall comply with all Federal, State, and local laws and regulations pertaining to hazardous materials.
3. **Hazardous Waste Minimization and the Use of Environmentally Preferable Products** – The Concession Contractor shall attempt to minimize the use of hazardous materials in its operations, thus diminishing the amount of hazardous waste generated over time. The Concession Contractor shall seek to use fewer toxic materials and, instead, will use products that are environmentally preferable as a general means to minimize hazardous waste. If the Concession Contractor generates more than 100 kilograms per month of hazardous waste, the Concession Contractor must provide Reclamation with a Hazardous Waste Minimization Plan. To track any trends for waste generated, the Concession Contractor must provide information on all hazardous waste management (recycling and disposal) to Reclamation quarterly.

I. SOLID WASTE MINIMIZATION

The Concession Contractor shall provide Reclamation with a written solid waste minimization plan that is consistent with Napa County and Reclamation policies and practices. Special consideration should be given to the type of packaging and containers that are used in products offered for sale to visitors. If the Concession Contractor collects and hauls its solid waste, the Concession Contractor shall provide Reclamation information quarterly regarding the amount of solid waste generated and the amount of material recycled.

J. DRAINAGE AND STORMWATER POLLUTION PREVENTION

1. The Concession Contractor shall implement Best Management Practices to prevent the degradation of water quality in stormwater and other runoff from facilities within the concession area. Erosion controls must be implemented at construction sites with disturbed soils exposed. Water from vehicle and equipment washing must be contained and oil/water separation must occur before appropriate discharge. Any improvements to drainage systems must be made in accordance with Federal, State, and local regulations and with prior Reclamation approval.
2. The Concession Contractor shall ensure proper drainage control to protect landscapes, native vegetation, Structures, facilities, improvements, and equipment while maintaining natural drainage patterns to the greatest extent possible and with prior Reclamation approval.

K. RECYCLING AND CONSERVATION

1. The Concession Contractor shall implement a source reduction program designed to minimize concession use of disposable products in its operations. Polystyrene and plastics shall be used as little as possible (and then only polystyrene not containing chlorofluorocarbon). Where disposable products are needed, products that have the least impact on the environment shall be used.
2. The Concession Contractor shall implement a recycling program that fully supports the efforts of Reclamation to conserve resources. Products to be recycled include, but are not limited to, paper, newsprint, cardboard, bimetal, plastics, aluminum, glass, waste oil, antifreeze, and batteries.

The Concession Contractor shall provide recycling bins in all public areas. The Concession Contractor is responsible for emptying these bins as needed and for ensuring that these recovered materials are delivered or picked up for recycling.

Any beverage container deposits collected in excess of related operating expenses shall be used for environmental projects as approved in writing by the Contracting Officer. An accounting of the beverage container deposits collected and distributed will be provided to Reclamation on an annual basis.

3. The Concession Contractor will implement water and energy conservation measures for each of its operations. As new technologies are developed, the Concession Contractor 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.

L. WASTEWATER TREATMENT

1. The Concession Contractor shall ensure that all wastewater systems are operated in accordance with all applicable laws and environmental requirements, including Federal, State, and local laws and applicable codes, policies, and guidelines.

For wastewater that will be discharged into surface water, the wastewater treatment facility must comply with the effluent limitation requirements established in Public Law 92-500 (Clean Water Act) and be permitted in accordance with the National Pollutant Discharge Elimination System, as administered by the Environmental Protection Agency.

All new wastewater treatment facilities must be designed in accordance with the best practicable wastewater treatment technology and be based on sound engineering standards such as those established by the American Society of Civil Engineers or the Recommended Standards for Wastewater Facilities (10 States Standards) prepared by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers.

When wastewater system modifications or new construction are proposed, the Concession Contractor will submit plans and specifications to Reclamation for approval.

2. All new vault toilets (if any) will incorporate the U.S. Forest Service Sweet Smelling Toilet design features or similar features from other sources. Vault toilets shall be pumped as necessary. All toilets will be cleaned and re-supplied as often as necessary to maintain a high degree of sanitation. Adequate sanitation facilities will be required for remote area activities such as river rafting, horseback riding, backpacking, and similar activities.
3. Septic tanks (if any) will be inspected annually by the Concession Contractor to determine the amount of accumulated scum and sludge. Records of septic tank measurements, inspections, and pumping will be available for review by Reclamation. Septic tank risers will be provided for inspection holes to facilitate inspection and pumping. Septic tanks will be pumped when the scum or sludge levels in the tank dictate (generally every 3-5 years). The bottom of the scum should never be closer than 3 inches to the bottom of the outlet device, and the top of the sludge layer should never be less than 8 inches from the bottom of the outlet device. Records of septic tank measurements, inspections, and pumping should be maintained and be available for review by Reclamation.

Septic tank drain fields will be surveyed annually during a high-use period to identify system failures such as odors and surfacing wastewater. The drain field should be kept clear of trees and bushes, which may send roots into the drain field piping system causing clogging and premature failure. Additives to enhance bacterial growth in septic tank systems are generally not recommended.

4. Personnel who routinely come into contact with sewage or who work in or inspect wastewater treatment facilities, ponds, etc., must have a current immunization for tetanus. Wastewater treatment plant personnel shall not eat, drink, or smoke when performing maintenance or inspecting equipment that may be contaminated with sewage. Workers cleaning up wastewater spills will wear coveralls, rubber boots, and rubber gloves. On completion of cleanup, workers shall remove clothing and place in plastic bag for laundering, take a hot shower using sufficient soap and water, and rinse rubber boots, gloves, and other protective equipment with 100 parts per million disinfectant solution of hypochlorite.
5. In the event of a wastewater leak or spill deemed “major” by the regulating agency, Reclamation will be notified within one (1) business day. Facilities and equipment contaminated with sewage as a result of leaks, spills, and sewage system backflow will be thoroughly washed down with water and detergent which must be contained and disposed of in accordance with applicable rules, regulations and policies.
6. Ponds should be monitored at least every 2 weeks for liquid coloration, presence of septic odors, properly operating aerators, material floating on the surface, insect breeding, and vegetation growth. The dikes should be free of rodent burrows. Vegetation on the dikes and at the waterline should be controlled. All lagoons should be signed and fenced in such a manner as to exclude unauthorized entry. An all-weather road should be constructed for each pond.

M. PROTECTION OF HISTORIC, CULTURAL, AND ARCHEOLOGICAL RESOURCES

The Concession Contractor shall ensure that any protected sites and archeological resources within the Concession Area are not disturbed or damaged by the Concession Contractor’s operations, including the Concession Contractor’s employees, agents, and contractors, except in accordance with applicable laws and only with the prior approval of Reclamation. Discoveries of any archeological resources by the Concession Contractor shall be promptly reported to the Contracting Officer. The Concession Contractor shall cease work or other disturbance that may impact any protected site or archeological resource until the Contracting Officer grants approval, upon such terms and conditions as the Contracting Officer deems necessary, to continue such work or other disturbance.

N. INTERPRETATION OF AREA RESOURCES

The Concession Contractor shall provide all required services in a manner that is consistent with and supportive of the interpretive themes, goals, and objectives of Reclamation at Lake Berryessa. The Concession Contractor must develop a concession area interpretive program in conjunction with Reclamation that interprets the overall themes approved by Reclamation to enhance visitor enjoyment of the area.

Reclamation reserves the right to enter into agreements with cooperating associations for supplemental services that are deemed by Reclamation to be part of and appropriate to

the concession area's interpretive program. The proposed content of any interpretive programs, exhibits, or displays shall be submitted to Reclamation for review and written approval before being offered to the concession area visitors.

The Concession Contractor is required to develop interpretive materials and a means to educate visitors about environmental programs or initiatives implemented by the Concession Contractor and to support educational efforts through such actions as developing printed material (menus, marketing, correspondence, etc.), using outdoor signs, and, as appropriate, formal programs. Reclamation will provide assistance in regard to appropriate education and training for concession employees with this interpretive responsibility.

The proposed content in any interpretive programs, exhibits, displays, correspondence, marketing, or signs shall support the interpretive themes and objectives of the area as reflected in area planning documents, mission statements, or other interpretive documents and be submitted to Reclamation for review and written approval before being offered to concession area visitors. (See Exhibit M for some theme details)

O. RISK MANAGEMENT PROGRAM

The Concession Contractor shall provide a safe and healthful environment for all employees and visitors. The Concession Contractor shall submit a Risk Management Plan (RMP) for Reclamation approval within 60-days of the execution of this Concession Contract. Once approved by Reclamation, the Concession Contractor shall implement and fully comply with the RMP. The RMP shall conform closely to the Concession Contractor's commitments and content in their original Prospectus proposal.

The Concession Contractor's RMP shall include the following performance standards. The Concession Contractor will be evaluated, based on compliance with these standards, in the Concessions Review Program referred to in Section 2.H.

1. Policy written and available to staff - The RMP shall state the Concession Contractor's commitment to provide a safe and healthy environment for employees and visitors. At a minimum, it will address procedures to identify and correct safety deficiencies and measures to ensure safety awareness and training in hazards recognition. The RMP will outline accountability and responsibility for managers, supervisors, and employees. The RMP will be distributed to employees or will be posted conspicuously. The scope and complexity of the program is commensurate with the size and type of operations and services being provided. Long-range goals and objectives to achieve a safe, healthful environment will be formulated.
2. Safety and health official is designated - The person with primary responsibility for managing the Concession Contractor's RMP will be clearly identified in the RMP, and this person's responsibilities and authority will be clearly stated. Sufficient documentation will be provided to verify that the designated safety and health official has carried out his or her assigned responsibilities; such documentation may include inspection reports, records of training sessions

conducted or attended, accident or incident reports and follow-ups, and analysis of accident trends.

3. Management and staff will be held accountable for compliance – Supervisors will be assigned the responsibility to conduct routine safety inspections of the assigned work areas, job sites, etc. Procedures to evaluate all employees on compliance with the Concession Contractor’s RMP will be identified. Employees will be encouraged to report unsafe or unhealthy working conditions.
4. Sufficient funds and resources will be allocated to support the RMP – Adequate funds or other resources will be set aside to cover the needs for staff, training, personal protective equipment, safety literature, etc., commensurate with the size and complexity of the concession operation.
5. Annual goals and objectives will be established – Specific goals and objectives will be established annually for achieving a safer and more healthful work environment. These may be based on needs identified in prior reporting periods (e.g., specific goals for reducing back injuries; expanding safety segments of general orientation training for seasonal wait staff, housekeepers, and maintenance workers; and purchasing and using an expanded safety videotape library).
6. Program administration will be developed – Summary of accidents and injuries listing total number and total lost-days will be reported to Reclamation annually. Employees (and employee unions) will be involved in the program through committees, suggestion programs, or other systems for reporting workplace hazards.

Safety and health information will be available to all permanent and seasonal employees. OSHA “right to know” posters (OSHA 2203) will be prominently displayed in areas frequented by staff.

7. An inspection schedule must be developed – A schedule for inspecting all facilities, equipment, and public use areas must be developed. The frequency and timing of inspections for all facilities and equipment will be identified and will be commensurate with the complexity or seasonality of the operation. Any facilities or equipment requiring specialized safety inspections (e.g., docks and marinas) will be identified, and a schedule will be established in accordance with the manufacturer’s recommendations, governing or professional organization recommendations, etc. Inspections will be conducted according to the established schedule.
8. Inspections must be conducted as scheduled or required – Procedures for documenting inspections, reporting hazards, etc., must be established in the RMP. Inspections will be conducted as required in the RMP.
9. Inspections will be conducted by people trained and capable of recognizing and evaluating hazards – Inspectors will be identified in the RMP. Inspectors will

have the knowledge, skills, and abilities to recognize, evaluate, and make recommendations for corrective actions. Inspectors will be familiar with the operation to be inspected and typical problems that might be associated with it. Inspectors will understand and follow the established procedures for documenting and reporting hazards. Inspectors will follow up to ensure that hazards will be abated within time limits specified in the RMP.

10. Inspection records must be kept for a minimum of 3 years – Inspection records must be kept for a minimum of 3 years and must be made available to the Contracting Officer upon request. Such records must include the following information: date of inspection, names of facility/building, identified deficiencies/hazards, classification of deficiencies, abatement date or action plan to correct deficiencies, and name of person conducting inspection.
11. Imminent danger deficiencies must be abated or action plans developed within time limits established by Reclamation - Such deficiencies must be abated immediately. An example is a dangling power line. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors. If abatement cannot be immediately achieved, the facility or service must be closed.
12. Serious hazard deficiencies must be abated or action plans developed within time limits – Such deficiencies must be abated within approximately 15 days or other reasonable time frame as established by the Concession Contractor and approved by Reclamation. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors. If abatement cannot be achieved within the established timeframe, the facility or service must be closed.
13. Non-serious hazard deficiencies must be abated or action plans developed within time limits established by Reclamation – Non-serious hazards must be abated within 45 days or a reasonable time frame as established by the Concession Contractor and approved by Reclamation. Abatement methods include correction of the deficiency or other action to reduce risk temporarily to staff and visitors.
14. A documented plan must be in place for reporting and investigating employee and visitor accidents/incidents – Accident/incident reporting and investigating procedures must be documented. Such procedures must include, but are not limited to, the types of accidents to be reported, the forms to be used to properly document accidents/incidents, the person(s) responsible for reporting and/or investigating accidents/incidents and for completing the forms, and required timeframes for reporting and documenting accidents/incidents. Corrective action must be taken to reduce or eliminate recurrence of accidents. Records must be maintained verifying that accidents were reported and documented as required by Reclamation, OSHA, Office of Workers’ Compensation, etc.
15. All reportable accidents must be reported to Reclamation – A plan must be developed outlining procedures for accident reporting. Employees must be aware of these procedures. Reportable accidents/incidents include any fatalities, visitor

incidents with likelihood of a tort claim against the United States, and fires. Employees must be aware of the type of accidents/ incidents that must be reported to Reclamation. Such records should include the date the accident/incident was reported, to whom, and by whom.

16. Activity-related hazards must be communicated – Activity related hazards (e.g., safety orientation for use of rental craft and horseback rides) must be effectively communicated to concession visitors.
17. Resource-related hazards must be communicated – Resource hazards that exist within the scope of the concession operation (e.g., falling rocks, wild animals, Lyme disease, rattlesnakes, trail conditions, and water hazards) must be effectively communicated to concession area visitors and staff.
18. Training plans for supervisors and employees must meet the requirements set forth in RMP
19. Training plans and accomplished training for supervisors must be established – A plan must be established identifying the training requirements for all supervisors. Required subject matter and required training courses must be identified and provided in the RMP. All accomplished training must be documented.
20. Training plans and accomplished training for employees must be established – A plan must be established identifying the training requirements for all employees. The plan will include safety training that is appropriate to the job being performed, as well as general safety information. Required subject matter and required training courses will be identified and provided. All accomplished training must be documented.
21. Procedures must be documented for all probable occurrences – An emergency action plan must be developed that identifies occurrences that will require specific procedures to be followed in the interest of life safety and property protection (e.g., earthquakes, floods, fires, bomb threats, and hazardous material spills or releases).
22. Plans must be coordinated with Reclamation – The Concession Contractor must coordinate all emergency action plans with Reclamation. The Contracting Officer will approve the plans. The plans will be reviewed annually and updated as necessary.
23. Plans will be distributed to employees or posted conspicuously – Employees must be familiar with emergency action plans and must be aware of their individual responsibilities in implementing such plans.

The Concession Contractor will be evaluated by Reclamation according to the schedule indicated in Exhibit G. This will constitute the safety portion of the Safety and Environmental Evaluation referred to in Section 2.H. The evaluation will be based on a review of the Concession Contractor's safety program and will evaluate Concession

Contractor compliance with the performance standards throughout this contract and its exhibits. The Concession Contractor shall provide Reclamation access to its records, including any annual statistical information that may be required by the Contracting Officer. As part of the evaluation, Reclamation personnel may conduct random on-site reviews of facilities and equipment to evaluate the effectiveness of the Concession Contractor's own inspection program.

P. FUEL STORAGE

The Concession Contractor shall be responsible for compliance with all applicable federal, State, and local laws and regulations pertaining to fuel storage. The Concession Contractor must provide the Contracting Officer with copies of all reports and correspondence to, or required by, any regulatory agency pertaining to fuel storage. If any leak detection testing indicates a possible release or leak from a fuel storage and delivery system within the concession area. Reclamation must be notified immediately by the Concession Contractor; the Concession Contractor will be responsible for fulfilling all reporting, monitoring, and remediation requirements associated with such leak or release.

Reclamation must approve all plans for any work involving fuel storage and delivery systems, tracer probes, and monitoring wells within the concession area the removal of contaminated soil and groundwater remediation work. Emergency work performed pursuant to Section 3, paragraph E must be performed immediately.

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SECTION 4 – LAND AND FACILITIES USED IN THE OPERATION

A. ASSIGNMENT OF LAND AND FACILITIES

Reclamation hereby authorizes the use of the following land and concession facilities to the Concession Contractor for the purposes of this Concession Contract:

1. The parcels of land on which the Concession Contractor shall implement this Concession Contract are described in Exhibit B.
2. Exhibit D lists certain concession facilities located at XXX as of the effective date of this Concession Contract. Exhibit D may be modified from time to time to include additional concession facilities completed in accordance with the terms and conditions of this Concession Contract
3. Exhibit E lists certain Reclamation Improvements located at XXX as of the effective date of this Concession Contract. Exhibit E may be modified from time to time to include additional Reclamation Improvements completed in accordance with the terms and conditions of this Concession Contract.

Reclamation shall have the right, at any time, to enter upon the lands used by the Concession Contractor for any purpose deemed reasonably necessary for the administration of Reclamation lands or Reclamation's implementation of this Concession Contract.

Reclamation may, from time to time, amend Exhibit B, Exhibit D, and/or Exhibit E to reflect changes in the description of the land and facilities assigned for the use of Concession Contractor until contract expiration or withdrawal of the assignment.

B. CONCESSION FACILITIES ASSIGNMENT WITHDRAWALS

Reclamation may withdraw all or portions of these concession facilities Assignments at any time during the term of this Concession Contract if:

- The withdrawal is necessary for the purpose of conserving, preserving, or protecting Lake Berryessa resources or visitor enjoyment or safety.
- The Concession Contractor's permission to use the assigned concession facilities have been terminated or suspended by Reclamation.
- The assigned government and assigned concession facilities or land is no longer necessary for the concession operation.
- The assigned government land is required for project purposes.

Any permanent withdrawal of assigned concession facilities that Reclamation or the Concession Contractor considers to be essential for the Concession Contractor to provide

the visitor services required by this Concession Contract will be treated as a termination of this Concession Contract for which the Concession Contractor will be compensated pursuant to section 5 of this Concession Contract. No other compensation is due the Concession Contractor in these circumstances.

C. CONCESSION CONTRACTOR IMPROVEMENTS

The Concession Contractor may construct or install upon lands assigned to the Concession Contractor under this Concession Contract only those Concession Contractor Improvements that are determined by Reclamation to be necessary and appropriate for the conduct by the Concession Contractor of the services required under this Concession Contract. Construction or installation of Concession Contractor Improvements and associated expenditures may occur only after the written approval by Reclamation of their location, plans, and specifications. Reclamation may prescribe the form and content of the application and the procedures for such approvals. The desirability of any project, as well as the location, plans, and specifications thereof, will be reviewed in accordance with applicable laws and Reclamation Manual Policy and Directives and Standards in Exhibit L. The Concession Contractor may not remove, dismantle, or demolish Concession Contractor Improvements without the prior approval of Reclamation.

Any salvage resulting from the authorized removal, severance, or demolition of Concession Contractor Improvements abandoned by the Concession Contractor shall be the property of the United States. Salvage resulting from Concession Contractor Improvements remains the property of the Concession Contractor.

In the event that a Concession Contractor Improvement is removed, abandoned, demolished, or substantially destroyed and no other improvement is constructed on the site, the Concession Contractor, at its expense, shall promptly, upon the request of Reclamation, restore the site as nearly as practicable to its original condition.

Any monetary interest of the Concession Contractor in improvements assigned to the Concession Contractor shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity. The use or enjoyment of any such improvements shall be wholly subject to the applicable laws and regulations and provisions of this Concession Contract.

D. PERSONAL PROPERTY

The Concession Contractor shall provide all tangible personal property, including but not limited to removable equipment, vehicles, vessels, furniture, and goods necessary for its operations under this Concession Contract. Such Personal Property shall not be considered Concession Contractor Improvements, and the Concession Contractor shall not be entitled to any reimbursement or other means of compensation for such personal property.

Reclamation may provide certain items of Government Personal Property to the Concession Contractor, including but not limited to, removable equipment, furniture, and goods for the Concession Contractor's use in the performance of this Concession

Contract. Such property is listed in Exhibit E. It is possible that future assignments of government property could occur and in that instance Exhibit E to this contract will be amended to note such assignment. The Concession Contractor shall be accountable to Reclamation for the Government's Personal Property ultimately assigned to it and shall be responsible for maintaining the property as is necessary to keep it in good and operable condition, reasonable wear and tear excepted. Any replacement of such Personal Property provided by the Concession Contractor shall become the property of Reclamation. If the property ceases to be serviceable, it shall be returned to Reclamation for disposition.

The Concession Contractor shall be permitted to sell its Personal Property that is used in the concession operation, to the subsequent Concession Contractor. However, the Concession Contractor may not sell any other personal property, other than merchandise inventory, on the Federal Estate or sell on the Federal estate any of its Personal Property used in the concession operation to any party other than a subsequent Concession Contractor unless permitted by Reclamation. The sale of Personal Property assets by any other party is prohibited on the Federal estate. "For Sale" or similar signs are strictly prohibited on the Federal estate and specifically from within the Concession Area.

E. CONDITION OF CONCESSION FACILITIES

The Concession Contractor has inspected the concession facilities, is thoroughly acquainted with its condition, and accepts the concession facilities "as is."

F. UTILITIES

If Reclamation does not provide utilities to the Concession Contractor, the Concession Contractor shall, with the written approval of Reclamation and under any requirements that Reclamation shall prescribe, secure necessary utilities at its own expense from sources outside the Lake Berryessa area or shall install the utilities within the concession area with the written permission of Reclamation, subject to the following conditions:

Any water deemed necessary for the operation of the concession area must be acquired by the Concession Contractor in cooperation with Reclamation at the Concession Contractor's expense in accordance with applicable State procedures and law.

If requested by Reclamation, the Concession Contractor must provide to Reclamation any utility service provided by the Concession Contractor for its operations to such extent as will not unreasonably restrict anticipated use by the Concession Contractor. Unless otherwise agreed by the Concession Contractor and Reclamation in writing, the rate per unit charged Reclamation for such service shall be approximately the average cost per unit of the Concession Contractor providing such service for its own operations.

The Concession Contractor is obligated to pay any special assessments required by any Resort Improvement District providing required services to the concession area.

G. CONCESSION FACILITIES IMPROVEMENT PROGRAM

The Concession Contractor shall undertake and complete an improvement program, hereinafter “Concession Facilities Improvement Program,” or “CFIP,” that benefits the public, costing not less than \$\$\$ as adjusted for each construction project to reflect actual value in the year of construction completion in accordance with the appropriate consumer price index. The CFIP shall consist of a list of the Concession Contractor Improvements. Such improvements are to be broken down into minimum services not to exceed a contract specified maximum based upon market conditions and market demand.

The Concession Contractor shall commence construction under the CFIP on or before **XXX**, in a manner that demonstrates to the satisfaction of Reclamation that the Concession Contractor is reasonably carrying forward the CFIP in good faith. No construction may begin until the Concession Contractor receives written approval from Reclamation of plans and specifications in accordance with Exhibit H. Only the Concession Contractor and its construction contractors may commence construction of improvements and may not authorize anyone else, including visitors, to construct anything. During the period of construction, the Concession Contractor shall provide Reclamation with such evidence or documentation as may be satisfactory to Reclamation to demonstrate that the CFIP is being duly carried forward.

The Concession Contractor shall complete all Concession Contractor required improvements and make them available for public use on or before **XXX**. Reclamation may extend this date in circumstances where Reclamation determines that the delay resulted from events beyond the control of the Concession Contractor, including but not limited to, acts of nature, shortages of materials, inability to obtain required permits for construction.

However, at the discretion of Reclamation, the Concession Contractor may be relieved in whole or in part of any or all of the obligations specified in the CFIP for designated periods when Reclamation determines that documented circumstances beyond the Concession Contractor’s control or Reclamation’s control warrant such relief.

The Concession Contractor is authorized to build only those Concession Contractor Improvements that are identified in the CFIP by type and schedule. In the event the Concession Contractor desires to construct additional Concession Contractor Improvements beyond those identified in the CFIP, the Concession Contractor shall develop a proposal for Reclamation’s review and consideration. Any eventual decision by Reclamation regarding the Concession Contractor's construction of such additional improvements will consider the impact of such improvements on the operations of other Concession Contractors at Lake Berryessa to assure compliance with the requirements in the 2006 Visitor Services Plan Record of Decision wherein it discusses “lake-wide integration of government operations and commercial operations in the best interest of the visiting public.”

H. MAINTENANCE PLAN AND MAINTENANCE OBLIGATION

The Concession Contractor shall be solely responsible for the physical maintenance, repairs, housekeeping, grounds keeping, and landscaping of all concession facilities used in operations under this Concession Contract, to the satisfaction of Reclamation.

For these purposes, the Concession Contractor shall undertake appropriate inspections and shall establish and revise, as necessary, a Maintenance Plan consisting of specific maintenance requirements that shall be adhered to by the Concession Contractor. The initial Maintenance Plan is set forth in Exhibit F. The Maintenance Plan shall be submitted to Reclamation for annual approval. Reclamation may make reasonable modifications to the Maintenance Plan from time to time after consultation with the Concession Contractor. Such modifications shall be in furtherance of the purposes of this Concession Contract and shall not be inconsistent with the terms and conditions of this Concession Contract.

I. RESERVE ACCOUNT FOR FACILITIES IMPROVEMENT

The Concession Contractor shall establish and manage a “Reserve Account for Facilities Improvement” (RAFI) in which is to contain funds that shall be used to carry out, on a project basis, in accordance with Exhibits C, D, E, H, and K, improvements, construction, and repair and maintenance of concession facilities that are nonrecurring within a 7-year timeframe. Such projects may include repair or replacement of foundations, building frames, window frames, roof sheathing, sub-floors, and drainage and the rehabilitation of building systems such as electrical, plumbing, built-in heating, air conditioning, and similar projects including projects directed by Reclamation. No projects may commence and no associated expenditures may be made until the Concession Contractor receives written approval from Reclamation.

Projects paid for with RAFI funds will not include routine, operational maintenance of facilities or housekeeping, landscaping, and grounds-keeping activities. Nothing in this section shall lessen the responsibility of the Concession Contractor to carry out the maintenance and repair of concession facilities or housekeeping and grounds-keeping activities as required by this Concession Contract from Concession Contractor funds exclusive of the funds contained in the RAFI. Each quarter, the Concession Contractor shall submit monthly RAFI activity reports to Reclamation (Exhibit K). Each year, the Concession Contractor shall include in its annual financial report submitted to Reclamation a reserve account annual reconciliation as detailed in Exhibit J of this Concession Contract.

The Concession Contractor shall establish and deposit into a RAFI, within 15 days after the effective date of this contract, a sum equal to \$10,000 (Ten Thousand Dollars). This amount will serve as an initial working balance and will offset amounts due in the initial monthly payments until an amount equal to this initial amount has been covered.

The balance in the RAFI shall be available exclusively for funding projects in accordance with the RAFI's purpose. For all expenditures made for each project from the RAFI, the

Concession Contractor shall maintain auditable records including invoices, billings, canceled checks, and other documentation satisfactory to Reclamation. Failure to expend RAFI funds when directed and as scheduled by Reclamation shall be considered as a material breach of this Concession Contract which may result in contract termination.

The Concession Contractor should maintain the value of the improvement with RAFI funds.

RAFI funds are intended to provide a dependable source of funds to help assure that the Concession Contractor and any applicable Reclamation Improvements are maintained at a satisfactory level. Since the RAFI fund itself and improvements made with the fund protect the Concession Contractors Improvements value, the Concession Contractor will, to the extent that RAFI funds are not adequate for all the necessary RAFI projects, utilize its own funds for such necessary projects as determined by Reclamation.

Any RAFI funds not duly expended by the Concession Contractor by the end of this Concession Contract shall be the property of the Concession Contractor unless there are approved or otherwise Reclamation required RAFI projects previously identified for completion in advance of contract expiration that have not been accomplished. In this case the projects estimated costs will be transferred from the remaining RAFI account to the next Concession Contractor for application to those projects. If the Concession Contractor is also the succeeding Concession Contractor then the RAFI funds that are unexpended during the term of this Concession Contract will apply to the initial RAFI funding established in the next contract less the estimated costs of uncompleted but required projects.

In the event of termination of this concession contact, any unexpended RAFI funds shall become the property of the Concession Contractor.

J. SUPPLEMENTAL SURCHARGE

Reclamation anticipates that during the term of this Concession Contract, the Concession Contractor will find it necessary to pay additional costs for ongoing and additional services to be provided or required by Napa County and/or other state or local government entity or agency that are necessitated by the use, rights and privileges granted under this Concession Contract, which are not presently identifiable, and the Concession Contractor agrees to pay such costs deemed appropriate and approved by Reclamation. Such fees, charges, and assessments, (“charges”) and required actions may include, but are not limited to, charges for the installation, modification, and or expansion of water and sewer systems, emergency and fire services, law enforcement services, road improvements, environmental and water quality compliance actions, and other activities.

Reclamation has determined that such costs are a necessary expense of this Concession Contract and as such, the Concession Contractor shall collect additional revenues during the term of this Concession Contract to offset such costs. The Concession Contractor will begin to collect a supplemental 5% surcharge within 90 days of the effective date of this Concession Contract, on all goods it sells (excluding gasoline and diesel fuel) and on all services it provides for which it is not required to pay a Transient Occupancy Tax as

defined by applicable county ordinance.

The Concession Contractor shall deposit all Supplemental Surcharge funds it collects in a separate, interest bearing, federally insured, Supplemental Surcharge Account (Account) as part of its gross revenue to be maintained by the Concession Contractor. Surcharge funds will not be commingled with other accounts established under this Concession Contract or with any other Concession Contractor funds. The Concession Contractor will directly pay the applicable government entity or agency for any services provided to or charges or required actions levied on the Concession Contractor deemed appropriate and approved by Reclamation in consultation with the authorized government or agency representative.

The amount of the Supplemental Surcharge shall be reviewed every 3 years to determine whether it should be increased or decreased to enable the Concession Contractor to collect the appropriate amount of funds needed to pay for the services or charges or required actions as defined above. At each 3-year review, the Concession Contractor shall provide a 3-year projection for all sales for which the surcharge applies, and any known or proposed required payments for charges and ongoing and additional services or required actions. The Concession Contractor will propose to Reclamation for approval the appropriate rate for the surcharge necessary to cover such expenses. After the 3-year review, any funds over \$50,000 left in the account in excess of known or expected services or charges or required actions shall be deposited in the RAFI account established in section 4.I. and treated as RAFI.

Any Supplemental Surcharge funds not duly expended by the Concession Contractor by the end of this Concession Contract shall be the property of the Concession Contractor. If the Concession Contractor is also the succeeding Concession Contractor then the surcharge funds that are unexpended during the term of this Concession Contract will apply to the initial surcharge funding established in the next contract less the estimated costs of any required payments.

In the event of termination or expiration of this Concession Contract, any unexpended surcharge funds shall be deposited into the RAFI account.

The financial reporting for the Account will be performed in accordance with Section 8 and Exhibit J of this Concession Contract.

K. ANIMALS

Livestock breeding or grazing, farm animals, domestic fowl, or feral animals or fowl are prohibited within the concession area. In the event that certain animals are necessary for the operation of the concession, the Contracting Officer will be informed in writing of the purpose, type, and number of species before requesting approval by Reclamation. All feral or abandoned animals are prohibited and shall be the responsibility of the Concession Contractor to properly remove such animals.

The Concession Contractor is required to accommodate visitors with service animals, and is permitted to accommodate visitors with domestic pets or livestock provided that

adequate, safe, and sanitary corrals and pens are provided. To protect the health and safety of the animals, employees, and visitors, animals will not be allowed to freely roam the concession area or the Federal estate.

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SECTION 5 – OWNERSHIP AND DISPOSITION OF FACILITIES

A. DISPOSITION OF CONCESSION CONTRACTOR IMPROVEMENTS UPON EXPIRATION OF THE CONTRACT

1. All Concession Contractor Improvements within the concession area shall be considered the property of the Concession Contractor, with any such improvements subject to disposition under the terms of this Contract. Any permanent additions or modifications to these Concession Contractor Improvements approved by Reclamation shall likewise be considered the property of the Concession Contractor.
2. No less than 36-months prior to expiration of this Contract, Reclamation will initiate a process to determine whether it requires, in whole or in part, visitor services to continue at the area concession area after expiration of this Contract. The Concession Contractor will be notified in writing concerning this decision no less than 24 months prior to Contract expiration. Additionally, assuming a continuation of the concession area, this notification will also state whether Reclamation's intent is to operate the area through a concession contract, by direct government management, or through some other means.
3. Should Reclamation notify the Concession Contractor of an intent to discontinue operations at the concession area, the Concession Contractor should begin planning for the removal of Concession Contractor Improvements.
 - i. A removal plan must then be submitted to Reclamation for approval no later than 18-months prior to the expiration of this contract.
 - ii. After September 30 of the calendar year prior to this contract's year of expiration (e.g. September 30, 2037 if the contract is expiring January 31, 2038), Reclamation may require changes to the services offered at the area in order to facilitate orderly removal. (By way of example, a marina fueling station or restaurant may need to be closed after the summer season to facilitate the completion of the removal process by the final contract expiration date.)
4. If Reclamation determines that concession operations will generally continue at the area, the notification letter discussed in (2) above will also disclose what Concession Contractor Improvements Reclamation intends to keep operational at the site. Potentially, due to disrepair, changes in recreation demands, safety concerns, Solano Project operational needs, or other factors, some facilities may be designated for removal from an area that will still continue to be operated as a concession area. For any such Concession Contractor Improvement designated for removal, the removal provisions of (3) above shall apply to that improvement.
5. For Concession Contractor Improvements designated for removal, the Concession Contractor shall remove these improvements in accordance with a Reclamation approved removal plan and the provisions of (3)(i) and (3)(ii) shall apply. No federal compensation will be provided for such improvements, but, assuming timely removal, the Concession Contractor retains all rights to utilize these improvements at another location and/or to collect all proceeds associated with their sale or salvage. Concession Contractor

Improvements designated for removal but not timely removed by the Concession Contractor shall be deemed to be abandoned by the Concession Contractor on this contract's date of expiration and will be subject to disposition or disposal by Reclamation. The Contractor agrees to pay all expenses associated with such disposition or disposal by Reclamation unless the parties specifically agree otherwise in writing.

6. Regarding Concession Contractor Improvements and/or associated personal property, Reclamation will give due consideration to an offer from the Contractor conveying the improvements to Reclamation. If such an agreement is reached, then the Contractor would likely not be responsible for any costs associated with the disposition or disposal of the conveyed improvements, subject to the actual terms of that separate agreement.
7. Facilities designated for retention will be appraised by Government appraisers. All Government Appraisals shall conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as implemented in accordance with the Department of the Interior's Appraisal Services Directorate Appraisal Policy Manual, or any succeeding standards and manuals. The appraisal shall be completed no later than 9-months prior to the expiration of this contract and no earlier than 15-months prior.
8. If Reclamation determines that the area is to continue under a concession contract, the appraised value for Concession Contractor Improvements designated for retention will be incorporated into the bidding process. All potential bidders will be informed in the prospectus (or similar pre-bidding documents) that payment of the Appraised value to the outgoing Concession Contractor is a required element of an acceptable bid. Reclamation will endeavor to complete the contract award process no later than the expiration date of this contract.
9. If Reclamation determines that the area is to continue as a concession area but under direct government management, Reclamation will, subject to the availability of appropriations and applicable law, endeavor to purchase the Concession Contractor Improvements designated for retention from the Concession Contractor at the appraised value.

B. UPON BREACH OF CONTRACT

If it is determined by Reclamation that this contract should be terminated due to breach or default by the Concession Contractor, the Concession Contractor will, at its own expense, be required to remove all its property, including any Concession Contractor Improvements and personal property, and to restore the concession area to a satisfactory condition meeting with Reclamation's approval. These conditions apply unless other arrangements are made between the parties in writing.

Property not removed by the Concession Contractor within one hundred twenty (120) calendar days after a notice of pending termination is sent by Reclamation shall be deemed to have been abandoned by the Concession Contractor and will be subject to disposition or disposal by Reclamation. The Concession Contractor agrees to pay all expenses associated with such disposition or disposal by Reclamation unless the parties specifically agree otherwise in writing. Reclamation will give due consideration to an offer from the Contractor to convey the

improvements to Reclamation.

C. DISPOSITION OF PERSONAL PROPERTY

No compensation is due to the Concession Contractor from Reclamation or a successor Concession Contractor for any Concession Contractor personal property that is used in association with this contract. The Concession Contractor may, however, independently offer to sell personal property to a succeeding contractor or Reclamation.

D. DISPOSAL COSTS

All property of the Concession Contractor not removed from the area in accordance with the terms of this Concession Contract shall be considered abandoned property. Such abandoned property shall be subject to disposition or disposal by Reclamation, and the Concession Contractor agrees to pay the costs of this disposition or disposal. A failure by the Concession Contractor to pay such costs will result in the full amount being offset, to the full extent allowable under applicable law, against any other payments owed by the United States to the Concession Contractor or its parent company or other related entities.

SECTION 6 – FEES

A. FRANCHISE FEE

For the term of this Concession Contract, the Concession Contractor shall pay to Reclamation, for the use, rights, and privileges granted under this Concession Contract, a franchise fee. The Franchise Fee shall be equal to:

(XXX%) of the Concession Contractor's Gross Revenues subject to franchise fees for the year.

The Franchise Fee is a direct return to the Federal Government and is a fair and equitable charge levied by the Government for the use, rights, and privileges granted under this Concession Contract. The Franchise Fee shall be credited to the U.S. Treasury in accordance with Reclamation directives and standards in Exhibit L.

B. PAYMENTS DUE

1. The Franchise Fee shall be due on a quarterly basis at the end of each quarter (Qtr 1: Jan – Mar, Qtr 2: Apr – Jun, Qtr 3: Jul – Sept, Qtr 4: Oct – Dec) and shall be paid by the Concession Contractor in such a manner that Reclamation shall receive payment within 30 days after the last day of each quarter. Quarterly reporting procedures will be provided upon award of this contract.

The Concession Contractor shall pay any additional Franchise Fee amounts due within 30 days after the end of the Concession Contractor's fiscal year as a result of adjustments to Gross Revenues determined at the time of submission of the Concession Contractor's annual financial report. Overpayments shall be offset against the following year's fees. In the event of termination, bankruptcy, or expiration of this Concession Contract, overpayments will first be credited against any money due and owing the Government, and the remainder, if any, will be returned to the Concession Contractor.

2. The Concession Contractor may use either the Treasury Financial Communications System and shall electronically deposit all payments, or the Concession Contractor may mail all payments and reports directly to the following address:

US Bureau of Reclamation
Mid-Pacific Region
POB 894242
Los Angeles, CA 90189-4242

Additionally, the Concession Contractor shall send a copy of all reports to the Lake Berryessa Concession Office, Concession Manager, either by fax or mail.

C. INTEREST AND PENALTY

An interest charge and penalty will be assessed on overdue amounts for each quarter, or portion thereof, that payment is delayed beyond the 30 day period provided for above. The percent of interest charged will be equal to the current value of funds rate to the U.S. Treasury as published annually in the Federal Register by the U.S. Treasury. In addition, an administrative charge of \$53.00 and a penalty charge of 6% per annum will be assessed after any payment is 90 days delinquent. If Contractor fails to submit quarterly financial reports within 30 days of quarter end, an estimate of revenue due to the U.S. Government will be developed and a bill for collection will be sent to the Contractor. Unless full payment is received within 90 days from the due date specified in the Contract, the Concession Contractor will be in breach of the Contract and the Contract may be terminated without notice.

SECTION 7 – INSURANCE AND INDEMNIFICATION

A. INDEMNIFICATION

The Concession Contractor 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 its employees from and against any and all liabilities, obligations, losses, damages or judgments, including but not limited to, penalties and fines, claims, actions, suits, costs and expenses (including but not limited to attorney’s fees and expert’s 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 Concession Contractor, its employees, agents, subcontractors, or contractors under this Concession Contract. This indemnification shall survive the termination, bankruptcy, or expiration of this Concession Contract.

B. INSURANCE IN GENERAL

The Concession Contractor shall obtain and maintain during the entire term of this Concession Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of this Concession Contract and Exhibit I subject to the approval of Reclamation. The initial insurance requirements are set forth below and in Exhibit I. Any changes or additional requirements that Reclamation determines necessary must be reasonable and consistent with the types and coverage amounts of insurance a prudent businessperson would purchase in similar circumstances. Before signing the Concession Contract, the Concession Contractor shall report to Reclamation, and Reclamation shall review and approve, the types and amounts of insurance coverage to be purchased by the Concession Contractor. The Concession Contractor shall purchase such insurance to be effective as of the date of signing the Concession Contract.

Reclamation will not be responsible for any omissions or inadequacies of insurance coverage and amounts in the event the insurance purchased by the Concession Contractor proves to be inadequate or otherwise insufficient for any reason whatsoever.

C. CERTIFICATE OF INSURANCE AND CERTIFICATE OF ENDORSEMENT

The Concession Contractor shall, at the time insurance is first purchased and annually thereafter, provide Reclamation with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concession Contractor shall provide Reclamation immediate written notice of any material change in the Concession Contractor’s insurance program hereunder, including without limitation, cancellation of any required insurance coverage. Furthermore, the Concession Contractor will provide Reclamation with a Certificate of Insurance and Certificate of Endorsement (COE) through the insurance company. The insurance company’s COE will provide Reclamation with notice of policy change or cancellation. Reclamation will be an “additional Named Insured” on all insurance policies.

D. COMMERCIAL PUBLIC LIABILITY

The Concession Contractor shall acquire commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concession Contractor or its employees, agents, or contractors in carrying out the activities and operations required or authorized under this Concession Contract. This insurance shall be in the amount commensurate with the degree of risk and the scope and size of the activities required under this Concession Contract, as more specifically set forth in Exhibit I. Furthermore, the commercial general liability package shall provide no less than the coverage and limits described in Exhibit I. 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.

From time to time, Reclamation may, at Reclamation's discretion, 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.

E. PROPERTY INSURANCE

In the event of damage or destruction, the Concession Contractor will repair or replace those concession facilities, real property and the Personal Property used by the Concession Contractor in the performance of the Concession Contractor's obligations under this Concession Contract.

For this purpose, the Concession Contractor shall obtain fire and extended insurance coverage on concession facilities for all or part of their replacement cost, as specified in Exhibit I. The minimum amounts of such insurance coverage currently in effect are set forth in Exhibit I. This exhibit will be revised at least every 3 years or sooner if there is to be a substantial increase in the minimum amount of coverage to be obtained.

Commercial property insurance shall provide for the Concession Contractor and the United States of America to be named insured as their interests may appear.

In the event of loss, the Concession Contractor shall use all proceeds of such insurance to repair, rebuild, restore, or replace concession facilities and Personal Property used in the Concession Contractor's operations under this Concession Contract as directed by Reclamation. Policies may not contain provisions limiting insurance proceeds to in situ replacement. The lien provision of Section 7.G. shall apply to such insurance proceeds. The Concession Contractor shall not be relieved of its obligations because insurance proceeds are not sufficient to repair or replace damaged or destroyed property.

Insurance policies that cover concession facilities shall contain a Loss Payable Clause approved by Reclamation that requires insurance proceeds to be paid directly to the Concession Contractor 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. Notwithstanding any provision of this Concession Contract to the contrary, the Concession Contractor shall gain no ownership or other compensable interest as a result of the use of these insurance proceeds.

The commercial property package shall include the coverage and amounts described in Exhibit I.

F. BONDS

During the term of this Concession Contract, Reclamation may require the Concession Contractor to furnish appropriate forms of bonds (i.e. surety and performance), in amounts reasonable in the circumstance and acceptable to Reclamation to ensure faithful performance of the Concession Contractor's obligations under this Concession Contract. Alternative forms of bonds are acceptable and will include:

1. Cash Deposit
2. Corporate Security
3. Irrevocable letters of credit
4. U.S. Treasury Bills
5. Notes, Bonds, or other negotiable securities
6. Certificates of Deposits

The Concession Contractor may be required to furnish a contractor's completion bond or other insurance acceptable to Reclamation in connection with the construction of improvements, including but not limited to the CFIP and those projects undertaken using funds from the RAFI, required under this Concession Contract.

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SECTION 8 – ACCOUNTING RECORDS AND REPORTS

A. ANNUAL FINANCIAL REPORTS AND ACCOUNTING SYSTEM

The Concession Contractor shall maintain a financial accounting system under which its accounts can be readily identified with its system of accounts classification. Such an accounting system shall be capable of providing the information required by this Concession Contract, including, but not limited to, the Concession Contractor's RAFI and the Supplemental Surcharge obligations. The Concession Contractor's system of accounts classification shall use, without exception and without modification unless approved by Reclamation, the Concession Contractor annual financial reports provided in Exhibit J to this Concession Contract.

The Concession Contractor shall follow Generally Accepted Accounting Principles in recording financial transactions and in reporting results to the authorized officer. The minimum acceptable accounting system shall include:

1. Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this authorization. Receipts should be recorded daily, and if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be supported by source documents such as cash register tapes, sale invoices, rental records, and cash accounts from other sources.
2. A permanent record of investments in facilities (depreciation schedule) current source documents for acquisition costs of capital items.
3. Preparation and maintenance of such special records and accounts as may be specified by the authorized officer.
4. Bank accounts will be maintained separately for the businesses conducted under this permit and not commingled with those for other businesses of the Concession Contractor.
5. The holder shall retain the above records and keep them available for audit for 5 years after the end of the year involved.

The Concession Contractor must use the accrual accounting method. If annual gross revenues do not exceed \$250,000, the Concession Contractor's financial statements and Annual Financial Reports may be prepared and submitted without a review or audit opinion of an independent certified public accountant (CPA), unless otherwise directed by Reclamation.

If the annual gross revenues of the Concession Contractor exceed \$1,000,000, the required AFR Schedules and financial statements must be audited by an independent CPA in accordance with the standards and procedures as are applicable for the year of the audit promulgated by the American Institute of Certified Public Accountants (AICPA).

If annual gross revenues exceed \$250,000 but not \$1,000,000, the required AFR Schedules and any financial statements must be reviewed by an independent CPA in accordance with the standards and procedures as are applicable for the year of the review promulgated by the AICPA.

In computing net profits for any purposes of this Concession Contract, the Concession Contractor 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 Concession Contract by means of arrangements for the procurement of equipment, merchandise, supplies, or services from sources controlled by or under common ownership with the Concession Contractor or by any other device including, but not limited to, management fees.

The Concession Contractor shall submit annually, as soon as possible but not later than 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 Reclamation in the Financial Report in Exhibit J. The Concession Contractor shall use the format prescribed in Exhibit J.

B. BALANCE SHEET

Within 90 days after the execution of this Concession Contract or its effective date, whichever is later, the Concession Contractor shall submit to Reclamation a balance sheet as shown in Schedule B of Exhibit J as of the beginning date of the term of this Concession Contract. If the Concession Contractor is a going concern before the effective date of this Concession Contract, the balance sheet shall be reviewed or audited by an independent CPA, as determined by the annual gross revenues (see Part A above).

C. OTHER REPORTING REQUIREMENTS

The following describes certain other reports required under this Concession Contract:

1. Reserve Account Reconciliation

The RAFI reconciliation shall be received by Reclamation within 30 days after the last day of each month that the Concession Contractor operates. The Concession Contractor is required to utilize the monthly RAFI activity report form in Exhibit K without alteration and without modification. The Concession Contractor shall submit annually, not later than 120 days after the end of the Concession Contractor's fiscal year, a statement reflecting total activity in the RAFI for the preceding fiscal year. The Concession Contractor is required to utilize the Reserve Account Annual Reconciliation Schedule provided in Schedule N in Exhibit J, without alteration and without modification.

2. Supplemental Surcharge Reconciliation

The Supplemental Surcharge reconciliation shall be received by Reclamation within 30 days after the last day of each month that the Concession Contractor operates. The Concession Contractor is required to utilize the Supplemental Surcharge report (Schedule Q) in Exhibit J without alteration and without modification unless Reclamation agrees to otherwise. The Concession Contractor shall submit annually, not later than 120 days after the end of the Concession Contractor's fiscal year, a statement reflecting total activity in the Supplemental Surcharge account for the preceding fiscal year utilizing reports in Exhibit J. (Schedules R and S)

3. Insurance Certification

The Concession Contractor shall submit insurance certification as specified in Section 7 of this Concession Contract and including, but not limited to, Exhibit I, and as otherwise required by Reclamation under the terms of this Concession Contract.

4. Environmental and Risk Management Reporting

The Concession Contractor shall submit environmental and risk management reports as specified in Section 3 of this Concession Contract and as otherwise required by Reclamation under the terms of this Concession Contract.

5. Miscellaneous Reports and Data

Reclamation, from time to time, requires the Concession Contractor to submit other reports and data regarding its performance under the Concession Contract or otherwise, including, but not limited to, data Reclamation requires to complete its Recreational Use Data Report and the Concession Use Data Report.

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SECTION 9 – GENERAL PROVISIONS

A. ACCESS TO RECORDS

The United States Government, or any of their duly authorized representatives, shall have access to the records of the Concession Contractor as provided by the terms of applicable laws. For the purpose of administering this Concession Contract (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the Concession Contractor agrees to make all of the financial records and supporting documents to the business activities available for analysis by qualified representatives of the Bureau of Reclamation. Financial information so obtained shall be treated as confidential to the extent allowable by law.

B. PUBLIC RELEASE OF INFORMATION

Information submitted to Reclamation by the Concession Contractor pursuant to this Concession Contract is subject to public release by Reclamation to the extent provided by applicable laws.

C. NO SUB-CONCESSIONS

Sub-concessions or other third party agreements, including management agreements, for the provision of visitor services required under this Concession Contract are not permitted.

D. NON-ENTITLEMENT FOR FEDERAL PROCUREMENT PROCESS OR SERVICE

The Concession Contractor 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 Concession Contract.

E. PAYMENT OF TAXES

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 Concession Contractor shall be paid promptly by the Concession Contractor.

F. POLITICAL INFLUENCE AND CONFLICT OF INTEREST

No member or employee of the judicial, legislative, or executive branches of the United States Government shall be admitted to any share or part of this Concession Contract or to any benefit that may arise from this Concession Contract, but this restriction shall not be construed to extend to this Concession Contract if made with a corporation or company for its general benefit.

G. DEBARMENT AND SUSPENSION

This Concession Contract is subject to the provisions of 43 CFR; Subtitles A and B, concerning non-procurement debarment and suspension. Reclamation may recommend that the Concession Contractor be debarred or suspended in accordance with the requirements and procedures described in those regulations as they are in effect now or may be revised in the future.

H. AMENDMENTS

This Concession Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Concession Contract. This Concession Contract may be amended only in very unusual circumstances when agreed to in writing by Reclamation and the Concession Contractor.

I. THIRD PARTIES

This Concession Contract does not grant rights or benefits of any nature to any third party.

J. VALIDITY OF PROVISIONS

The invalidity of a specific provision of this Concession Contract shall not affect the validity of the remaining provisions of this Concession Contract.

K. WAIVERS

A waiver of any term of this Concession Contract or the waiver of any breach of any of the terms of this Concession Contract shall not be deemed a waiver or elimination of such terms or of any subsequent breach of the same type or of any other term of the Concession Contract. The subsequent acceptance of any payment of money or other performance required by this Concession Contract shall not be deemed to be a waiver of any preceding breach of any term of the Concession Contract.

L. CORRUPTION AND FRAUD

Claims against Reclamation (to the extent subject to 28 U.S.C. 2514) arising from this Concession Contract shall be forfeited to Reclamation 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. THE ANTIDEFICIENCY ACT

The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any

obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

N. REQUIRED REPORTS, DOCUMENTS, AND DATA

The Concession Contractor shall supply to Reclamation all reports, documents, and data required by this Concession Contract in accordance with Reclamation Manual Policy and Directives and Standards.

O. CORRESPONDENCE PROCEDURES

All correspondence and notices required by this Concession 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 Reclamation and the Concession Contractor shall be sent to the following address:

Reclamation:	Central California Area Office
Site name:	Lake Berryessa
Address:	7794 Folsom Dam Road Folsom, CA 95630
Attention:	Area Manager
Concession Contractor:	XXX LLC
Address:	
Attention:	

P. SEVERABILITY

Each provision of this Contract shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Contract shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the use authorization as a whole.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Concession Contract as of the _____ day of _____, 20_____.

CONCESSION CONTRACTOR

UNITED STATES OF AMERICA

By: _____

By: _____

Title: _____

Company Name: _____

Bureau of Reclamation

EXHIBITS TO THE CONTRACT

Exhibit A	Nondiscrimination and Accessibility
Exhibit B	Area of Operation and Assigned Land.....
Exhibit C	Construction of Concession Contractor Improvements
Exhibit D	Authorized Reclamation and Concession Contractor Improvements
Exhibit E	Assigned Government Property
Exhibit F	Maintenance Plan
Exhibit G	Operating Plan
Exhibit H	Improvement Project Procedures
Exhibit I	Insurance Requirements
Exhibit J	Annual Financial Report
Exhibit K	Reserve Account for Facilities Improvement
Exhibit L	Reclamation Manual Policy and Directives and Standards
Exhibit M	Thematic Merchandising